31-25-101. Short title.

Statute text

This part 1 shall be known and may be cited as the "Urban Renewal Law".

History

Source: L. 75: Entire title R&RE, p. 1158, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. This section, as it existed in 1975, is the same as 31-25-101 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Law reviews. For article, "Constitutional Law: The Validity of Urban Renewal in Colorado", see 39 Dicta 149 (1962). For article, "Legal Classification of Special District Corporate Forms in Colorado", see 45 Den. L.J. 347 (1968). For article, "Governmental Issues Related to Real Estate Development", see 11 Colo. Law. 2527 (1982).

This part is general law uniform in its operation and applies to all similarly situated, and therefore is not local or special legislation. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Urban renewal is valid exercise of state's police power. James v. Bd. of Comm'rs, 42 Colo. App. 27, 595 P.2d 262 (1978), aff'd, 200 Colo. 28, 611 P.2d 976 (1980).

Urban blight is matter of both statewide and local concern. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

And both general assembly and local government can act to alleviate problem or urban blight provided the state and the local law do not conflict. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Applied in Vigoda v. Denver Urban Renewal Auth., 646 P.2d 900 (Colo. 1982).

31-25-101. Short title.

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This part 1 shall be known and may be cited as the "Urban Renewal Law".

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Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. This section, as it existed in 1975, is the same as 31-25-101 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

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Law reviews. For article, "Constitutional Law: The Validity of Urban Renewal in Colorado", see 39 Dicta 149 (1962). For article, "Legal Classification of Special District Corporate Forms in Colorado", see 45 Den. L.J. 347 (1968). For article, "Governmental Issues Related to Real Estate Development", see 11 Colo. Law. 2527 (1982).

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And both general assembly and local government can act to alleviate problem or urban blight provided the state and the local law do not conflict. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Applied in Vigoda v. Denver Urban Renewal Auth., 646 P.2d 900 (Colo. 1982).

31-25-102. Legislative declaration.

Statute text

(1) The general assembly finds and declares that there exist in municipalities of this state slum and blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state in general and of the municipalities thereof; that the existence of such areas contributes substantially to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of public policy and statewide concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.

(2) The general assembly further finds and declares that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this part 1, since the prevailing conditions therein may make impracticable the reclamation of the area by conservation or rehabilitation; that other slum or blighted areas, or portions thereof, through the means provided in this part 1, may be susceptible of conservation or rehabilitation in such a manner that the conditions and evils enumerated in this section may be eliminated, remedied, or prevented; and that salvable slum and blighted areas can be conserved and rehabilitated through appropriate public action, as authorized or contemplated in this part 1, and the cooperation and voluntary action of the owners and tenants of property in such areas.

(3) The general assembly further finds and declares that the powers conferred by this part 1 are for public uses and purposes for which public money may be expended and the police power exercised and that the necessity in the public interest for the provisions enacted in this part 1 is declared as a matter of legislative determination.

History

Source: L. 75: Entire title R&RE, p. 1158, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-102 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Law reviews. For article, "Current Trends in Business Real Estate Transactions", see 35 U. Colo. L. Rev. 131 (1962). For comment on Rabinoff v. District Court (145 Colo. 225, 360 P.2d 114 (1961)), see 35 U. Colo. L. Rev. 269 (1963). For article, "Governmental Issues Related to Real Estate Development", see 11 Colo. Law. 2527 (1982).

For there to be an unconstitutional "taking" under the U.S. constitution, it must be shown that no public purpose exists for the proposed urban renewal project. Oberndorf v. City & County of Denver, 696 F. Supp. 552 (D. Colo. 1988), aff'd, 900 F.2d 1434 (10th Cir. 1990), cert. denied, 498 U.S. 845, 111 S. Ct. 129, 112 L. Ed.2d 97 (1990).

Public purpose. The acquisition of properties and the elimination of their slum or blighted character constitutes a public purpose; that what is involved is an urban reclamation project; and the fact that when the redevelopment is achieved the properties are sold to private individuals for the purpose of development does not rob the taking of its public purpose. Rabinoff v. District Court, 145 Colo. 225, 360 P.2d 114 (1961).

Private ownership does not defeat public purpose. Although the general assembly's method is to be accomplished not by public ownership of the land but rather through private endeavor and ownership under the direction of authorized officials. The acquisition and transfer to private parties is a mere incident of the chief purpose of the act which is rehabilitation of the area. The fact that the property would not continue to be owned by the city does not mean that the use was not a public one. Rabinoff v. District Court, 145 Colo. 225, 360 P.2d 114 (1961).

The power of eminent domain may be exercised. The sale or leasing of property for redevelopment with restrictions to prevent blight are for public uses and purposes for which the power of eminent domain may properly be exercised. Rabinoff v. District Court, 145 Colo. 225, 360 P.2d 114 (1961).

Urban renewal is a substantial state interest that can justify taking property dedicated to religious uses. Pillar of Fire v. Denver Urban Renewal Auth., 181 Colo. 411, 509 P.2d 1250 (1973).

Applied in People v. Bailey, 41 Colo. App. 504, 595 P.2d 252 (1978).

31-25-103. Definitions.

Statute text

As used in this part 1, unless the context otherwise requires:

(1) "Authority" or "urban renewal authority" means a corporate body organized pursuant to the provisions of this part 1 for the purposes, with the powers, and subject to the restrictions set forth in this part 1.

(2) "Blighted area" means an area that, in its present condition and use and, by reason of the presence of at least four of the following factors, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare:

(a) Slum, deteriorated, or deteriorating structures;

(b) Predominance of defective or inadequate street layout;

(c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(d) Unsanitary or unsafe conditions;

(e) Deterioration of site or other improvements;

(f) Unusual topography or inadequate public improvements or utilities;

(g) Defective or unusual conditions of title rendering the title nonmarketable;

(h) The existence of conditions that endanger life or property by fire or other causes;

(i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities;

(j) Environmental contamination of buildings or property;

(k) (Deleted by amendment, L. 2004, p. 1745, § 3, effective June 4, 2004.)

(k.5) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements; or

(l) If there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, "blighted area" also means an area that, in its present condition and use and, by reason of the presence of any one of the factors specified in paragraphs (a) to (k.5) of this subsection (2), substantially impairs or arrests the sound growth of

the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare. For purposes of this paragraph (l), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation.

(3) "Bonds" means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations.

(3.3) "Business concern" has the same meaning as "business" as set forth in section 24-56-102 (1), C.R.S.

(3.5) "Displaced person" has the same meaning as set forth in section 24-56-102 (2), C.R.S., and for purposes of this part 1 shall also include any individual, family, or business concern displaced by the acquisition by eminent domain of real property by an authority.

(3.7) "Governing body" means the governing body of the municipality within which an authority has been established in accordance with the requirements of this part 1.

(4) "Obligee" means any bondholder, agent, or trustee for any bondholder, or any lessor demising to an authority property used in connection with an urban renewal project of the authority, or any assignee of such lessor's interest or any part thereof, and the federal government when it is a party to any contract or agreement with the authority.

(5) "Public body" means the state of Colorado or any municipality, quasi-municipal corporation, board, commission, authority, or other political subdivision or public corporate body of the state.

(6) "Real property" means lands, lands under water, structures, and any and all easements, franchises, incorporeal hereditaments, and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise.

(7) "Slum area" means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare.

(8) "Urban renewal area" means a slum area, or a blighted area, or a combination thereof which the local governing body designates as appropriate for an urban renewal project.

(9) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan conforms to a general or master plan for the physical development of the municipality as a whole and which is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(10) "Urban renewal project" means undertakings and activities for the elimination and for the prevention of the development or spread of slums and blight and may involve slum clearance and redevelopment, or rehabilitation, or conservation, or any combination or part thereof, in accordance with an urban renewal plan. Such undertakings and activities may include:

(a) Acquisition of a slum area or a blighted area or portion thereof;

(b) Demolition and removal of buildings and improvements;

(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of this part 1 in accordance with the urban renewal plan;

(d) Disposition of any property acquired or held by the authority as a part of its undertaking of the urban renewal project for the urban renewal areas (including sale,

initial leasing, or temporary retention by the authority itself) at the fair value of such property for uses in accordance with the urban renewal plan;

(e) Carrying out plans for a program through voluntary action and the regulatory process for the repair, alteration, and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; and

(f) Acquisition of any other property where necessary to eliminate unhealthful, unsanitary, or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

History

Source: L. 75: Entire title R&RE, p. 1159, § 1, effective July 1. **L. 99:** (2) amended, p. 529, § 1, effective May 3. **L. 2004:** (2)(f), (2)(h), (2)(j), (2)(k), and (2)(l) amended and (2)(k.5), (3.3), (3.5), and (3.7) added, p. 1745, §§ 3, 2, effective June 4. **L. 2005:** IP(10) amended, p. 1264, § 3, effective June 3.

Annotations

Editor's note: (1) This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-103 as said section existed in 1974, the year prior to the repeal and reenactment of this title. For a detailed comparison, see the table located in the back of the index.

(2) Section 4 of chapter 286, Session Laws of Colorado 2005, provides that the act amending the introductory portion to subsection (10) applies to urban renewal plans approved on or after June 3, 2005.

Annotations

ANNOTATION

Annotations

Law reviews. For comment on Rabinoff v. District Court, appearing below, see 35 U. Colo. L. Rev. 269 (1963).

Basis for finding area blighted. The fact that there were not widespread violations of building and health ordinances does not of itself establish arbitrariness on the part of the responsible authorities in the finding that the area was slum and blighted. Rabinoff v. District Court, 145 Colo. 225, 360 P.2d 114 (1961).

One well-kept building does not in itself defeat the determination of a blighted area. If the building owned by plaintiff, be, as claimed, a magnificent victorian type edifice such would not in itself defeat the determination that the area, taken as a whole, is a slum and blighted area. Interstate Trust Bldg. Co. v. Denver Urban Renewal Auth., 172 Colo. 427, 473 P.2d 978 (1970).

"Blighted area" construed. The definition of "blighted area" contained in subsection (2) is broad and not only encompasses those areas containing properties so dilapidated as to justify condemnation as nuisances, but also envisions the prevention of deterioration. The absence of widespread violations of building and health ordinances does not of itself establish arbitrariness on the part of a city council in finding blight. Tracy v. City of Boulder, 635 P.2d 907 (Colo. App. 1981).

Determination of "blighted area" by council is legislative question. A city council's determination as to whether an area is blighted, when such determination relates to the need for an ordinance, is a legislative question and scope of review by the judiciary is restricted. Tracy v. City of Boulder, 635 P.2d 907 (Colo. App. 1981).

If actual purpose behind a particular urban renewal plan is not the elimination or prevention of blight or slums, the urban renewal authority does not have the power to condemn land in furtherance of that plan because the determination of necessity is not supported by the record. City & County of Denver v. Block 173, 814 P.2d 824 (Colo. 1991).

Proper purpose for which a condemnation action may be instituted in the context of urban renewal is limited to plans adopted to remedy identified slum or blight conditions, and fact that such conditions were found to exist is not dispositive if the purpose in designating a large study area and in targeting block 173 as part of that area was to acquire block 173 for private purposes. City & County of Denver v. Block 173, 814 P.2d 824 (Colo. 1991).

Quarry lake property is no longer subject to municipality's 1981 blight determination, because the statutory procedures for removing blight were followed. The urban renewal authority disposed of the quarry lake property according to the terms of state's urban renewal law and certified the uses to which the lake was devoted comported with the urban renewal plan. After duly disposing of the lake property, certifying that the property was being used in accordance with the urban renewal plan, and having notice at all relevant times of the developer's efforts to incorporate the lake into its office park, the urban renewal authority cannot now claim that the lake has never been developed in accordance with the urban renewal plan. On the contrary, the quarry lake has been developed in accordance with the procedures laid out in the state's urban renewal law and, thus, can no longer be considered "blighted" under the municipality's 1981 blight determination. Arvada Urban Renewal Auth. v. Columbine Prof'l Plaza Ass'n., 85 P.3d 1066 (Colo. 2004).

Applied in Bailey v. People, 200 Colo. 549, 617 P.2d 549 (1980).

31-25-104. Urban renewal authority.

Statute text

(1) (a) Any twenty-five registered electors of the municipality may file a petition with the clerk, setting forth that there is a need for an authority to function in the municipality. Upon the filing of such a petition, the clerk shall give notice of the time, place, and purpose of a public hearing, at which the local governing body will determine the need for such an authority in the municipality. Such notice shall be given at the expense of the municipality by publishing a notice, at least ten days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the municipality or, if there is no such newspaper, by posting such a notice in at least three public places within the municipality at least ten days preceding the day on which the hearing is to be held.

(b) Upon the date fixed for said hearing held upon notice as provided in this section, a full opportunity to be heard shall be granted to all residents and taxpayers of the municipality and to all other interested persons. After such a hearing, if the governing body finds that one or more slum or blighted areas exist in the municipality, and finds that the acquisition, clearance, rehabilitation, conservation, development, or redevelopment, or a combination thereof of such area is necessary in the interest of the public health, safety, morals, or welfare of the residents of the municipality, and declares it to be in the public interest that the urban renewal authority for such municipality created by this part 1 exercise the powers provided in this part 1 to be exercised by such authority, the governing body shall adopt a resolution so finding and declaring and shall cause notice of such resolution to be given to the mayor, who shall thereupon appoint, as provided in paragraph (a) of subsection (2) of this section, commissioners to act as an authority. A certificate signed by such commissioners shall then be filed with the division of local government in the department of local affairs and there remain of record, setting forth that the governing body made the findings and declaration provided in this paragraph (b) after such hearing and that the mayor has appointed them as commissioners. Upon the filing of such certificate, the commissioners and their successors are constituted an urban renewal authority, which shall be a body corporate and politic. The boundaries of such authority shall be coterminous with those of the municipality.

(c) If the governing body, after a hearing, determines that the findings and declaration enumerated in paragraph (b) of this subsection (1) cannot be made, it shall adopt a resolution denying the petition. After six months have expired from the date of the denial of such petition, subsequent petitions may be filed and new hearings and determinations made thereon; except that there shall be at least six months between the time of filing of any subsequent petition and the denial of the last preceding petition.

(d) In any suit, action, or proceeding involving the validity or enforcement of any bond, contract, mortgage, trust indenture, or other agreement of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this part 1 upon proof of the filing of said certificate. A copy of such certificate, duly certified by the director of the division of local government, shall be admissible in evidence in any such suit, action, or proceeding.

(2) (a) An authority shall consist of any odd number of commissioners which shall be not less than five nor more than eleven, each of whom shall be appointed by the mayor, who shall designate the chairman for the first year. Such appointments and designation shall be subject to approval by the governing body. Not more than one of the commissioners may be an official of the municipality. In the event that an official of the municipality is appointed as commissioner of an authority, acceptance or retention of such appointment shall not be deemed a forfeiture of his office, or incompatible therewith, or affect his tenure or compensation in any way. The term of office of a commissioner of an authority who is a municipal official shall not be affected or curtailed by the expiration of the term of his municipal office.

(b) The commissioners who are first appointed shall be designated by the mayor to serve for staggered terms so that the term of at least one commissioner will expire each year. Thereafter, the term of office shall be five years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies other than by reason of expiration of terms shall be filled by the mayor for the unexpired term. A majority of the commissioners shall constitute a quorum. The mayor shall file with the clerk a certificate of the appointment or reappointment of any commissioner, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

(c) When the office of the first chairman of the authority becomes vacant and annually thereafter, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary, who shall be executive director, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and it shall determine their qualifications, duties, and compensation. An authority may call upon the municipal counsel or chief legal officer of the municipality for such legal services as it may require, or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such duties as it deems proper.

(3) No commissioner, other officer, or employee of an authority nor any immediate member of the family of any such commissioner, officer, or employee shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any commissioner, other officer, or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any project, he shall immediately disclose the same in writing to the authority, and such disclosure shall be entered upon the minutes of the authority. Upon such disclosure, such commissioner, officer, or other employee shall not participate in any action by the authority affecting the carrying out of the project planning or the undertaking of the project unless the authority determines that, in the light of such personal interest, the participation of such member in any such act would not be contrary to the public interest. Acquisition or retention of any such interest without such determination by the authority that it is not contrary to the public interest or willful failure to disclose any such interest constitutes misconduct in office.

(4) The mayor, with the consent of the governing body, may remove a commissioner for inefficiency or neglect of duty or misconduct in office but only after the commissioner has been given a copy of the charges made by the mayor against him and has had an opportunity to be heard in person or by counsel before the governing body. In the event of the removal of any commissioner, the mayor shall file in the office of the clerk a record of the proceedings, together with the charges made against the commissioner and findings thereon.

History

Source: L. 75: Entire title R&RE, p. 1161, § 1, effective July 1. **L. 76:** (1)(b) and (1)(d) amended, p. 597, § 11, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-104 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Am. Jur.2d. See 40 Am. Jur.2d, Housing Laws and Urban Redevelopment, §§ 10-13.

Standard on review. The reviewing court's task is to exercise an independent determination to insure that a city council's decisions are based on evidence presented at council hearings, that any ordinance is supported by fact findings, and that the council applied the legislative standards set out in this part. Tracy v. City of Boulder, 635 P.2d 907 (Colo. App. 1981).

Applied in James v. Bd. of Comm'rs, 42 Colo. App. 27, 595 P.2d 262 (1978).

31-25-105. Powers of an authority.

Statute text

(1) Every authority has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part 1, including, but not limited to, the following powers in addition to others granted in this part 1:

(a) To sue and to be sued; to adopt and have a seal and to alter the same at pleasure; to have perpetual succession; to make, and from time to time amend and repeal, bylaws, orders, rules, and regulations to effectuate the provisions of this part 1;

(b) To undertake urban renewal projects and to make and execute any and all contracts and other instruments which it may deem necessary or convenient to the exercise of its powers under this part 1, including, but not limited to, contracts for advances, loans, grants, and contributions from the federal government or any other source;

(c) To arrange for the furnishing or repair by any person or public body of services, privileges, works, streets, roads, public utilities, or educational or other facilities for or in connection with a project of the authority; to dedicate property acquired or held by it for public works, improvements, facilities, utilities, and purposes; and to agree, in connection with any of its contracts, to any conditions that it deems reasonable and appropriate under this part 1, including, but not limited to, conditions attached to federal financial assistance, and to include in any contract made or let in connection with any project of the authority provisions to fulfill such of said conditions as it may deem reasonable and appropriate;

(d) To arrange with the municipality or other public body to plan, replan, zone, or rezone any part of the area of the municipality or of such other public body, as the case may be, in connection with any project proposed or being undertaken by the authority under this part 1;

(e) To enter, with the consent of the owner, upon any building or property in order to make surveys or appraisals and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire any property by purchase, lease, option, gift, grant, bequest, devise, or otherwise to acquire any interest in property by condemnation, including a fee simple absolute title thereto, in the manner provided by the laws of this state for the exercise of the power of eminent domain by any other public body (and property already devoted to a public use may be acquired in a like manner except that no property belonging to the federal government or to a public body may be acquired without its consent); except that any acquisition of any interest in property by condemnation by an authority must be approved as part of an urban renewal plan or substantial modification thereof, as provided in section 31-25-107, by a majority vote of the governing body of the municipality in which such property is located, and the acquisition of property by condemnation by an authority shall also satisfy the requirements of section 31-25-105.5; to hold, improve, clear, or prepare for redevelopment any such property; to mortgage, pledge, hypothecate, or otherwise encumber or dispose of its property; and to insure or provide for the insurance of any property or operations of the authority against any risks or hazards; except that no provision of any other law with respect to the planning or undertaking of projects or the acquisition, clearance, or disposition of property by public bodies shall restrict an authority exercising powers under this part 1 in the exercise of such functions with respect to a project of such authority unless the general assembly specifically so states;

(f) (I) To invest any of its funds not required for immediate disbursement in property or in securities in which public bodies may legally invest funds subject to their control pursuant to part 6 of article 75 of title 24, C.R.S., and to redeem such bonds as it has issued at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled;

(II) To deposit any funds not required for immediate disbursement in any depository authorized in section 24-75-603, C.R.S. For the purpose of making such deposits, the authority may appoint, by written resolution, one or more persons to act as custodians of the funds of the authority. Such persons shall give surety bonds in such amounts and form and for such purposes as the authority requires.

(g) To borrow money and to apply for and accept advances, loans, grants, and contributions from the federal government or other source for any of the purposes of this part 1 and to give such security as may be required;

(h) To make such appropriations and expenditures of its funds and to set up, establish, and maintain such general, separate, or special funds and bank accounts or other accounts as it deems necessary to carry out the purposes of this part 1;

(i) To make or have made and to submit or resubmit to the governing body for appropriate action the authority's proposed plans and modifications thereof necessary to the carrying out of the purposes of this part 1, such plan shall include, but not be limited to:

(I) Plans to assist the municipality in the latter's preparation of a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of slum and blighted areas, to encourage needed urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake such activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program, which program may include, without limitation, provision for: The prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing public improvements, and encouraging rehabilitation and repair of deteriorated or deteriorating structures; and the clearance and redevelopment of slum and blighted areas or portions thereof;

(II) Urban renewal plans;

(III) Preliminary plans outlining proposed urban renewal activities for neighborhoods of the municipality to embrace two or more urban renewal areas;

(IV) Plans for the relocation of those individuals, families, and business concerns situated in the urban renewal area which will be displaced by the urban renewal project, which relocation plans, without limitation, may include appropriate data setting forth a feasible method for the temporary relocation of such individuals and families and showing that there will be provided, in the urban renewal area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the individuals and families so displaced, decent, safe, and sanitary dwellings equal in number to the number of and available to such individuals and families and reasonably accessible to their places of employment;

(V) Plans for undertaking a program of voluntary repair and rehabilitation of buildings and improvements and for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the repair, rehabilitation, demolition, or removal of buildings and improvements;

(VI) Financing plans, maps, plats, appraisals, title searches, surveys, studies, and other preliminary plans and work necessary or pertinent to any proposed plans or modifications;

(j) To make reasonable relocation payments to or with respect to individuals, families, and business concerns situated in an urban renewal area that will be displaced as provided in subparagraph (IV) of paragraph (i) of this subsection (1) for moving expenses and actual direct losses of property including, for business concerns, goodwill and lost profits that are reasonably related to relocation of the business, resulting from their displacement for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;

(k) To develop, test, and report methods and techniques and to carry out demonstrations and other activities for the prevention and the elimination of slum and blighted areas within the municipality;

(l) To rent or to provide by any other means suitable quarters for the use of the authority or to accept the use of such quarters as may be furnished by the municipality or any other public body, and to equip such quarters with such furniture, furnishings, equipment, records, and supplies as the authority may deem necessary to enable it to exercise its powers under this part 1.

History

Source: L. 75: Entire title R&RE, p. 1163, § 1, effective July 1. **L. 79:** (1)(f) amended, p. 1619, § 21, effective June 8. **L. 89:** (1)(f)(I) amended, p. 1115, § 27, effective July 1. **L. 90:** (1)(e) amended, p. 1480, § 1, effective April 5. **L. 99:** (1)(j) amended, p. 530, § 2, effective May 3. **L. 2004:** (1)(e) amended, p. 1746, § 4, effective June 4.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to

those contained in 31-25-105 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Am. Jur.2d. See 40 Am. Jur.2d, Housing Laws and Urban Redevelopment, §§ 16-25.

Law reviews. For comment discussing church condemnation, see 46 U. Colo. L. Rev. 43 (1974). For article, "Economic Development Incentives for Colorado Municipalities", see 19 Colo. Law. 239 (1990).

No constitutional right to relocation benefits. Persons displaced by redevelopment project have no constitutional right to relocation benefits or assistance. Auraria Businessmen Against Confiscation, Inc. v. Denver Urban Renewal Auth., 183 Colo. 441, 517 P.2d 845 (1974).

Federal statutes not determinative of right to recovery. In a condemnation action under the statutes and constitution of Colorado, a landowner's right to compensation and the extent thereof must be determined by the applicable law of Colorado, so the right to recovery is not dependent upon nor limited by federal statutes. Denver Urban Renewal Auth. v. Steiner Am. Corp., 31 Colo. App. 125, 500 P.2d 983 (1972).

Purpose of subsection (1)(j) is to provide supplemental assistance for particular losses incurred by reason of dislocation, in an effort to reduce the burden falling on the property owner whose property is condemned. Auraria Businessmen Against Confiscation, Inc. v. Denver Urban Renewal Auth., 183 Colo. 441, 517 P.2d 845 (1974).

Subsection (1)(j) does not create additional elements compensable under eminent domain laws. Auraria Businessmen Against Confiscation, Inc. v. Denver Urban Renewal Auth., 183 Colo. 441, 517 P.2d 845 (1974).

Small businessmen not denied equal protection. Subsection (1)(j) of this section and §§ 24-56-103, 24-56-104, and 24-56-105 do not create discriminatory and unjustified classifications which deny small businessmen equal protection of the law. Auraria Businessmen Against Confiscation, Inc. v. Denver Urban Renewal Auth., 183 Colo. 441, 517 P.2d 845 (1974).

Omission of supplemental payments for loss of goodwill and profit in subsection (1)(j) does not render it unconstitutional. Auraria Businessmen Against Confiscation, Inc. v. Denver Urban Renewal Auth., 183 Colo. 441, 517 P.2d 845 (1974).

Owner entitled to value of land and improvements. When land occupied for business purposes is taken, the owner is entitled to compensation only for the value of the land and improvements. Denver Urban Renewal Auth. v. Cook, 186 Colo. 182, 526 P.2d 652 (1974).

But owner is not entitled to value of any business conducted on land that is taken. Denver Urban Renewal Auth. v. Cook, 186 Colo. 182, 526 P.2d 652 (1974).

And evidence of business profits inadmissible. On the theory that profits derived from a business are more a function of the entrepreneurial skills of management than the value of the land, evidence of business profits is not admissible as a determinant of the fair market value of the condemned property. Denver Urban Renewal Auth. v. Cook, 186 Colo. 182, 526 P.2d 652 (1974).

The business profit rule, long followed in Colorado, requires the exclusion of business profits generated by an enterprise on the property. Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

Except to show use of property. Under the business profits rule, evidence of the character and volume of business conducted on condemned property is admissible only for the limited purpose of showing a use for which the property may be utilized. Denver Urban Renewal Auth. v. Cook, 186 Colo. 182, 526 P.2d 652 (1974); Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

And evidence of gross sales falls within purview of the business profits rule and, therefore, is inadmissible as a determinant of a reasonable rental value. Denver Urban Renewal Auth. v. Cook, 186 Colo. 182, 526 P.2d 652 (1974).

Because gross sales, like profits, are more inextricably tied to management and administration of a business than to the value of the property upon which the business is situated, and thus, the same reasons that cause the amount of profits to be an inappropriate measure of the value of the land are applicable to the use of gross sales figures, albeit to a lesser degree. Denver Urban Renewal Auth. v. Cook, 186 Colo. 182, 526 P.2d 652 (1974).

Fixtures are a part of the realty for which compensation must be paid to the owner by the condemning authority. Denver Urban Renewal Auth. v. Steiner Am. Corp., 31 Colo. App. 125, 500 P.2d 983 (1972).

The foundation for the business profits rule is that (1) the business itself is not being condemned and can be relocated, and (2) business profits are more a function of the entrepreneurial skills of management than of the value of the land. Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

A crucial distinction must be made between "profits derived from a business conducted on the premises" and "profits derived from the land itself". Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

Only the first is inadmissible under the business profits rule. Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

Evidence of farm and rental income is admissible as "profit derived from the land itself". Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

The fair economic rental value of commercial property is also evidence of "profit derived from the land itself" and is therefore admissible as a determinant of value in conjunction with the income approach. Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

The capitalization of income approach may be used to determine the value of owner-occupied property. Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

No purpose is served by limiting testimony to one approach or to the most appropriate method of attaining an opinion as to value. Recognition should be given to all relevant factors which tend to provide a means for arriving at a fair evaluation, and therefore, the better rule is to permit the use of capitalization of income method even if other methods are available. Denver Urban Renewal Auth. v. Berglund-Cherne Co., 193 Colo. 562, 568 P.2d 478 (1977).

Payment of relocation benefits to persons displaced by urban renewal project does not constitute unconstitutional expenditure of public funds in the aid of private persons. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Applied in Interstate Trust Bldg. Co. v. Denver Urban Renewal Auth., 172 Colo. 427, 473 P.2d 978 (1970).

31-25-105.5. Acquisition of private property by eminent domain by authority for subsequent transfer to private party - restrictions - exceptions - right of civil action - damages - definitions.

Statute text

(1) Except as provided in this subsection (1) or subsection (2) of this section, no private property acquired by eminent domain by an authority pursuant to section 31-25-105 (1) (e) after June 4, 2004, shall be subsequently transferred to a private party unless:

(a) The owner of the property consents in writing to acquisition of the property by eminent domain by the authority;

(b) The governing body of the authority determines that the property is no longer necessary for the purpose for which it was originally acquired, and the authority first offers to sell the property to the owner from whom it was acquired, if the owner can be located, at a price not more than that paid by the authority and the owner of the property declines to exercise such right of first refusal;

(c) The property acquired by the authority has been abandoned; or

(d) The owner of the property requests or pleads in an eminent domain action that the authority acquiring the property also acquire property that is not essential to the

purpose of the acquisition on the basis that acquiring less property would leave the owner of the property holding an uneconomic remnant.

(2) (a) Where a proposed transfer of private property acquired by an authority by eminent domain does not satisfy one of the requirements specified in subsection (1) of this section, such property acquired by eminent domain by an authority after June 4, 2004, may be subsequently transferred to a private party only upon satisfaction of each of the following conditions:

(I) The governing body has made a determination that the property is located in a blighted area or the property itself is blighted, and the urban renewal project for which the property is being acquired shall be commenced no later than seven years from the date the blight determination is made. For purposes of this section, the determination of whether a particular area or property is blighted shall be based upon reasonably current information obtained at the time the blight determination is made.

(II) Not later than the commencement of the negotiation of an agreement for redevelopment or rehabilitation of property acquired or to be acquired by eminent domain, the authority provides notice and invites proposals for redevelopment or rehabilitation from all property owners, residents, and owners of business concerns located on the property acquired or to be acquired by eminent domain in the urban renewal area by mailing notice to their last known address of record. The authority may also at the same time invite proposals for redevelopment or rehabilitation from other interested persons who may not be property owners, owners of business concerns, or residents within the urban renewal area, and may provide public notice thereof by publication in a newspaper having a general circulation within the municipality in which the authority has been established.

(III) In the case of a set of parcels to be acquired by the authority in connection with an urban renewal project, at least one of which is owned by an owner refusing or rejecting an agreement for the acquisition of the entire set of parcels, the authority makes a determination that the redevelopment or rehabilitation of the remaining parcels is not viable under the urban renewal plan without the parcel at issue.

(b) Any owner of property located within the urban renewal area may challenge the determination of blight made by the governing body pursuant to subparagraph (I) of paragraph (a) of this subsection (2) by filing, not later than thirty days after the date the determination of blight is made, a civil action in district court for the county in which the property is located pursuant to C.R.C.P. 106 (a) (4) for judicial review of the exercise of discretion on the part of the governing body in making the determination of blight. Any such action shall be governed in accordance with the procedures and other requirements specified in the rule; except that the governing body shall have the burden of proving that, in making its determination of blight, it has neither exceeded its jurisdiction nor abused its discretion.

(c) Notwithstanding any other provision of law, any determination made by the governing body pursuant to paragraph (a) of this subsection (2) shall be deemed a legislative determination and shall not be deemed a quasi-judicial determination.

(d) Notwithstanding any other provision of this section, no transfer that satisfies the requirements of subsection (1) of this section shall be subject to the provisions of this subsection (2), subsection (3) or (4), or paragraph (a) of subsection (5) of this section.

(3) Any authority seeking to acquire property by eminent domain in accordance with the requirements of subsection (2) of this section shall reimburse the owner of the property for reasonable attorney fees incurred by the owner in connection with the acquisition where the owner is the prevailing party on a challenge brought under paragraph (b) of subsection (2) of this section.

(4) (a) Any authority that exercises the power of eminent domain to transfer acquired property to another private party as authorized in accordance with the requirements of this section shall adopt relocation assistance and land acquisition policies to benefit displaced persons that are consistent with those set forth in article 56 of title 24, C.R.S., to the extent applicable to the facts of each specific property, and, at the time of the relocation of the owner or the occupant, shall provide compensation or other forms of assistance to any displaced person in accordance with such policies. In addition, in the case of a business concern displaced by the acquisition of property by eminent domain, the authority shall make a business interruption payment to the business concern not to exceed the lesser of ten thousand dollars or one-fourth of the average annual taxable income shown on the three most recent federal income tax returns of the business concern.

(b) In any case where the acquisition of property by eminent domain by an authority displaces individuals, families, or business concerns, the authority shall make reasonable efforts to relocate such individuals, families, or business concerns within the urban renewal area, where such relocation is consistent with the uses provided in

the urban renewal plan, or in areas within reasonable proximity of, or comparable to, the original location of such individuals, families, or business concerns.

(5) For purposes of this section, unless the context otherwise requires:

(a) "Blighted area" shall have the same meaning as set forth in section 31-25-103 (2); except that, for purposes of this section only, "blighted area" means an area that, in its present condition and use and, by reason of the presence of at least five of the factors specified in section 31-25-103 (2) (a) to (2) (l), substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare.

(b) "Private property" or "property" means, as applied to real property, only a fee ownership interest.

History

Source: L. 2004: Entire section added, p. 1742, § 1, effective June 4.

31-25-106. Disposal of property in urban renewal area.

Statute text

(1) An authority may sell, lease, or otherwise transfer real property or any interest therein acquired by it as a part of an urban renewal project for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the urban renewal plan, subject to such covenants, conditions, and restrictions, including covenants running with the land (and including the incorporation by reference therein of the provisions of an urban renewal plan or any part thereof), as it deems to be in the public interest or necessary to carry out the purposes of this part 1. The purchasers, lessees, transferees, and their successors and assigns are obligated to devote such real property only to the land uses, designs, building requirements, timing, or procedure specified in the urban renewal plan and may be obligated to comply with such other requirements as the authority may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, or otherwise transferred at not less than its fair value (as determined by the authority) for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, an authority shall take into account and give consideration to the uses provided in such plan; the restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. Real property acquired by an authority which, in accordance with the provisions of the urban renewal plan, is to be transferred shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan. Any contract for such transfer and the urban renewal plan (or such part of such contract or plan as the authority may determine) may be recorded in the land records of the county in such manner as to afford actual or constructive notice thereof.

(2) An authority may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as provided in this subsection (2). An authority, by public notice by publication once each week for two consecutive weeks in a newspaper having a general circulation in the municipality, prior to the execution of any contract to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, may invite proposals from and make available all pertinent information to any person interested in undertaking to redevelop or rehabilitate an urban renewal area or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that such further information as is available may be obtained at the office designated in the notice. The authority shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out and may negotiate with any persons for proposals for the purchase, lease, or other transfer of any real property acquired by the authority in the urban renewal area. The authority may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this part 1; except that a notification of intention to accept such proposal shall be filed with the governing body not less than fifteen days prior to any such acceptance. Thereafter, the authority may execute such contract in accordance with the provisions of subsection (1) of this section and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such contract.

(3) An authority may temporarily operate and maintain real property acquired in an urban renewal area pending the disposition of the property for redevelopment without regard to the provisions of subsection (1) of this section for such uses and

purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

(4) Anything in subsection (1) of this section to the contrary notwithstanding, project real property may be set aside, dedicated, and devoted by the authority to public uses which are in accordance with the urban renewal plan or set aside, dedicated, and transferred by the authority to the municipality or to any other appropriate public body for public uses which are in accordance with such urban renewal plan, with or without compensation for such property and with or without regard to the fair value thereof as determined in subsection (1) of this section, upon or subject to such terms, conditions, covenants, restrictions, or limitations as the authority deems to be in the public interest and as are not inconsistent with the purposes and objectives and the other applicable provisions of this part 1.

History

Source: L. 75: Entire title R&RE, p. 1165, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-106 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Am. Jur.2d. See 40 Am. Jur.2d, Housing Laws and Urban Redevelopment, § 23.

Trial court correctly held that plaintiff lacked standing to pursue claims alleging a violation of state Urban Renewal Law. A plaintiff has standing if her or she (1) incurred an injury in fact (2) to a legally protected interest, as contemplated by statutory or constitutional provisions. To satisfy the injury-in-fact prong of the controlling test for standing, the injury must be direct and palpable. A claimed injury that, as here, is presently speculative and that cannot be determined until a remote time in the future is not sufficiently direct and palpable to support a finding of injury in fact. To determine whether plaintiff has a legal interest that entitles her to judicial redress, court must consider whether Urban Renewal Law reflects a legislative purpose to confer such an interest. Court finds that general assembly did not intend to create a right in taxpayers to enforce the statute. Implying such a right in taxpayers is also inconsistent with the statutory scheme. Olson v. City of Golden, 53 P.3d 747 (Colo. App. 2002).

Urban renewal authority lacks statutory authority to condemn subject parcel of real property that is no longer subject to blight determination. Neither lake parcel nor Arvada marketplace parcel is subject to municipality's 1981 blight finding. Once the purpose of eliminating or preventing the spread of blight has been achieved, the urban renewal authority may no longer rely on a municipality's initial blight determination to condemn property because it can no longer exercise its condemnation powers in furtherance of a valid public purpose. Thus, the statutory basis for the urban renewal authority's power to condemn, the elimination of blight, is no longer present. Accordingly, where blight has been eliminated from a parcel that lies within an urban renewal area, an urban renewal authority no longer has any statutory basis to exercise its condemnation power over or for the benefit of that parcel. Arvada Urban Renewal Auth. v. Columbine Prof'l Plaza Ass'n., 85 P.3d 1066 (Colo. 2004).

Applied in Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980); Thornton Development Authority v. Upah, 640 F. Supp. 1071 (D. Colo. 1986).

31-25-107. Approval of urban renewal plans by the local governing body.

Statute text

(1) An authority shall not actually undertake an urban renewal project for an urban renewal area unless based on evidence presented at a public hearing the governing body, by resolution, has determined such area to be a slum, blighted area, or a combination thereof and designated such area as appropriate for an urban renewal project. Except for urban renewal plans subject to section 31-25-103 (2) (l), the boundaries of an area that the governing body determines to be a blighted area shall be drawn as narrowly as the governing body determines feasible to accomplish the planning and development objectives of the proposed urban renewal area. The governing body shall not approve an urban renewal plan until a general plan for the

municipality has been prepared. An authority shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal plan in accordance with subsection (4) of this section. In making the determination as to whether a particular area is blighted pursuant to the provisions of this part 1, any particular condition found to be present may satisfy as many of the factors referenced in section 31-25-103 (2) as are applicable to such condition.

(2) Prior to its approval of an urban renewal plan, the governing body shall submit such plan to the planning commission of the municipality, if any, for review and recommendations as to its conformity with the general plan for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the governing body within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within said thirty days, without such recommendations, the governing body may proceed with the hearing on the proposed urban renewal plan prescribed by subsection (3) of this section.

(3) (a) The governing body shall hold a public hearing on an urban renewal plan or substantial modification of an approved urban renewal plan no less than thirty days after public notice thereof by publication in a newspaper having a general circulation in the municipality. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal project under consideration.

(b) Where an authority intends to acquire private property by eminent domain within the urban renewal area to be subsequently transferred to a private party in accordance with the requirements of section 31-25-105.5 (2), the governing body, prior to the commencement of the acquisition of such property, shall first hold a public hearing on the use of eminent domain as a means to acquire such property after written notice of the time, date, place, and purpose of the hearing has been provided to each owner of property within the meaning of section 31-25-105.5 that is within the urban renewal area at least thirty days prior to the date of the hearing. In order to authorize the use of eminent domain as a means to acquire property, a governing body shall base its decision on such authorization on a finding of blighted or slum conditions without regard to the economic performance of the property to be acquired.

(3.5) (a) At least thirty days prior to the hearing on an urban renewal plan or a substantial modification to such plan, the governing body or the authority shall submit such plan or modification to the board of county commissioners, and, if property taxes collected as a result of the county levy will be utilized, the governing body or the authority shall also submit an urban renewal impact report, which shall include, at a minimum, the following information concerning the impact of such plan:

(I) The estimated duration of time to complete the urban renewal project;

(II) The estimated annual property tax increment to be generated by the urban renewal project and the portion of such property tax increment to be allocated during this period to fund the urban renewal project;

(III) An estimate of the impact of the urban renewal project on county revenues and on the cost and extent of additional county infrastructure and services required to serve development within the proposed urban renewal area, and the benefit of improvements within the urban renewal area to existing county infrastructure;

(IV) A statement setting forth the method under which the authority or the municipality will finance, or that agreements are in place to finance, any additional county infrastructure and services required to serve development in the urban renewal area for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority; and

(V) Any other estimated impacts of the urban renewal project on county services or revenues.

(b) The inadvertent failure of a governing body or an authority to submit an urban renewal plan, substantial modification to the plan, or an urban renewal impact report, as applicable, to a board of county commissioners in accordance with the requirements of paragraph (a) of this subsection (3.5) shall neither create a cause of action in favor of any party nor invalidate any urban renewal plan or modification to the plan.

(3.7) Upon request of the governing body or the authority, each county that is entitled to receive a copy of the plan shall provide available county data and projections to assist the governing body or the authority in preparing the urban renewal impact report required pursuant to subsection (3.5) of this section.

(4) Following such hearing, the governing body may approve an urban renewal plan if it finds that:

(a) A feasible method exists for the relocation of individuals and families who will be displaced by the urban renewal project in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families;

(b) A feasible method exists for the relocation of business concerns that will be displaced by the urban renewal project in the urban renewal area or in other areas that are not generally less desirable with respect to public utilities and public and commercial facilities;

(c) The governing body has taken reasonable efforts to provide written notice of the public hearing prescribed by subsection (3) of this section to all property owners, residents, and owners of business concerns in the proposed urban renewal area at their last known address of record at least thirty days prior to such hearing. Such notice shall contain the same information as is required for the notice described in subsection (3) of this section.

(d) No more than one hundred twenty days have passed since the commencement of the first public hearing of the urban renewal plan pursuant to subsection (3) of this section;

(e) Except for urban renewal plans subject to section 31-25-103 (2) (l), if the urban renewal plan contains property that was included in a previously submitted urban renewal plan that the governing body failed to approve pursuant to this section, at least twenty-four months shall have passed since the commencement of the prior public hearing concerning such property pursuant to subsection (3) of this section unless substantial changes have occurred since the commencement of such hearing that result in such property constituting a blighted area pursuant to section 31-25-103;

(f) The urban renewal plan conforms to the general plan of the municipality as a whole;

(g) The urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and

(h) The authority or the municipality will adequately finance, or that agreements are in place to finance, any additional county infrastructure and services required to serve development within the urban renewal area for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority.

(4.5) In addition to the findings otherwise required to be made by the governing body pursuant to subsection (4) of this section, where an urban renewal plan seeks to acquire private property by eminent domain for subsequent transfer to a private party pursuant to section 31-25-105.5 (2), the governing body may approve the urban renewal plan where it finds, in connection with a hearing satisfying the requirements of subsection (3) of this section, that the urban renewal plan has met the requirements of section 31-25-105.5 (2) and that the principal public purpose for adoption of the urban renewal plan is to facilitate redevelopment in order to eliminate or prevent the spread of physically blighted or slum areas.

(5) In case the urban renewal area consists of an area of open land which, under the urban renewal plan, is to be developed for residential uses, the governing body shall comply with the applicable provisions of this section and shall also determine that a shortage of housing of sound standards and design which is decent, safe, and sanitary exists in the municipality; that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas (including other portions of the urban renewal area); that the conditions of blight in the urban renewal area and the shortage of decent, safe, and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality.

(6) In case the urban renewal area consists of an area of open land which, under the urban renewal plan, is to be developed for nonresidential uses, the local governing body shall comply with the applicable provisions of this section and shall also determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives and that the contemplated acquisition of the area may require the exercise of governmental action, as provided in this part 1, because of being in a blighted area.

(7) An urban renewal plan may be modified at any time; but, if modified after the lease or sale by the authority of real property in the urban renewal project area, such

modification shall be subject to such rights at law or in equity as a lessee or purchaser or his successor in interest may be entitled to assert. Any proposed modification shall be submitted to the governing body for a resolution as to whether or not such modification will substantially change the urban renewal plan in land area, land use, design, building requirements, timing, or procedure, as previously approved, and, if it finds that there will be a substantial change, its approval of such modification shall be subject to the requirements of this section.

(8) Upon the approval by the governing body of an urban renewal plan or a substantial modification thereof, the provisions of said plan with respect to the land area, land use, design, building requirements, timing, or procedure applicable to the property covered by said plan shall be controlling with respect thereto.

(9) (a) Notwithstanding any law to the contrary, any urban renewal plan, as originally approved or as later modified pursuant to this part 1, may contain a provision that taxes, if any, levied after the effective date of the approval of such urban renewal plan upon taxable property in an urban renewal area each year or that municipal sales taxes collected within said area, or both such taxes, by or for the benefit of any public body shall be divided for a period not to exceed twenty-five years after the effective date of adoption of such a provision, as follows:

(I) That portion of the taxes which are produced by the levy at the rate fixed each year by or for each such public body upon the valuation for assessment of taxable property in the urban renewal area last certified prior to the effective date of approval of the urban renewal plan or, as to an area later added to the urban renewal area, the effective date of the modification of the plan, or that portion of municipal sales taxes collected within the boundaries of said urban renewal area in the twelve-month period ending on the last day of the month prior to the effective date of approval of said plan, or both such portions, shall be paid into the funds of each such public body as are all other taxes collected by or for said public body.

(II) That portion of said property taxes or all or any portion of said sales taxes, or both, in excess of such amount shall be allocated to and, when collected, paid into a special fund of the authority to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, an urban renewal project, or to make payments under an agreement executed pursuant to subsection (11) of this section. Any excess municipal sales tax collections not allocated pursuant to this subparagraph (II) shall be paid into the funds of the municipality. Unless and until the total valuation for assessment of the taxable property in an urban renewal area exceeds the base valuation for assessment of the taxable property in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all of the taxes levied upon the taxable property in such urban renewal area shall be paid into the funds of the respective public bodies. Unless and until the total municipal sales tax collections in an urban renewal area exceed the base year municipal sales tax collections in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all such sales tax collections shall be paid into the funds of the municipality. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable property or the total municipal sales tax collections, or both, in such urban renewal area shall be paid into the funds of the respective public bodies.

(b) The portion of taxes described in subparagraph (II) of paragraph (a) of this subsection (9) may be irrevocably pledged by the authority for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances, and indebtedness.

(c) As used in this subsection (9), the word "taxes" shall include, without limitation, all levies authorized to be made on an ad valorem basis upon real and personal property or municipal sales taxes; but nothing in this subsection (9) shall be construed to require any public body to levy taxes.

(d) In the case of urban renewal areas, including single- and multiple-family residences, school districts which include all or any part of such urban renewal area shall be permitted to participate in an advisory capacity with respect to the inclusion in an urban renewal plan of the provision provided for by this subsection (9).

(e) In the event there is a general reassessment of taxable property valuations in any county including all or part of the urban renewal area subject to division of valuation for assessment under paragraph (a) of this subsection (9) or a change in the sales tax percentage levied in any municipality including all or part of the urban renewal area subject to division of sales taxes under paragraph (a) of this subsection (9), the portions of valuations for assessment or sales taxes under both subparagraphs (I) and (II) of said paragraph (a) shall be proportionately adjusted in accordance with such reassessment or change.

(f) Notwithstanding the twenty-five-year period of limitation set forth in paragraph (a) of this subsection (9), any urban renewal plan, as originally approved or as later modified pursuant to this part 1, may contain a provision that the municipal sales taxes collected in an urban renewal area each year or the municipal portion of taxes levied upon taxable property within such area, or both such taxes, may be allocated as described in this subsection (9) for a period in excess of twenty-five years after the effective date of the adoption of such provision if the existing bonds are in default or about to go into default; except that such taxes shall not be allocated after all bonds of the authority issued pursuant to such plan including loans, advances, and indebtedness, if any, and interest thereon, and any premiums due in connection therewith have been paid.

(10) The municipality in which an urban renewal authority has been established pursuant to the provisions of this part 1 shall timely notify the assessor of the county in which such authority has been established when:

(a) An urban renewal plan has been approved that contains the provision referenced in paragraph (a) of subsection (9) of this section;

(b) Any outstanding obligation incurred by such authority pursuant to the provisions of subsection (9) of this section has been paid off; and

(c) The purposes of such authority have otherwise been achieved.

(11) The governing body or the authority may enter into an agreement with any county within the boundaries of which property taxes collected as a result of the county levy, or any portion of the levy, will be subject to allocation pursuant to subsection (9) of this section. The agreement may provide for the allocation of responsibility among the parties to the agreement for payment of the costs of any additional county infrastructure or services necessary to offset the impacts of an urban renewal project and for the sharing of revenues. Except with the consent of the governing body or the authority, any such shared revenues shall be limited to all or any portion of the taxes levied upon taxable property within the urban renewal area by the county.

(12) (a) Except as provided in paragraph (e) of this subsection (12), the county may enforce the requirements of subparagraphs (III) and (IV) of paragraph (a) of subsection (3.5) and paragraph (h) of subsection (4) of this section by means of the arbitration process established by this subsection (12) where:

(I) Property located within such county is included within an urban renewal plan;

(II) The county has provided information requested pursuant to subsection (3.7) of this section; and

(III) The county has appeared at a public hearing held pursuant to paragraph (a) of subsection (3) of this section and presented evidence at such hearing that development within the urban renewal area will create a need for additional county infrastructure and services; except that the requirements of this subparagraph (III) shall not apply in the case of a county that did not receive an urban renewal plan, a substantial modification to the plan, or an urban renewal impact report, as applicable, pursuant to paragraph (a) of subsection (3.5) of this section.

(b) (I) A county objecting under the provisions of this section to an urban renewal plan approved under subsection (4) of this section that received on a timely basis an urban renewal plan, a substantial modification to the plan, or an urban renewal impact report, as applicable, pursuant to paragraph (a) of subsection (3.5) of this section shall file written notice of the objection with the authority as well as the governing body that has approved the plan within fifteen days of the date of the approval of the plan. A county objecting under the provisions of this section to an urban renewal plan approved under subsection (4) of this section that did not receive on a timely basis an urban renewal plan, a substantial modification to the plan, or an urban renewal impact report, as applicable, pursuant to paragraph (a) of subsection (3.5) of this section shall file written notice of the objection with the authority as well as the governing body that has approved the plan within thirty days of the date of the approval of the plan or within five days of the date of the county's receipt of the plan, whichever date is later. The notice of objection shall include a statement of the grounds upon which the county asserts that the authority or the governing body has failed to comply with the requirements of subparagraphs (III) and (IV) of paragraph (a) of subsection (3.5) and paragraph (h) of subsection (4) of this section. The notice of objection shall also include the name of one attorney who has been licensed for a minimum of ten years in the state of Colorado, who is experienced in administrative and land use law, and who the board of county commissioners of the county believes to be qualified to serve as a member of the panel of arbitrators charged with resolving the county's objections in accordance with the requirements of this subsection (12).

(II) Within twenty days of receipt of the notice of objection, the governing body shall submit to the county the name of one additional person to serve as a member of the panel of arbitrators, which person shall also satisfy the requirements specified in

subparagraph (I) of this paragraph (b). Within twenty days of such submission, the two members of the arbitration panel selected by the county and the governing body shall jointly select an additional person to serve as the third and final member of the panel of arbitrators, which person shall also satisfy the requirements specified in subparagraph (I) of this paragraph (b). The panel of three arbitrators selected pursuant to this paragraph (b) shall be charged with resolving the county's objections in accordance with the requirements of this subsection (12). Notwithstanding the provisions of this paragraph (b), the county, governing body, and authority may agree upon a single arbitrator to resolve the county's objections.

(III) If the county, governing body, and authority have not reached a written agreement resolving the county's objections within thirty days after the receipt by the governing body of the notice specified in subparagraph (I) of this paragraph (b), the objections specified in the notice shall be submitted to arbitration in accordance with the requirements of this subsection (12).

(c) The arbitration hearing, if any, shall commence within sixty days after the receipt by the governing body of the notice of objection. The parties to the arbitration shall be the county, governing body, and authority. At the arbitration hearing, the governing body or the authority, as applicable, shall have the burden of proving by a preponderance of the evidence that it submitted the urban renewal plan, a substantial modification to the plan, and an urban renewal impact report, as applicable, to the county pursuant to paragraph (a) of subsection (3.5) of this section and that it did not abuse its discretion in preparing the estimate or statement provided to the county pursuant to subparagraphs (III) and (IV) of paragraph (a) of subsection (3.5) of this section and that the governing body did not abuse its discretion in connection with the findings it has made under paragraph (h) of subsection (4) of this section. The decision of the arbitrators shall be based upon the objections contained in the notice filed pursuant to subparagraph (I) of paragraph (b) of this subsection (12) and upon the record of the hearing held pursuant to subsection (3) of this section. In rendering a decision, the arbitrators shall take into consideration the goals and objectives of the urban renewal plan, information that has been submitted by the county as contained in the record of the hearing on the urban renewal plan and the impact report provided to the county pursuant to subsection (3.5) of this section, the reasonableness of the county's objections contained in the notice, the extent to which the urban renewal project will improve existing county infrastructure, the extent to which tax increment revenues, if any, to be generated by development within the urban renewal area and collected by the authority pursuant to paragraph (a) of subsection (9) of this section may reasonably be expected to defray the cost of the additional infrastructure and services requested by the county, and the debt service requirements of the authority. The arbitration hearing shall be concluded not later than seven days after its commencement, and the decision of the arbitrators shall be rendered not later than thirty days after the conclusion of the hearing. The order of the arbitrators shall be limited to either approving the urban renewal plan or, upon a finding of abuse of discretion, remanding the plan to the governing body for reconsideration of the county's objections. The order shall be final and binding on the parties and shall not be subject to judicial review except to enforce the order or to determine whether the order was procured by corruption, fraud, or other similar wrongdoing.

(d) Fifty percent of the necessary fees and necessary expenses of any arbitration conducted pursuant to this subsection (12), excluding all fees and expenses incurred by either party in the preparation or presentation of its case, shall be borne by the county, and fifty percent of such fees and expenses shall be borne by the governing body or the authority.

(e) Notwithstanding any other provision of this section, the provisions of this subsection (12) shall not apply to any urban renewal plan in which less than ten percent of the area identified in such plan:

(I) Has been classified as agricultural land for purposes of the levying and collection of property tax pursuant to section 39-1-103, C.R.S., at any time during the three-year period prior to the date of adoption of the plan; and

(II) Is currently identified for agricultural uses in a master plan adopted by the municipality pursuant to section 31-23-206 and has been so identified for more than one year prior to the date of adoption of the plan.

(f) Notwithstanding any other provision of law, the arbitration process established in this subsection (12) shall be the exclusive remedy available to a county for contesting the sufficiency of compliance by a governing body or an authority with the requirements of this section.

History

Source: L. 75: Entire title R&RE, p. 1167, § 1, effective July 1; (9) added, p. 1276, § 1, effective July 16. **L. 81:** (9)(a), (9)(c), and (9)(e) amended, p. 1516, § 1, effective July 1. **L. 93:** (9)(f) added, p. 435, § 1, effective April 19; (3.5) added, p. 1255, § 5, effective July 1. **L. 99:** (1), (3), and (4) amended and (10) added, p. 530, § 3, effective May 3. **L. 2004:** (3) amended and (4.5) added, p. 1746, § 5, effective

June 4. **L. 2005:** (3.5) and (9)(a)(II) amended and (3.7), (4)(h), (11), and (12) added, pp. 1259, 1263, §§ 1, 2, effective June 3.

Annotations

Editor's note: (1) This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-107 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

(2) Section 4 of chapter 286, Session Laws of Colorado 2005, provides that the act amending subsections (3.5) and (9)(a)(II) and enacting subsections (3.7), (4)(h), (11), and (12) applies to urban renewal plans approved on or after June 3, 2005.

Annotations

ANNOTATION

Annotations

Am. Jur.2d. See 40 Am. Jur.2d, Housing Laws and Urban Redevelopment, § 12.

Subsection (9) does not violate § 1 of art. XI, Colo. Const. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Subsection (3.5), which requires submission of urban renewal plan to the board of county commissioners, does not grant the county authority to assume an advisory role, nor does it grant authority to take any action, to participate in the planning process, or to implement the plan in any way other than that granted to the general public to receive notice and participate in a public hearing. Boulder County Bd. of Comm'rs v. City of Broomfield, 7 P.3d 1033 (Colo. App. 1999).

Project's commencement requires concurrence. The local governing body must concur with an urban renewal authority's proposed project before the project can be commenced. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Statutory tax-allocation financing scheme provided in section is not improper delegation of power to the authority to supervise or interfere with the levying and collection of taxes. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Structure of tax allocation. The tax allocation structure provided by subsection (9)(e) has been carefully drafted so that there is a direct relationship between the increased valuation of property within the project area, and thus, increased ad valorem tax revenues, and the project financed by the bond issue. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

City of Denver had standing to challenge validity of subsection (9). Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

Applicability of Sherman Antitrust Act to urban renewal plans. Actions of city and related parties involved in the adoption of an urban renewal plan were immune from liability under the Sherman Antitrust Act since the actions were taken pursuant to clearly articulated and affirmatively expressed state policy and there was no evidence of bribery or other illegal activity with respect to the adoption or implementation of the plan. Oberndorf v. City & County of Denver, 696 F. Supp. 552 (D. Colo. 1988), aff'd, 900 F.2d 1434 (10th Cir. 1990), cert. denied, 498 U.S. 845, 111 S. Ct. 129, 112 L. Ed.2d 97 (1990).

Existence of incidental public purpose does not prevent a court from finding bad faith and invalidating determination that a particular acquisition is necessary, if the primary purpose for the condemnation is to advance private interests. Denver West Metropolitan District v. Geudner, 786 P.2d 434 (Colo. App. 1989); Block 173 Associates v. Denver, 797 P.2d 771 (Colo. App. 1990), aff'd, 814 P.2d 824 (Colo. 1991).

A finding of compliance with this section does not foreclose claims of bad faith and conspiracy to effect an unconstitutional taking of property. Block 173 Associates v. Denver, 797 P.2d 771 (Colo. App. 1990), aff'd, 814 P.2d 824 (Colo. 1991).

Requirement that the city council make a finding that the area in question is blighted or a slum is a prerequisite to adoption of an urban renewal plan but fact that three blocks dedicated to Centerstone were not blighted did not prevent

those blocks from being included in urban renewal plan. City & County of Denver v. Block 173, 814 P.2d 824 (Colo. 1991).

Town council's submission of proposed urban renewal plan to electorate did not excuse town council, as the governing body, from complying with statute's requirement that it hold public hearing on plan and to make specific findings before it approved plan. E. Grand Co. Sch. Dist. 2 v. Winter Park, 739 P.2d 862 (Colo. App. 1987).

Res judicata does not apply to bar state action where state and federal claims were based on different claims for relief, and state claims were not truly "available to the parties" in the prior federal action because state claims could only have been asserted in federal court as pendent to federal claims for relief, and federal claim was dismissed on motion for summary judgment, requiring dismissal of pendent state claims. City & County of Denver v. Block 173, 814 P.2d 824 (Colo. 1991).

Collateral estoppel. Findings of federal district court insufficient to support summary judgment on state claims where identity of issues necessary to invoke collateral estoppel was absent between issues actually and necessarily decided by the federal district court and those necessary to preclude summary judgment on landowner's "bad faith" claims in state court. City & County of Denver v. Block 173, 814 P.2d 824 (Colo. 1991).

School district, board of education, and board of county commissioners had standing to challenge enactment of urban renewal plan, where implementation of tax increment financing could have caused plaintiffs to lose property tax revenues which would otherwise have been available to them. County had authority to sue to protect its interest in property taxes, and school district was entitled to participate in advisory capacity with respect to implementation of tax increment financing. E. Grand Co. Sch. Dist. 2 v. Winter Park, 739 P.2d 862 (Colo. App. 1987).

Subject real property is no longer subject to municipality's 1981 blight determination, because the statutory procedures for removing blight were followed. The urban renewal authority disposed of the quarry lake property according to the terms of state's urban renewal law and certified the uses to which the lake was devoted comported with the urban renewal plan. After duly disposing of the lake property, certifying that the property was being used in accordance with the urban renewal plan, and having notice at all relevant times of the developer's efforts to incorporate the lake into its office park, the urban renewal authority cannot now claim that the lake has never been developed in accordance with the urban renewal plan. On the contrary, the quarry lake has been developed in accordance with the procedures laid out in the state's urban renewal law and, thus, can no longer be considered "blighted" under the municipality's 1981 blight determination. Arvada Urban Renewal Auth. v. Columbine Prof'l Plaza Ass'n., 85 P.3d 1066 (Colo. 2004).

Urban renewal authority lacks statutory authority to condemn subject parcel of real property that is no longer subject to blight determination. Neither lake parcel nor Arvada marketplace parcel is subject to municipality's 1981 blight finding. Once the purpose of eliminating or preventing the spread of blight has been achieved, the urban renewal authority may no longer rely on a municipality's initial blight determination to condemn property because it can no longer exercise its condemnation powers in furtherance of a valid public purpose. Thus, the statutory basis for the urban renewal authority's power to condemn, the elimination of blight, is no longer present. Accordingly, where blight has been eliminated from a parcel that lies within an urban renewal area, an urban renewal authority no longer has any statutory basis to exercise its condemnation power over or for the benefit of that parcel. Arvada Urban Renewal Auth. v. Columbine Prof'l Plaza Ass'n, 85 P.3d 1066 (Colo. 2004).

Applied in Thornton Development Authority v. Upah, 640 F. Supp. 1071 (D. Colo. 1986).

31-25-108. Disaster areas.

Statute text

Notwithstanding any other provisions of this part 1, when the governing body certifies that an area within the municipality is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the governor has certified the need for disaster assistance under Public Law 875, Eighty-first Congress, or other federal law, such area shall be deemed a blighted area, and the authority situated in such municipality may prepare and submit to such governing body a proposed urban renewal plan and proposed urban renewal project for such area or for any portion thereof, and such governing body may, by resolution, approve such proposed urban renewal plan and urban renewal project with or without modifications without regard to the provisions of this part 1 requiring a general or master plan for the physical development of the municipality as a whole, review by the planning commission, or a public hearing.

History

Source: L. 75: Entire title R&RE, p. 1168, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. This section, as it existed in 1975, is the same as 31-25-108 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

31-25-109. Issuance of bonds by an authority.

Statute text

(1) An authority has power to issue bonds of the authority from time to time in its discretion to finance its activities or operations under this part 1, including but not limited to the repayment with interest of any advances or loans of funds made to the authority by the federal government or other source for any surveys or plans made or to be made by the authority in exercising its powers under this part 1 and also has power to issue refunding or other bonds of the authority from time to time in its discretion for the payment, retirement, renewal, or extension of any bonds previously issued by it under this section and to provide for the replacement of lost, destroyed, or mutilated bonds previously issued under this section.

(2) (a) Bonds which are issued under this section may be general obligation bonds of the authority to the payment of which, as to principal and interest and premiums (if any), the full faith, credit, and assets (acquired and to be acquired) of the authority are irrevocably pledged.

(b) Such bonds may be special obligations of the authority which, as to principal and interest and premiums (if any), are payable solely from and secured only by a pledge of any income, proceeds, revenues, or funds of the authority derived or to be derived by it from or held or to be held by it in connection with its undertaking of any project of the authority, including, without limitation, funds to be paid to an authority pursuant to section 31-25-107 (9) and including any grants or contributions of funds made or to be made by it with respect to any such project and any funds derived or to be derived by it from or held or to be held by it in connection with its sale, lease, rental, transfer, retention, management, rehabilitation, clearance, development, redevelopment, preparation for development or redevelopment, or its operation or other utilization or disposition of any real or personal property acquired or to be acquired by it or held or to be held by it for any of the purposes of this part 1 and including any loans, grants, or contributions of funds made or to be made to it by the federal government in aid of any project of the authority or in aid of any of its other activities or operations.

(c) Such bonds may be special obligations of the authority which, as to principal and interest and premiums (if any), are payable solely from and secured only by a pledge of any loans, grants, or contributions of funds made or to be made to it by the federal government or other source in aid of any project of the authority or in aid of any of its other activities or operations.

(d) Such bonds may be contingent special obligations of the authority which, as to principal and interest and premiums (if any), are payable solely from any funds available or becoming available to the authority for its undertaking of the project involved in the particular activities or operations with respect to which such contingent special obligations are issued but so payable only in the event such funds are or become available as provided in this subsection (2).

(3) Notwithstanding any other provisions of this section, any bonds which are issued under this section, other than the contingent special obligations covered by paragraph (d) of subsection (2) of this section, may be additionally secured as to the payment of the principal and interest and premiums (if any) by a mortgage of any urban renewal project, or any part thereof, title to which is then or thereafter in the authority or of any other real or personal property or interests therein then owned or thereafter acquired by the authority.

(4) Notwithstanding any other provisions of this section, general obligation bonds which are issued under this section may be additionally secured as to payment of the principal and interest and premiums (if any) as provided in either paragraph (b) or (c) of subsection (2) of this section, with or without being also additionally secured as to payment of the principal and interest and premiums (if any) by a mortgage as provided in subsection (3) of this section or a trust agreement as provided in subsection (5) of this section.

(5) Notwithstanding any other provision of this section, any bonds which are issued under this section may be additionally secured as to the payment of the principal and interest and premiums (if any) by a trust agreement by and between the authority

and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state of Colorado.

(6) Bonds which are issued under this section shall not constitute an indebtedness of the state of Colorado or of any county, municipality, or public body of said state other than the urban renewal authority issuing such bonds and shall not be subject to the provisions of any other law or of the charter of any municipality relating to the authorization, issuance, or sale of bonds.

(7) Bonds which are issued under this section are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(8) Bonds which are issued under this section shall be authorized by a resolution of the authority and may be issued in one or more series and shall bear such date, be payable upon demand or mature at such time, bear interest at such rate, be in such denomination, be in such form, either coupon or registered or otherwise, carry such conversion or registration privileges, have such rank or priority, be executed (in the name of the authority) in such manner, be payable in such medium of payment, be payable at such place, be subject to such callability provisions or terms of redemption (with or without premiums), be secured in such manner, be of such description, contain or be subject to such covenants, provisions, terms, conditions, and agreements (including provisions concerning events of default), and have such other characteristics as may be provided by such resolution or by the trust agreement, indenture, or mortgage, if any, issued pursuant to such resolution. The seal (or a facsimile thereof) of the authority shall be affixed, imprinted, engraved, or otherwise reproduced upon each of its bonds issued under this section. Bonds which are issued under this section shall be executed in the name of the authority by the manual or facsimile signatures of such of its officials as may be designated in the said resolution or trust agreement, indenture, or mortgage; except that at least one signature on each such bond shall be a manual signature. Coupons, if any, attached to such bonds shall bear the facsimile signature of such official of the authority as may be designated as provided in this subsection (8). The said resolution or trust agreement, indenture, or mortgage may provide for the authentication of the pertinent bonds by the trustee.

(9) Bonds which are issued under this section may be sold by the authority in such manner and for such price as the authority, in its discretion, may determine, at par, below par, or above par, at private sale or at public sale after notice published prior to such sale in a newspaper having general circulation in the municipality, or in such other medium of publication as the authority may deem appropriate, or may be exchanged by the authority for other bonds issued by it under this section. Bonds which are issued under this section may be sold by it to the federal government at private sale at par, below par, or above par, and, in the event that less than all of the authorized principal amount of such bonds is sold by the authority to the federal government, the balance or any portion of the balance may be sold by the authority at private sale at par, below par, or above par, at an interest cost to the authority of not to exceed the interest cost to it of the portion of the bonds sold by it to the federal government.

(10) In case any of the officials of the authority whose signatures or facsimile signatures appear on any of its bonds or coupons which are issued under this section cease to be such officials before the delivery of such bonds, such signatures or facsimile signatures, as the case may be, shall nevertheless be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery.

(11) Any provision of any law to the contrary notwithstanding, any bonds which are issued pursuant to this section are fully negotiable.

(12) In any suit, action, or proceeding involving the validity or enforceability of any bond which is issued under this section or the security therefor, any such bond reciting in substance that it has been issued by the authority in connection with an urban renewal project or any activity or operation of the authority under this part 1 shall be conclusively deemed to have been issued for such purposes; and such urban renewal project or such operation or activity, as the case may be, shall be conclusively deemed to have been initiated, planned, located, undertaken, accomplished, and carried out in accordance with the provisions of this part 1.

(13) Pending the preparation of any definitive bonds under this section, an authority may issue its interim certificates or receipts or its temporary bonds, with or without coupons, exchangeable for such definitive bonds when the latter have been executed and are available for delivery.

(14) Persons retained or employed by an authority as advisors or consultants for the purpose of rendering financial advice and assistance may purchase or participate in the purchase or in the distribution of its bonds when such bonds are offered at public or private sale.

(15) No commissioner or other officer of an authority issuing bonds under this section and no person executing such bonds is liable personally on such bonds or is subject to any personal liability or accountability by reason of the issuance thereof.

History

Source: L. 75: Entire title R&RE, p. 1169, § 1, effective July 1; (2)(b) amended, p. 1277, § 2, effective July 16. **L. 76:** (9) and (14) amended, p. 699, § 1, effective April 3.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-109 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Am. Jur.2d. See 40 Am. Jur.2d, Housing Laws and Urban Redevelopment, §§ 3, 4, 16, 31.

Applied in James v. Bd. of Comm'rs, 42 Colo. App. 27, 595 P.2d 262 (1978).

31-25-110. Property of an authority exempt from taxes and from levy and sale by virtue of an execution.

Statute text

(1) All property of an authority, including but not limited to all funds owned or held by it for any of the purposes of this part 1, shall be exempt from levy and sale by virtue of an execution, and no such execution or other judicial process shall issue against the same nor shall a judgment against the authority be a charge or lien upon such property; except that the foregoing provisions of this subsection (1) shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage, deed of trust, trust agreement, indenture, or other encumbrance of the authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the authority pursuant to this part 1 on its rents, income, proceeds, revenues, loans, grants, contributions, and other funds and assets derived or arising from any project of the authority or from any of its operations or activities under this part 1.

(2) All property of an authority acquired or held by it for any of the purposes of this part 1, including but not limited to all funds of an authority acquired or held by it for any of said purposes, are declared to be public property used for essential public and governmental purposes, and such property and the authority shall be exempt from all taxes of the state of Colorado or any other public body thereof; except that such tax exemption shall terminate when the authority sells, leases, or otherwise disposes of the particular property to a purchaser, lessee, or other alienee which is not a public body entitled to tax exemption with respect to such property.

History

Source: L. 75: Entire title R&RE, p. 1171, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-110 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Am. Jur.2d. See 40 Am. Jur.2d, Housing Laws and Urban Redevelopment, § 26.

31-25-111. Title of purchaser, lessee, or transferee.

Statute text

Any instrument executed by an authority and purporting to convey any right, title, or interest of the authority in any property under this part 1 shall be conclusively presumed to have been made and executed in compliance with the provisions of this part 1 insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned.

History

Source: L. 75: Entire title R&RE, p. 1172, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-111 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

31-25-112. Cooperation by public bodies with urban renewal authorities.

Statute text

(1) Any public body, within its powers, purposes, and functions and for the purpose of aiding an authority in or in connection with the planning or undertaking pursuant to this part 1 of any plans, projects, programs, works, operations, or activities of such authority whose area of operation is situated in whole or in part within the area in which such public body is authorized to act, upon such terms as such public body shall determine, may:

(a) Sell, convey, or lease any of such public body's property or grant easements, licenses, or other rights or privileges therein to such authority;

(b) Incur the entire expense of any public improvements made by such public body in exercising the powers mentioned in this section;

(c) Do all things necessary to aid or cooperate with such authority in or in connection with the planning or undertaking of any such plans, projects, programs, works, operations, or activities;

(d) Enter into agreements with such authority respecting action to be taken pursuant to any of the powers set forth in this part 1, including agreements respecting the planning or undertaking of any such plans, projects, programs, works, operations, or activities which such public body is otherwise empowered to undertake;

(e) Cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, garbage disposal, sewer, sewage, sewerage, or drainage facilities, or any other public works, improvements, facilities, or utilities which such public body is otherwise empowered to undertake, to be furnished within the area in which such public body is authorized to act;

(f) Furnish, dedicate, accept dedication of, open, close, vacate, install, construct, reconstruct, pave, repave, repair, rehabilitate, improve, grade, regrade, plan, or replan public streets, roads, roadways, parkways, alleys, sidewalks, and other public ways or places within the area in which such public body is authorized to act to the extent that such items or matters are, under any other law, otherwise within the jurisdiction of such public body;

(g) Plan or replan and zone or rezone any part of the area under the jurisdiction of such public body or make exceptions from its building regulations; and

(h) Cause administrative or other services to be furnished to such authority.

(2) If at any time title to or possession of the whole or any portion of any project of the authority under this part 1 is held by any governmental agency or public body (other than such authority) which is authorized by any law to engage in the undertaking, carrying out, or administration of any such project (including any agency or instrumentality of the United States), the provisions of the agreements referred to in paragraph (d) of subsection (1) of this section shall inure to the benefit of and may be enforced by such governmental agency or public body.

(3) Any public body referred to as such in subsection (1) of this section may (in addition to its authority pursuant to any other law to issue its bonds for any purposes) issue and sell its bonds for any of the purposes of such public body which are stated in this section; except that any such bonds of such a public body which are

issuable as provided in this subsection (3) may be issued only in the manner and otherwise in conformity with the applicable provisions and limitations prescribed by the state constitution and the laws of this state and, in the case of a home rule municipality, the applicable provisions of its home rule charter for the authorization and issuance by such public body of its general obligation bonds, revenue bonds, special assessment bonds, or special obligation bonds, accordingly as the bonds are general obligation bonds, revenue bonds, special assessment bonds, or special obligation bonds.

(4) Without limiting the generality of any of the provisions of this part 1, but within any limitations provided by the applicable provisions of the state constitution and, in the case of any home rule municipality, the applicable provisions of its home rule charter:

(a) Any public body may appropriate such of its funds and make such expenditures of its funds as it deems necessary for it to undertake any of its powers, functions, or activities mentioned in this part 1 including, particularly, its powers, functions, and activities mentioned in subsections (1) to (3) of this section; and

(b) Any municipality may levy taxes and assessments in order for it to undertake, carry out, or accomplish any of its powers, functions, or activities mentioned in this part 1, including, particularly, its powers, functions, and activities mentioned in the provisions of subsections (1) to (3) of this section.

(5) For the advancement of the public interest and for the purpose of aiding and cooperating in the planning, acquisition, demolition, rehabilitation, construction, or relocation, or otherwise assisting the operation or activities of an urban renewal project located wholly or partly within the area in which it is authorized to act, a public body may enter into agreements which may extend over any period, notwithstanding any provision of law to the contrary, with an authority respecting action taken or to be taken pursuant to any of the powers granted by this part 1.

History

Source: L. 75: Entire title R&RE, p. 1172, § 1, effective July 1; (5) R&RE, p. 1278, § 3, effective July 16.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-112 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Am. Jur.2d. See 40 Am. Jur.2d, Housing Laws and Urban Redevelopment, § 13.

Urban renewal authority does not have power to require a local governing body to enter into a tax-allocation financing scheme. Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

31-25-113. Authorities to have no power of taxation.

Statute text

No authority created by this part 1 has any power to levy or assess any ad valorem taxes, personal property taxes, or any other forms of taxes, including special assessments against any property.

History

Source: L. 75: Entire title R&RE, p. 1174, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-25-113 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

Annotations

ANNOTATION

Annotations

Applied in Denver Urban Renewal Auth. v. Byrne, 618 P.2d 1374 (Colo. 1980).

31-25-114. Cumulative clause.

Statute text

The powers conferred by this part 1 shall be in addition and supplemental to the powers conferred by any other law.

History

Source: L. 75: Entire title R&RE, p. 1174, § 1, effective July 1.

Annotations

Editor's note: This section was contained in this title when it was repealed and reenacted in 1975. Provisions of this section, as it existed in 1975, are similar to those contained in 31-24-114 as said section existed in 1974, the year prior to the repeal and reenactment of this title.

31-25-115. Transfer - abolishment.

Statute text

(1) Notwithstanding any other provision of this part 1, the governing body of a municipality may designate itself as the authority when originally establishing said authority. A transfer of an existing authority to the governing body may be accomplished only by majority vote at a regular general election.

(2) The governing body of a municipality may by ordinance provide for the abolishment of an urban renewal authority, provided adequate arrangements have been made for payment of any outstanding indebtedness and other obligations of the authority. Any such abolishment shall be effective upon a date set forth in the ordinance, which date shall not be less than six months from the effective date of the ordinance.

History

Source: L. 77: Entire section added, p. 1468, § 1, effective May 26.