

DRAFT
Market Framework and Funding
for a Regional TDR Program
Key Discussion Points
TDR Policy Advisory Committee
July 17, 2008

Background

The Washington Department of Community, Trade, and Economic Development (CTED) is charged with funding a process to develop a regional transfer of development rights (TDR) program in central Puget Sound that comports with the Growth Management Act (GMA)¹. In consultation with the Policy Advisory Committee, CTED must make findings and legislative recommendations to implement a regional TDR program to the Legislature and the Governor by December 1, 2008.

The Legislature made the following findings with respect to a regional TDR program:

- That the creation of a regional TDR marketplace will assist in slowing the conversion of rural, agricultural and forested lands.
- That TDRs are used to ensure that these lands will only be used for approved activities such as farming, forest management, conservation, or passive recreation.
- That it is good public policy to build upon existing TDR programs, pilot projects, and private initiatives that foster effective use of TDRs through the creation of a market-based program that focuses on the central Puget Sound region.

In developing recommendations for a regional TDR program, CTED and the PAC were tasked to:

- (a) Identify opportunities for cities, counties and the state to achieve significant benefits through using transfer of development rights programs and the value in modifying criteria by which capital budget funds are allocated, including but not limited to, existing state grant programs to provide incentives for local governments to implement transfer of development rights programs....
- (e) Identify opportunities and challenges that, if resolved, would result in cities throughout the Puget Sound region participating in a transfer of development rights market;
- (g) Identify appropriate sending areas so as to protect future growth and economic development needs of the sending areas.

This paper is designed to focus Committee discussion on two key aspects of what the state can do through legislation based on the above legislative direction and tasks:

1. Create a regional TDR market (including who should designate sending areas) based on the legislative intent and task (g); and

¹ Chapter 43.362 RCW.

2. Provide state funding or provide local authority to raise funding, including incentives for cities to participate based on tasks (a) and (e).

Market Framework

Solimar Research Group has provided three options on a structure that defines the state's role in a regional TDR program for the PAC's consideration:

1. ***The program could be designed to strengthen and assist local programs.*** This could be done by creating a regional bank to assist in local transactions, as well as a regional information clearinghouse and technical assistance center. The political impediments to this approach would be minimal.
2. ***The program could be designed to facilitate selected inter-county transfers.*** In addition to undertaking #1, the State could also determine that a very selective inter-county transfer program should be established. This would require the cooperation of subject Counties and Cities to determine which inter-county sending and receiving areas would be included. It would also require the establishment of a regional or state structure to operate this program.
3. ***The state could create a freewheeling regional TDR market.*** This would be by far the most aggressive approach, allowing transfers from any sending or receiving area in the region. This would require either cooperation from local governments (possibly involving financial or regulatory inducements) or else a state-sanctioned override of local TDR powers.

Key discussion points/questions for the Policy Advisory Committee:

1. What is the conservation goal of the program? For example, is it to conserve the highest priority lands or the maximum amount of acres?
2. Who should be designating sending areas?
3. Given the market analysis for central Puget Sound, at what jurisdictional level is it appropriate to create a market for TDRs? I.e., what should be the focus of an effective program that meets the Working Principles?
 - a. By individual city or county – internal TDR programs.
 - b. Between counties and cities in each county.
 - c. Between counties and cities in another county.
 - d. Some combination of the above.
4. What are the key elements/functions needed to make a regional TDR program function? Which are needed to build upon existing programs?
 - a. Technical assistance.
 - b. A clearinghouse that would issue and track TDR certificates, provide outreach, and bring together buyers and sellers of TDRs.
 - c. A bank to purchase and sell TDRs.
 - d. A framework for establishing an allocation ratio(s).
 - e. Statutory authority for local governments to transfer TDRs without an interlocal agreement.

- f. Other elements/functions needed?
5. Who should be the administrator for each of these functions – the state, the Puget Sound Regional Council, a non-profit?
6. Should the state consider facilitating and funding a series of pilot projects?
7. Should the state be supporting private initiatives that foster TDRs?
8. How do we define success? What are the performance measures we would be using to determine whether the program is effective?
9. What additional information do we need to support our recommendations?

Funding for a Regional TDR Program (discussion after panel presentation):

Ideas have been presented for both state and local funding sources for a regional TDR program. See TDR opportunities matrix and local funding ideas paper.

Key discussion points/questions for the Policy Advisory Committee:

1. Given the discussion of a market framework, what aspects of the program would require funding? Such as:
 - a. A TDR bank, including capitalization and administrative costs.
 - b. Technical assistance to local governments.
 - c. Outreach to buyers and sellers.
 - d. Issuance and tracking of TDR certificates.
 - e. Incentive funding for receiving areas that would address the cost of infrastructure and neighborhood amenities.
 - f. Funding for further planning to enhance existing or develop new programs.
2. Based on what aspects/functions of the program need to be funded, what should be the source of funding for each function?

Other Legislation Required

The focus of this discussion has been on what it would take to develop a market framework and what funding would be needed to support it. Given the tasks laid out in the legislation, is there anything else the Committee should be considering for recommendations to the Governor and Legislature in December 2008?