

Summary

Transfer of Development Rights Real Estate Market Analysis (REMA) Rules

The REMA is an evaluation of a municipality's proposed TDR program as set forth in the municipality's TDR planning documents (including the development transfer plan element, utility service plan element and capital improvement program). The regulations require that the REMA Report be prepared (by a qualified analyst) and presented prior to adoption or significant amendment of a municipality's development transfer ordinance, but after the development transfer plan element has been presented to the public.

The purpose of the REMA is to demonstrate that the municipality has a sound understanding of land market values and to ensure that the proposed relationship between the development rights anticipated to be generated in a sending zone and the likelihood of their utilization in a receiving zone is viable. If there are issues involved with development rights valuations and density calculations, the REMA is intended to bring them to light.

The REMA breaks down into five required parts: 1) Summary; 2) General Information; 3) Analysis of Receiving Zone; 4) Analysis of Sending Zone; and, 5) Discussion of Viability of TDR Program. However, the requirements of the last two sections are many.

The Summary required is basic recap of facts and conclusions. The General Information section is basic, requiring basic background information and descriptions about the municipality and its proposed TDR program, including assumptions and limiting conditions.

The Receiving Zone Analysis is straightforward, requiring analysis of the types and extent of development permitted under the original (base) zoning in the receiving area, recent history of subdivision and site plan approvals, a description of the physical characteristics of the receiving area, and an opinion regarding whether the proposed receiving area could support proposed density and uses.

The Sending Zone Analysis requires much more attention to resulting land values than the Receiving Zone Analysis. Like the Receiving Zone Analysis, the Sending Zone Analysis requires examination of types and extent of development permitted under the base zoning in the sending area, a description of physical characteristics and a recent history of plan approvals. In addition, the Sending Zone Analysis requires discussion of the range of land values realistically anticipated for sending properties, a detailed analysis of land values and land use in the sending zone at base zoning and after TDR and deed restrictions are imposed.

The Viability of TDR Program Discussion requires several complicated and detailed analyses. The first section being an analysis of what a developer would be

willing to pay per unit of development for land in receiving zone, considering the cost of infrastructure, demolition, affordable housing, impact fees and any other factors. The second is an analysis of sending and receiving zone TDR credit values, including values attainable at current time and market, and discussion of how possible changing market conditions and changes in approved density might affect credit values. For the third and concluding section, the analyst is required to give his opinion, as distinct from analysis, on seven factors regarding the viability of the proposed transfer of development rights program. If the analyst can not deem the TDR program viable, the municipality has to investigate modifications to the program to make it successful.

The municipal planning board must hold a hearing on the REMA before the governing body's first reading of the development transfer ordinance. At least two weeks prior to the planning board hearing on the REMA however, the finished document must be submitted and reviewed by the Office of Smart Growth (OSG). OSG will consider the REMA and incorporate the results of the analysis into its report to the State Planning Commission regarding the municipality's plan endorsement application.