

Please Sign In and use this article's on page print button to print this article.

RESIDENTIAL REAL ESTATE

Developer sounds alarm on measure to limit financing tool

Senate Bill 23-273 passed in the shadow of a Loveland mixed-use development could hamper similar projects throughout Colorado.



Chad McWhinney, CEO and co-founder of McWhinney in the Dairy Block alley.

KATHLEEN LAVINE, DENVER BUSINESS JOURNAL

IN THIS ARTICLE

Commercial Real Estate
Industry

Government & Regulations
Industry

Jared Polis
Person

Chad McWhinney
Person

Janice Marchman
Person

Andrew Boesenecker
Person

Carolynne White

Person

More

By Bob Mook
Senior Reporter, Denver Business Journal

May 15, 2023

Updated May 15, 2023, 6:31pm MDT

Listen to this article 6 min



Though a bill approved by Colorado legislators last week seems to target mixed-use development in Loveland according to one attorney, opponents of the legislation warn it may have broader implications on similar projects throughout the state.

Senate Bill 23-273 would prohibit developers from using tax-increment financing as a funding mechanism on agricultural land that's declared a "blighted area."

Proponents of the legislation consider the use of the blighted-area designation on rural land to be an abuse of an incentive that is supposed to benefit cities, towns and neighborhoods that have existing infrastructure in decay.

But, developers and officials with urban renewal authorities throughout the state are encouraging Gov. Jared Polis to wield his veto pen against the measure.

Developers and urban renewal districts concerned

Chad McWhinney, co-founder and CEO of McWhinney, a Denver-based real estate investment company, says SB 23-273 threatens housing developments throughout Colorado at a time when housing stock is badly needed. McWhinney's projects include the Dairy Block in Lower Downtown, and the firm was part of the team behind the redevelopment of Union Station.

McWhinney is currently building out two major master-planned communities in Colorado: the 3,000-acre Centerra community in Loveland and the 1,100-acre Baseline community in Broomfield. McWhinney stands to obtain up to \$155 million in taxes to invest in infrastructure over the next 25 years, and he's concerned the bill could impact the development and others if it becomes law.

"We have certainly made our views known to the governor and his staff, and we have emphasized the significant potential for new housing with this project somewhere between 1,200 and 1,500 new units," McWhinney told the Denver Business Journal on May 12. "It remains to be seen whether or not he was persuaded by that advocacy. We believe that this bill is in direct conflict with his number one agenda item, which is attainable, and workforce housing."

The \$1 billion project is an extension of Denver-based McWhinney's Centerra South development which established an urban-renewal district to defray development costs and use tax revenue to build infrastructure to support the development. Though ultimately approved by Loveland City Council before SB 23-273 would go into effect, the development faced resistance from the city's Mayor Jacki Marsh and Democrats who charge that McWhinney is using the "blighted area" definition in a way that was not intended by state law.

Though the most recent phase of the Centerra South project will be able to benefit from the funding tool – even if Polis signs the bill into law – McWhinney said the legislation creates a "lot of uncertainty" for the larger project moving forward.

Introduced in April by freshman Sen. Janice Marchman, D-Loveland, SB 23-273 dropped as the Loveland council was weighing a proposal by McWhinney to develop up to 1,500 homes and 700,000 square feet of mixed-use buildings on land in northeast Loveland just off Interstate 25.

Larimer County Commissioner Jody Shaddock-McNally also expressed concerns about the alleged misuse of urban renewal funds in undeveloped land. Rep. [Andrew Boesenecker](#), D-Fort Collins, has said that the current law created an “unintended loophole” and SB 23-273 is needed to rectify the situation. The bill passed somewhat on party lines in the House and the Senate with a handful of Democrats opposing the measure.

McWhinney: Bill is short-sighted

McWhinney called the approval of the bill short-sighted and expressed concern about how it will affect the development and others in the future.

“Since 2004, we’ve been following a set of rules that has existed for many, many years, and then now that’s all up potentially in limbo,” McWhinney said.

[Carolynne White](#), an attorney with Brownstein Hyatt Farber Schreck who represents McWhinney and other clients with an interest in urban renewal estimates that 65 Colorado communities use TIF to address their unique issues – including rural communities such as Craig, Dacono, Delta, Firestone, Frederick, Fort Lupton, Lamar, La Junta and Sterling. She also called the bill misguided.

“The original statute for urban renewal was passed in 1958, and its purpose was to build housing,” White said. “There are 11 factors of blight, and they all refer to physical factors on the land except for one. And they’re things like lack of infrastructure. So for sure, agricultural land lacks infrastructure right on its face. Objectively, it meets that criteria.”

White added that SB 23-273 seemed to be targeting the Centerra South project specifically.

“I have been working on urban renewal matters for 25 of my 30 years in practice,” she said. It’s pretty unusual that you would see statewide public policy with statewide effects

being brought forward specifically to stop one specific project. And that's exactly what this is.”

McWhinney: Funding mechanism is a ‘win-win’

McWhinney maintains that by using TIF as a funding mechanism, residents, cities and developers all come up ahead.

“The reality is these types of developments don't happen without true public-private partnerships,” McWhinney said. “If this tool is no longer going to be available, then what tool is available? Through Centerra, McWhinney has developed 4,200 units, 80% of which meet the state's definition of workforce housing. That would not have been possible had it not been for the public-private partnership with the city of Loveland, Larimer County, and the State of Colorado.”

Jariah Walker, chairman of the board of Downtown Colorado Inc., a nonprofit that supports development authorities, said SB 23-273 adds another impediment to a development process that doesn't happen in a vacuum.

“These kinds of projects are usually vetted backward and forwards before they even move forward with the local municipality,” he said. “To me, this is one of those issues of letting each community decide what they want to do.”

Walker also said he was concerned about how the bill moved through the legislature so quickly without thoughtful consideration.

McWhinney is hopeful that Polis will veto the legislation and then create a catalyst for future discussion on development throughout Colorado.

“My vision is that the governor will create a commission or a task force to really look at economic development throughout the state and just take the urban renewal name out of it for a second and let's get a bipartisan group of people together and focus on the vision,” he said.