

*Eminent Domain –
Tool or Trouble for TOD*

FASTTRACKS
RID

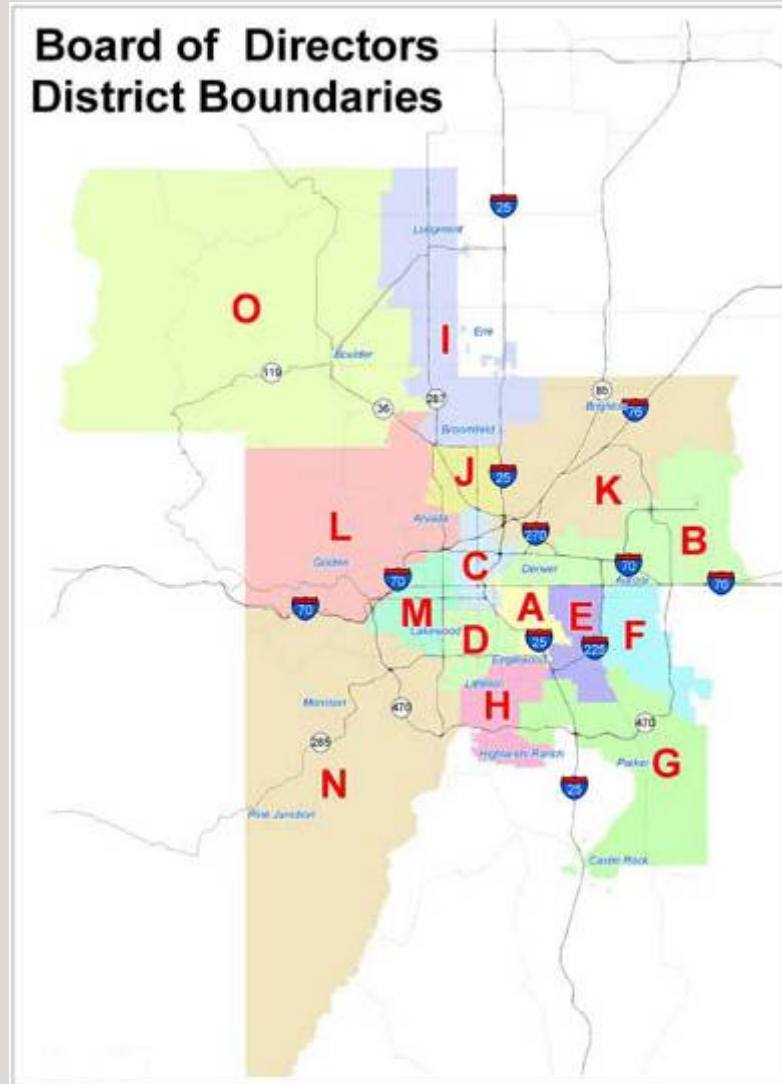
Rail~Volution

San Francisco, California

October 28, 2008

Background on RTD

- Eight county service area: 31 municipalities
- Service area: 2,410 miles: 2.5 million population
- 175 bus routes
- 35 miles of rail
- Over 70 park-n-Rides
- 2,510 employees
- 15 member elected Board of Directors
- Supported by 1% sales tax (0.6% for base system; 0.4% for FasTracks Rapid Transit expansion)



FasTracks Program

- 122 miles of new light rail and commuter rail
- 6 new rail corridors, expansion to 3 existing
- 18 miles of Bus Rapid Transit (BRT)
- 31 new park-n-Rides with over 21,000 new spaces
- Enhanced Bus Network & Transit Hubs (FastConnects)
- Redevelopment of Denver Union Station
- \$7.9 billion capital cost
- Complete by 2017+



Property Acquisition Process

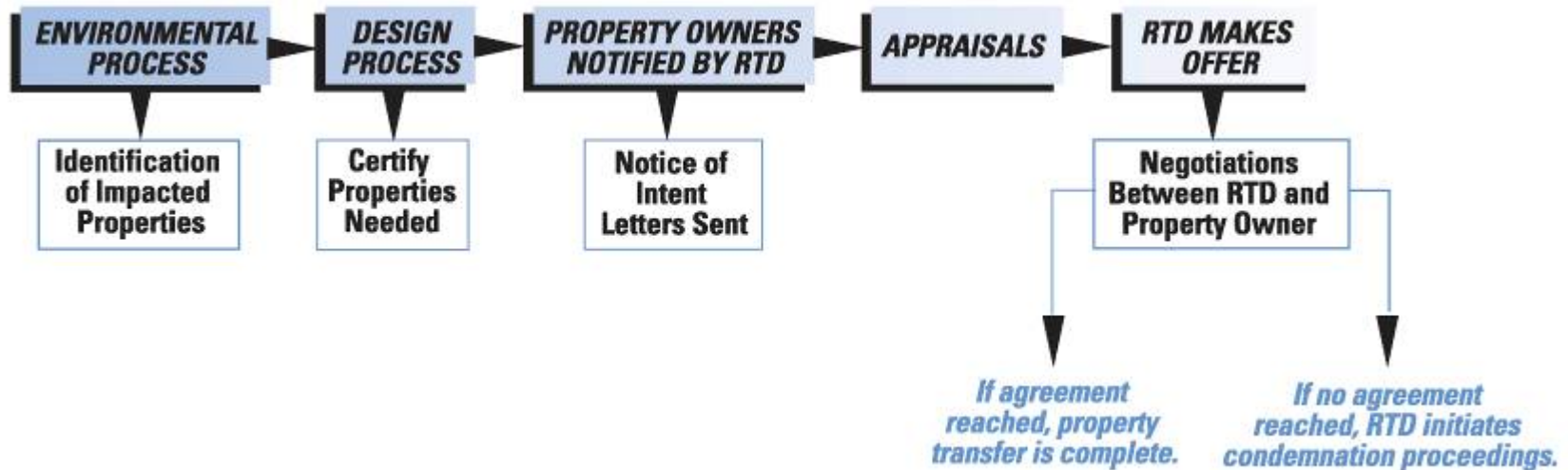
The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

- Established to provide uniform and equitable treatment of property owners for any properties needed for a public project
- Based on due process and just compensation

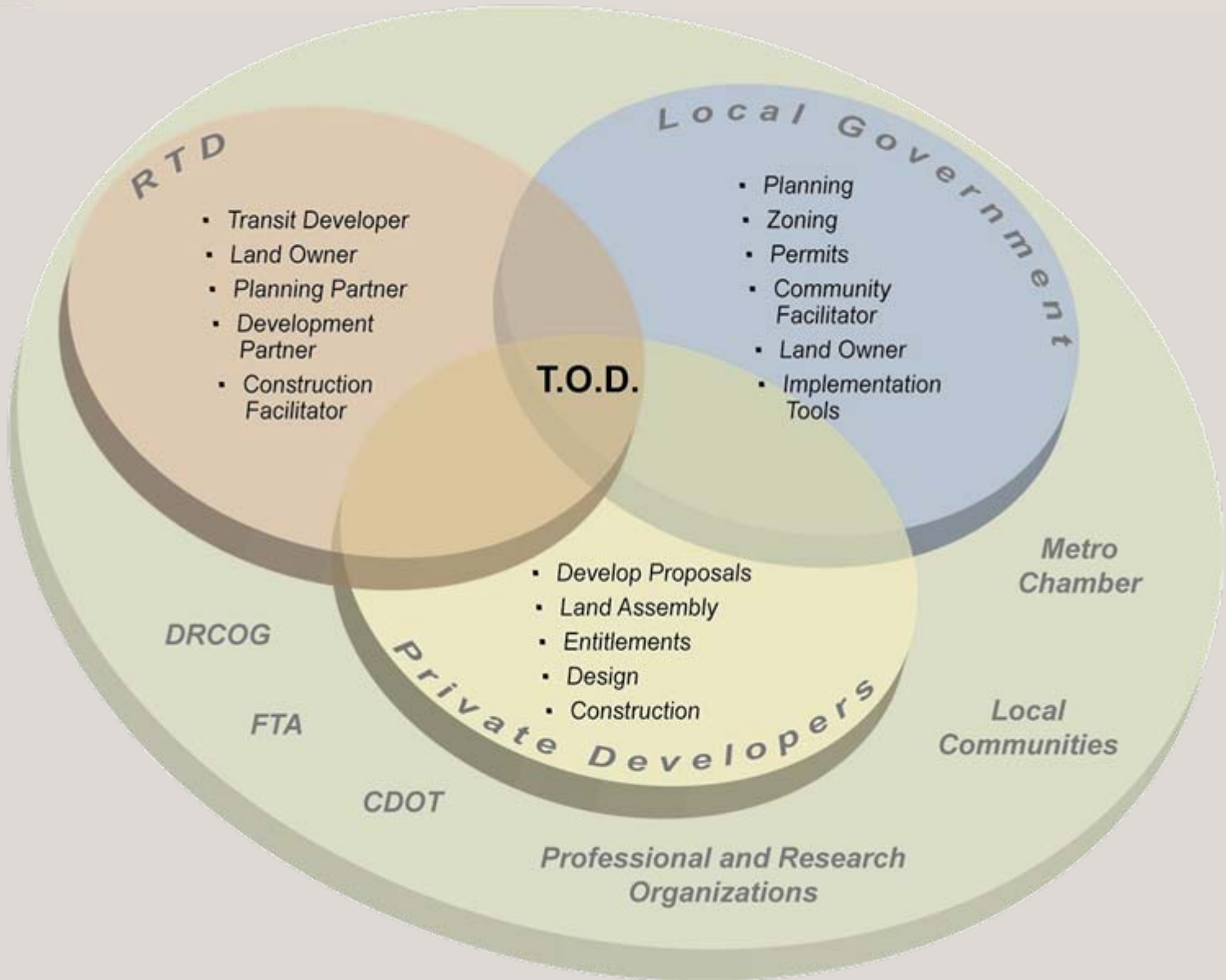
Property Acquisition Process (con't)

- RTD strictly adheres to regulations established by Congress in the Uniform Act of 1970
- RTD follows the same process used by other public entities for federally-assisted projects
- Process used by RTD on its previous four rail projects between 1994 and 2006
- RTD only purchases properties that are necessary for transit projects
- Every effort is made to acquire property through negotiations with property owners

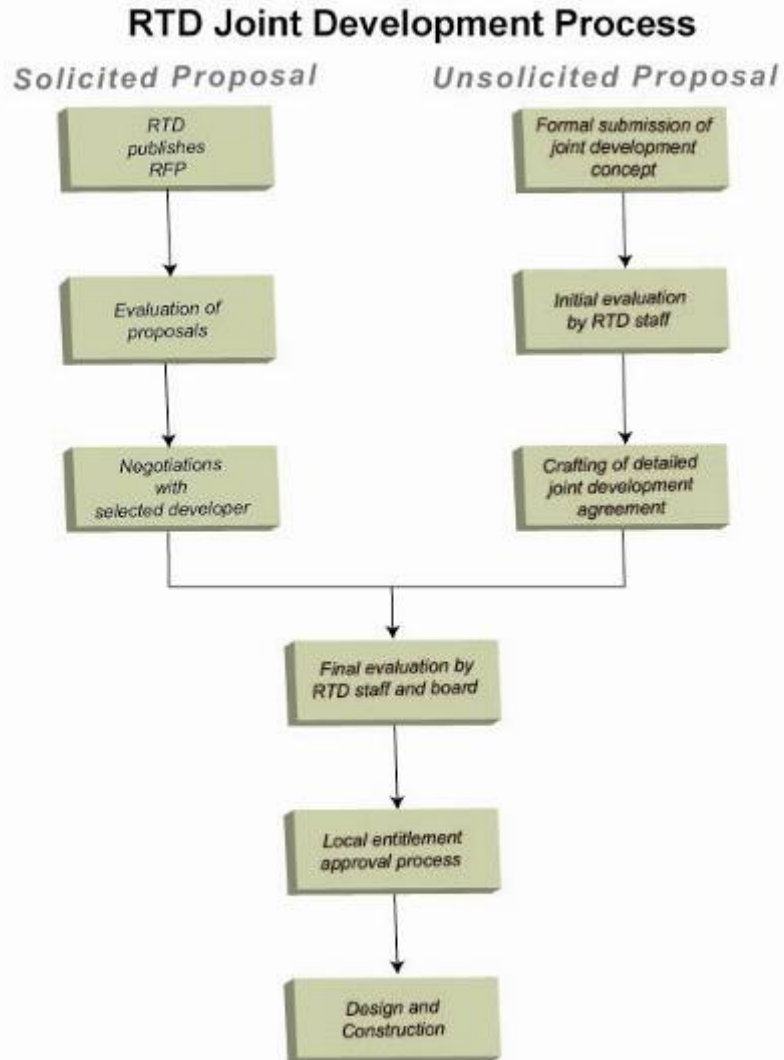
Property Acquisition Process (con't)



Roles in the TOD Process



Joint Development



West Corridor Overview

12.1 miles Light Rail

Connects downtown Denver, Jefferson County, Lakewood And Golden

EIS complete in 2003

New Starts Corridor

Construction initiated in 2008

Construction to be complete in 2013



West Corridor Timeline of Events

2001-2003:

Public Involvement during environmental process

2003:

Impacted properties disclosed in EIS document

2005:

Final design initiated

2005-2007:

Station area planning and rezoning by City of Lakewood and City of Denver

2006:

RTD makes decision to move forward with joint development at select stations

September 2007:

First Notice of Intent letters sent to property owners

What happened next?

- A few upset property owners challenge RTD
 - The media blitz begins
- Anti- eminent domain coalitions join forces
- Property owners retain legal representation
- Property owners and counsel contact various RTD staff and RTD Board Members
- Voluminous Open Records Requests submitted
- Legislation introduced to limit RTD's eminent domain authority
 - Property owners and counsel appeal to legislators

Overview of Initial Anti-Eminent Domain Legislation

- Applied only to RTD
- Allowed property purchased through eminent domain to be used for transit purposes only
- Prohibited RTD from selling, assigning or transferring any property purchased through eminent domain
- Required non-binding mediation between RTD and property owners before any action
- Inconsistent with adopted area plans by cities and counties that envision mixed-use development in or at transit facilities

End Result of Legislation

- Group of developers, business interests, and local jurisdictions mobilized to fight legislation
- HB 1278 defeated after several attempts to revise the initial bill
- Vow by anti-eminent domain supporters to pursue similar legislation in 2009

What went wrong in the process?

- Lack of communication between City, RTD, and property owners during station area planning and EIS/final design
- Eminent domain was already a lightning rod from previous legislative sessions
- Not prepared for massive anti-eminent domain campaign – on the defense the whole time

Lessons Learned

- Eminent domain and TOD do not mix well for a transit agency with limited focus
- Be cognizant of the local political environment on eminent domain
- Local jurisdictions need to actively engage property owners in station area planning
- Build up coalition of developers, elected officials, and business people to be proactive on TOD
- Discuss the potential for property to be acquired with property owners early in process

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