

TDR Statewide Policy Task Force

Presentation of Final Recommendations

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Coordinated State Agency Committee

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Guiding concept: To make TDR work, towns and state must share joint ownership of, and responsibility for, the TDR plan.

Create state-local TDR partnership

Phase	Purpose	Local Role	State Role
<i>Exploration Phase</i>	Town develops TDR concept w/help from state as desired.	Community outreach, est. goals & objectives, size of sending and receiving areas; apply for PAG.	Guidance, feedback, tech. assistance, id. fatal flaws, maybe give PAG.
<i>Assessment Phase (Identify problems)</i>	Town presents state w/conceptual TDR plan, for state review & input.	Submits plans to state; engages county & infrastructure providers; begins REMA; PAG.	Agencies conduct “opportunities & constraints” analysis; Id issues/solutions.
<i>Refinement Phase (Identify solutions)</i>	Town refines plan based on state assessment & other input. State reviews & approves plan.	Work w/stakeholders & county; complete REMA; adopt TDR plan element; draft TDR ordinance.	Ongoing tech. assistance; review REMA/WMP; agencies talk financial support.
<i>Implementation Partnership</i>	State & town work as partners to implement TDR plan according to MOA.	Adopts TDR ordinance; facilitates infrastructure for receiving district; works w/TDR Bank Board.	Facilitates state approvals & permits; provides financial assistance.

Reconcile state/local partnership with plan endorsement

- Match and limit PE requirements to type of TDR program, based on setting, scale, etc.
- Offer state funding benefits in response to to local planning effort and expected outcomes.
- Provide high-level support within state agencies to provide follow-through, resolve conflicts and eliminate logjams.

Options for plan endorsement reconciliation

- Customizing plan endorsement requirements for TDR municipalities.
- Offering an alternative path for State Planning Commission approval.
- Allowing TDR towns to implement TDR once they have reached “action plan” phase of plan endorsement.
- Some combination of above.

Provide single point of contact at state for towns pursuing TDR

- Establish and empower a TDR Implementation Group with high-level membership (possibly under SPC and coordinated w/TDR Bank Board)
- Provide adequate staff support for TDR implementation in order to:
 - market TDR to towns and provide education
 - assist towns with implementation
 - coordinate with other state agencies

Ensure TDR permit facilitation

- Make each agency accountable to TDR Implementation Group
- Encourage agencies to work w/in flexibility allowed under existing regulations
- Make division directors accountable for progress within timelines

TDR permit facilitation (cont.)

- Change agency culture at DOT and DEP that supports interpreting rules narrowly and blocking progress; educate staff regarding state's TDR policy.
- Identify point people from all relevant agencies.
- Pilot “permit facilitation” approach with a few high profile projects.

Find way to stabilize support for TDR program by both state & town

- Explore a TDR General Development Permit approach where the municipality is the applicant and the state is the reviewer.
- Town would agree not to change TDR plan and ordinance for 10 years in exchange for state agreement to lock-in certain rules for 10 years or modify its approach to rule implementation. (Infrastructure Committee is also looking at this).

Explore ways to prioritize the
allocation of wastewater and water
capacity for approved TDR programs

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Market Viability Committee

Jim Hartling, Steven Bruder, Phil Caton, Don Asay, Dave Fisher, Keith Henderson, Helen Heinrich, Chris Sturm, Candy Ashmun, Lou Joyce, Courtenay Mercer, Bruce Papparone

Ensure towns consider market constraints early in TDR planning process

- During “exploration phase” (pre-REMA), encourage towns to draft “TDR Planning Parameters” to arrive at reasonably-sized receiving area.
- Encourage this early assessment of market constraints in TDR educational materials.
- Require this assessment as part of application for a Planning Assistance Grant.

Divide REMA process into 2 parts

- 1) Economic Feasibility Analysis: this analysis, begun during the “TDR assessment phase,” affirms & refines the basic elements of the TDR program. Iterative planning process between town and consultant. About half the total cost of REMA.
- 2) Documentation & Final Report: this part meets the requirements of the rule and allows a town to defend its TDR ordinance in court.

TDR towns can make up for shortfall in available credits

- Town allocates credits to itself, limited to 10% of total number of credits.
- Town offers its credits for sale at public auction.
- Town required to use proceeds to retire development credits in sending area, when available or within 3 years, or funds revert to SADC or Green Acres program.

Time of decision

- Affordable housing requirements in receiving areas should be held constant for at least ten years after TDR ordinance is adopted.

Landowner incentives

- Explore whether state could offer landowners tax credits on taxes paid upon the sale of TDR credits.

Transfer Program Options / Statute Review Committee

Monique Purcell, Candy Ashmun, Tom Beaver,
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Hardt, John Hasse, John Stokes, Chris Sturm.

Overview

- Municipalities find that implementing a TDR program is complicated, time consuming, expensive and not always successful.
- Towns need and want simpler, workable density transfer alternatives.
- Recommend establishing lighter requirements for voluntary TDR, and providing for an enhanced Non-contiguous Tract Cluster.

Enhanced Non-Contiguous Cluster

- Offers greater flexibility with clear legal authority.
- Meant for small receiving areas with few developers.
- Voluntary for all parties.
- No PUD required. No REMA required.
- Can provide transfer ratios w/bonus units.
- No severable credits.
- Can consolidate sending & receiving lots.
- Potential applications.

Voluntary TDR Program

- For sending areas not recently or significantly downzoned in association with a voluntary TDR program, or where landowners have options.
- Simpler requirements, i.e.: only requires first part of REMA.
- May not need full plan endorsement.
- Easier to implement; landowners may be more likely to support such a program.
- Example: Chesterfield

Mandatory TDR Program

- Mandatory TDR requirements remain the same (except for possible revisions to Plan Endorsement).
- Landowner suffers financial penalty if he sells for development.
- Example: Woolwich

Development Transfer Alternatives

	Non-Contiguous Tract Cluster	Voluntary TDR Program	Mandatory TDR Program
REMA	No REMA	Basic REMA	Full REMA
Severable Credits	Easement or Fee	Severable Credits	Severable Credits
Credit Allocation	Local Option	Required	Required
Transfer Ratio	Local Option	Yes	Yes
Receiving & Sending Areas	Local Option	Yes	Yes
Sewage Treatment	Local Option	Yes	Yes
Receiving : Sending Area Sizing	Local Option	Local Option	Yes
Mandatory Cluster in Receiving Area	Local Option	Yes	Yes
State Role in Transfer	Cooperation	Cooperation	State Endorsement
Performance/Sunset	No	No	Yes

Other Statutory Amendments

- Amend MLUL to clearly authorize mandatory clustering in NJ, to be applicable in both voluntary and mandatory TDR receiving areas.
- Amend section 10 of the TDR Act regarding density variances, to allow an exception in urban/urbanized municipalities.
- Amend MLUL to eliminate redundant TDR notice requirements.

Seek Transfer Alternatives for NJ

- Continue to monitor research on and implementation of other density transfer programs based on natural resource goals.

Municipal Fiscal Impacts Committee

Brian Kelly, Phil Caton, Susan Craft,
Keith Henderson, Matt Johnson, Jeff
LeJava, Kevin McManimon, Rick
Reading, Chris Sturm, Bob Wagner

Goals

- Address all categories of municipal TDR expenses: public education and outreach, market analysis, legal, infrastructure, affordable housing obligation, new schools & ongoing community services.
- Make TDR more attractive from town's perspective than status quo, and reduce risks of implementing TDR.

Financial assistance for planning phase

- Reduce costs by simplifying statutory planning requirements (Plan Endorsement, REMA), reducing bureaucratic logjams & offering simpler density transfer tools.
- Provide increased funding to cover an estimated \$300,000 local planning bill, using:
 - Planning Assistance Grants (up to \$100,000)
 - Local open space funds (up to \$100,000)
 - Global Warming Solutions Fund (up to \$100,000)
 - Authorization of development fees.

Financial assistance (cont.)

- Create dedicated funding source for open space and farmland preservation, and TDR Bank.
- Authorize Planning Assistance Grants for counties, MPOs & other regional entities working with communities.

Education & planning assistance

Create planning manuals for:

- Municipal officials
- Landowners
- Potential developers
- General public

Infrastructure

- Clarify towns' ability to charge receiving area developers for proportional share of gray and green infrastructure costs.
- Explore TDR school construction funding priority from School Development Authority.
- Direct NJ Environmental Infrastructure Trust to include TDR as “smart growth” program in order to receive extra low interest rates for water infrastructure.

Infrastructure (cont.)

- Direct Green Acres to prioritize park acquisition & development in TDR receiving districts.
- Direct DOT to prioritize TDR receiving district projects in the calculation of DOT Local Aid.

Address general early costs

- Seek funds to expand role of TDR Bank Board and to provide bridge loans to towns for infrastructure & other early costs.
- Direct Div. of Local Gov't Services to recommend ways to provide transitional financial support to TDR towns for early costs of growth.
- Direct realty transfer tax generated from TDR receiving district to municipality.
- Authorize local realty transfer tax.

Legal protections

- Establish a heightened legal “presumption of validity for TDR master plan and ordinances.
- Limit time period within which TDR ordinances can be challenged.
- Require any action in lieu of prerogative writs concerning a state-approved TDR element or ordinance be reviewed by the Appellate Division only.

Incentives for developers

- Work with DCA and EDA to identify Urban Enterprise Zone-type of incentives for developers in TDR receiving districts, such as:
 - exemption from sales and use taxes on construction materials.

Receiving Area Infrastructure Committee

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Dillingham, Joy Farber, Jen Feltis, Dave
Fisher, Christine Marion, Anthony Serano,
Kathy Stewart, Dianne Brake, Liz Semple,
Matt Blake, Steve Bruder, Chris Sturm

Common Ground

- TDR program should maximize resource protection while promoting smart growth.
- TDR receiving areas should be located away from sensitive environmental resources.
- Permit approval process for TDR-related infrastructure should be simpler & predictable
- Infrastructure funding should prioritize TDR.
- Providing regulatory certainty would be major incentive for TDR towns and developers.

Use a phased planning process based on resource protection.

- State and municipality should work together; official joint commitment to make TDR work.
- Process based on assessments of natural, agricultural &/or cultural resources.
- Locate sending areas in order to protect environmental resources to greatest extent possible; locate receiving areas to avoid impacting resources to greatest extent possible.

Facilitate Sewer Service Area designations (where needed)

- Seek WMP approvals upfront
- DEP should offer formal acknowledgement of proposed SSA designations in approved TDR receiving districts.
- To allow for phased development of large receiving areas, DEP should allow for incremental approvals of the SSA through site-specific WMP amendments.

Clarify support for small-scale wastewater solutions

- DEP to define acceptable management entity.
- Clarify different types of, and standards for, package treatment plants & technologies.
- Post info on package treatment plants previously approved by DEP.
- DEP to provide formal acknowledgement that proposed growth area is/or/is not acceptable for designation of an SSA.

Adopt priority permitting for TDR

- Establish one point of entry to facilitate reviews at state agencies.
- Provide a team approach to project concept review and to coordinate multiple-permit projects.
- Identify permit critical path parameters.
- Establish timelines for action by DEP and developer.

Develop area-wide “Sector Permit” approval process for receiving districts

- DEP could approve “general development plan” for receiving district, good for 10 years.
- Towns could process applications for conforming projects.
- DEP could rescind any inappropriate approvals
- Sector permit guidelines tailored to each site based on environmental constraints.
- “Time of decision” provision.
- Applicable portion of WMP held constant.
- Municipality agrees not to change TDR plan or ordinance, unless approved by SPC.

Habitat planning & mitigation

- Every reasonable consideration should be given to allow a state-approved TDR program to mitigate any newly discovered impacts on regulated habitat.
- DEP should develop a tool to measure levels of impairment and to determine options for equivalent mitigation.

Facilitate Discharge to Groundwater systems

- Determine whether farmland used for groundwater discharge and drip irrigation can be eligible for TDR credits.
- Develop education material about this option.

Facilitate transportation access permits

- DOT should modify access permit process for TDR receiving districts based on performance criteria and regional mobility & transit use, recognizing that traffic congestion must precede transit readiness.
- County road departments should prioritize support for TDR projects.

Align infrastructure funding

- State, county and regional entities should align their capital programs to support TDR.

Public info on water & wastewater

- DEP should act expeditiously to provide clear public information on where water and wastewater capacity exists, to clarify where TDR receiving areas will work best.

Affordable Housing/COAH Committee

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Keith Henderson, COAH

Jennifer Feltis, DEP

Phil Caton, Clarke Caton Hintz

Dianne Brake, PlanSmart NJ

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