



Urban
Redevelopment
Authority
of Pittsburgh

412.255.6600
200 Ross Street
Pittsburgh, PA 15219
ura.org

Testimony before the Senate Transportation Committee
of the Pennsylvania Legislature
Provided by Robert Rubinstein – Acting Executive Director
Urban Redevelopment Authority of Pittsburgh
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Transit Revitalization Investment District – Proposed Amendments to Act 238 of 2004

Chairman Rafferty, Chairman Wozniak, members of the committee, thank you for giving the Urban Redevelopment Authority of Pittsburgh and the East Liberty TRID implementation team the opportunity to be before you today to provide testimony and offer our perspective on the existing TRID law and the opportunity to suggest ways it could be amended to create a more useful and powerful financing mechanism for municipalities across the Commonwealth. With relatively few amendments and improvements, we believe the Legislature could make what is already an innovative, but underutilized infrastructure development tool into a device that many areas could reliably use to improve their transportation infrastructure.

Thanks to the leadership shown last year in passing new transportation funding, Pennsylvania is in the unique position among states to be proactively investing in its transportation infrastructure in an era of otherwise dwindling funding resources. We believe that our implementation of a comprehensive transportation plan in East Liberty has demonstrated that by combining those new funds with a more versatile and functional TRID law, Pennsylvania towns and cities could be maximizing their limited resources by leveraging private investments and partnerships to create an overall source of funds that is larger than the sum of its parts.

Often, the concept of "Public-Private Partnership" is not really a true partnership in the sense that too much is being asked of one party. As governmental entities, it is our duty to watch out for the taxpayer, i.e. the "public" side of the partnership equation. In the case of TRID, however, the creators of this enabling law – including some of the members of this committee – made sure that TRID mandates a true partnership, with each partner contributing real value and results. The private developers are expected to create value in the form of new real estate development that is the highest and best use and in recognition of the private sector's investment, the public sector agrees to set aside a portion of the future tax revenue generated by that real estate in order to finance public infrastructure that would be beneficial to both that specific development and to the transportation hub or corridor in the immediate area. This financial construct represents a win-win for not only the private development community but for the commuter, the motorist, the pedestrian, the transit rider – everyone who uses the transportation infrastructure and who expects their local tax dollars to be put to work efficiently and effectively to make daily transportation better.

While the fundamentals of the TRID were solidly established, the mechanism for implementation did not foresee how rigidly the financing markets would interpret the law, nor the pessimism that would infiltrate the financial sector after the 2008 collapse. As the generous risk tolerance of the early 2000's evaporated, so did the hopes of nearly all TRID districts that had created a plan and prepared for implementation.

As you are aware, the TRID Act, Act 238 of 2004, authorizes municipalities and counties to designate an area around a mass transit stop or station as a district where local taxing bodies can elect to use incremental tax revenues generated by new real estate investment within the district for community revitalization projects which lead to business and residential development within and around the TRID. To date, at least **12 TRID planning studies have been funded by DCED; only one TRID has actually been implemented.**

The ability of the East Liberty TRID in the City of Pittsburgh to move forward with implementation owed much of its success to an exceptionally creative and dedicated cohort of partners. At each and every step in the process, the project team needed to secure commitments from funders and public officials that were out of the ordinary. Many of the obstacles we encountered were due to provisions in the TRID law where we believe the legislative intent was to provide maximum flexibility, but without explicitly empowering the local TRID districts to define their implementation plan to best fit their needs, questions were raised as to whether we could proceed. While some of the challenges were overcome by the flexibility and creativity of the partners involved, the question of repayment nearly derailed the approval process.

TRID is often compared to Tax Increment Financing because of their similarities as value-capture financing tools, but TRID differs in a very significant way. Since the public improvements in a TRID district are not always *directly* related to the real estate being developed which creates the tax revenue increment, there is an important disconnect that hampers the financing. That disconnect makes it very unlikely that the private developers will agree to provide repayment guarantees – known as minimum payment agreements (MPAs) in a TIF financing – which in turn means a TRID financing is viewed as more risky and less marketable by traditional bond and loan underwriters. We believe this repayment uncertainty is the crux of the TRID law and the most important reason that only one TRID has been able to proceed to implementation. The inability to have these underwriters approve a TRID financing threatened to undermine the implementation in East Liberty, as it certainly has in other TRID districts across the Commonwealth. In short, the poor marketability of TRID financing is its most fundamental flaw.

From this experience, we have developed a list of improvements for your consideration to amend the TRID Act in at least the following ways:

- Permit municipalities and counties to dedicate a ***discretionary portion*** of incremental future tax revenues to the TRID (current law implies that the entire increment of new tax revenue needs to be dedicated to the TRID);
- Provide a more ***flexible timetable*** for the execution of a TRID development plan (currently the law contains a rigid 20-year timetable without a clear authorization for amending the initial plan);
- Provide an adequate ***funding mechanism*** to fund TRID development and implementation (proposed alternatives include capturing a portion of future state taxes to fund grants for public

infrastructure or directing existing state financing programs to allow TRID to be an approved repayment source);

- Clarify language in the existing law related to value capture provisions;
- Eliminate the need for local municipalities to create new bureaucracy by allowing the use of existing entities such as a redevelopment authority or transportation authority to serve as the TRID management entity (current law implies that the management entity can only be a municipal authority or joint authority);
- Create a statewide TRID Guarantee Program to mitigate risk for financing sources considering investment (current law does not provide adequate back stop to give financial markets confidence in the ability of a TRID to pay bond or loan obligations in the event of a tax revenue shortfall);
- Ensure retroactivity so that all TRID Districts previously created can use the full functionality afforded in the amended law so that nothing would require a district to redo its plan or implementation documents, unless it was advantageous to the district to do so.

East Liberty Project Implementation Plan

While years of planning and many development successes have already been achieved in East Liberty, the TRID and the East Liberty Transit Center project presented challenges that were among the most complex of any we have undertaken in the history of the Urban Redevelopment Authority.

Recently, Pittsburgh has been riding a wave of national and international media attention because we have been able to turn the story of the Pittsburgh everyone knows on its head. From decades of 'Rustbelt decline, Smoky City grime, and brain drain exodus', the new buzz about Pittsburgh is more likely to be described as 'Most Livable City, healthcare hub and Google growth'. In a number of key industries, the Pittsburgh region has created diversified, long-term economic opportunity. Specifically, the growth of the healthcare, medical research, and technology sectors has resulted in record-high office occupancy in the bursting-at-the-seams university district of Oakland. Employers looking to be close to the universities, hospitals, and other institutions in Oakland, but unable to find affordable, suitable space began thinking about Pittsburgh's east end neighborhood of East Liberty differently. Long a distressed community – since urban renewal of the 1960s made the neighborhood a victim of badly misguided planning – East Liberty is now undergoing a resurrection as a prime real estate development location, as evidenced by Bakery Square's rapid office and residential expansion and the successive phases of the award-winning Eastside mixed-use development.

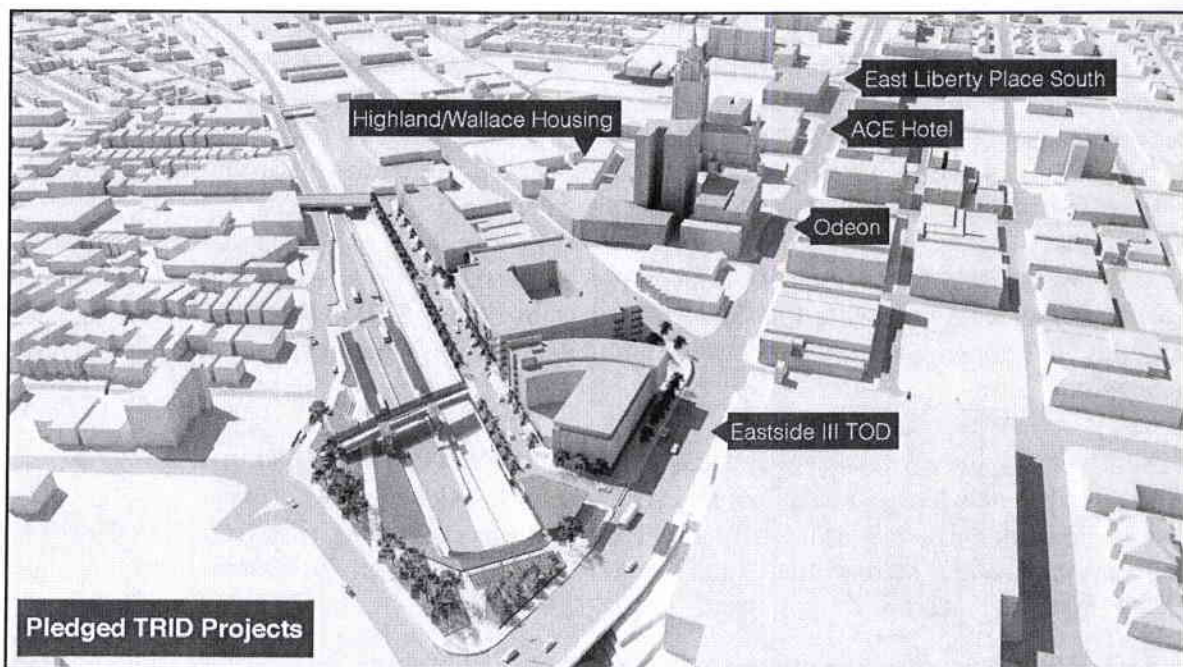
The resulting demand for commercial, retail, hotel, and residential real estate created the opportunity to leverage several large private transit-oriented developments (TOD) to fund a TRID financing. A TRID plan was developed and the following infrastructure was identified as the first phase for implementation:

- Designing the conversion of one-way streets to restore two-way traffic;
- Building new biking and walking infrastructure, including pedestrian signals;
- Replacing dysfunctional infrastructure with new, accessible pedestrian crossings over the trench containing the railroad tracks and the Martin Luther King, Jr. East Busway, reconnecting East Liberty to Shadyside.

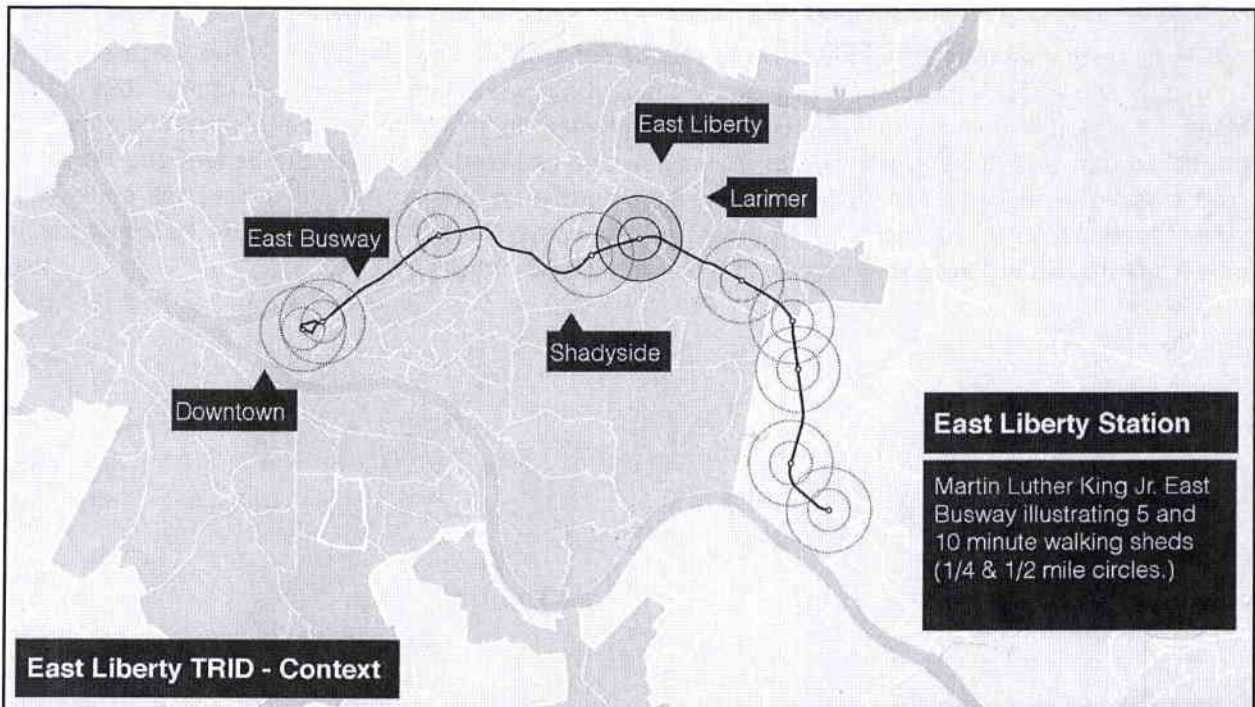
- Relocating bus boarding and alighting points and new shelters and station walkways to allow for more efficient transfers between local buses traversing East Liberty and express buses on the Busway.
- New street design to improve the efficiency of traffic routing.
- Upgrading existing transit / district serving parking and constructing new intermodal bike and parking facilities.
- Creating a new “street deck” through a public access easement that connects S. Highland, Centre and Penn Avenues to the Transit Center Concourse;
- Creating a structural TOD platform for project development to effectively leverage the transit system for private-market investment.
- Creating shared public (transit center) and private (TOD) infrastructure to avoid creating duplicative, under-used infrastructure.
- Offering direct transit access to businesses and reducing need for excessive exclusive parking.

The TRID-funded infrastructure investments are made possible by the new tax revenue increment created by seven TOD projects. Some of the projects are already complete, producing quality full-time jobs, new rental housing opportunities, increasing the tax base, and through the TRID will allow public improvements to the regional transit infrastructure, increasing the quality and ridership of public transit. It will also provide the community with enhanced safety and greater access to the region's major job centers in Oakland and Downtown Pittsburgh. The following developments were selected as the projects that would contribute new tax revenue to the TRID value-capture fund:

- Bakery Square 2.0
- East Liberty Place South
- Ace Hotel
- Highland-Wallace
- Eastside III TOD
- 6000 Penn [Odeon]
- Hotel Indigo



In June 2012, the East Liberty Transit Center Project team – led by Urban Redevelopment Authority of Pittsburgh, The Mosites Company, Port Authority of Allegheny County and the City of Pittsburgh – secured a \$15 million grant from USDOT awarded as part of the FY2012 TIGER grant program. The TIGER grant funds a portion of the East Liberty Transit Center infrastructure improvements. In addition to the TIGER grant, approximately 18 funding sources, including a portion of the TRID, were pulled together to assemble the financing for the public infrastructure, which totaled more than \$40 million. With the public infrastructure in place, The Mosites Co. will be able to construct a transit-oriented development (TOD) whose total cost will be almost \$100 million.



East Liberty can become one of the most attractive and successful transit oriented communities in Pennsylvania if the problems caused by its outdated transportation infrastructure can be eliminated, but the amount of funding required to achieve that goal is daunting.

In the case of the East Liberty TRID, several local foundations led a very creative and ultimately game-changing funding investment which paved the way for full implementation. The Heinz Endowments, The Hillman Foundation, the Pittsburgh Foundation and an anonymous foundation put forward a pooled investment that we paired with an investment from URA to create the "first money in" to the TRID. The confidence displayed by those initial investments sent a strong statement to funders and soon, funds from Bridgeway Capital were approved and this month, another major funder has scheduled a grant request for consideration by its Board of Trustees.

Notably, Pennsylvania Infrastructure Bank (PIB) has also made a significant commitment to the East Liberty TRID, without which the financing would not have been able to achieve its fully leveraged potential. On behalf of the project team, we're very grateful that Secretary Barry Schoch and Deputy Secretaries Jim Ritzman and Toby Fauver and their staff took the time to understand the complexities of our project and appreciate that PIB financing is a good fit for TRID investments. For those members of the committee who are not familiar, PIB financing is usually a loan provided for transportation projects that is most commonly repaid by diverting a portion of the liquid fuels tax proceeds for the

municipality. While that repayment mechanism was not available to us in this case, the PIB executive team was very interested and engaged in figuring out how the tax revenue increment generated by TRID could act as a suitable repayment source. While PIB was very careful not to expose their loan fund to unreasonable risk, after very closely scrutinizing the TRID structure for East Liberty, PIB decided to judiciously mitigate the uncertainty and made a substantial commitment. The flexibility and determination shown by the PIB executive team was another example of how, at so many points during this painstaking process, decision-makers became problem-solvers and it has made all the difference to the success of the project.

While my testimony today can only begin to tell the story of the East Liberty TRID, the process – while ultimately successful – has been a long and winding road, with many detours and unexpected pitfalls along the way. It is my hope that our experience implementing the Commonwealth's first and only TRID project to date will make it possible for this committee and leaders in both the Senate and House to craft a series of thoughtful amendments that can improve an innovative funding tool and make TRID more functional so that transportation project teams across Pennsylvania can afford to invest in the infrastructure that will keep their cities and towns growing and thriving.