

# **Session No. 4:**

# **DEVELOPMENT RIGHTS & ENTITLEMENTS**

**FHWA EDC-5 VCIT IDOT PEER EXCHANGE**

**September 18, 2019**

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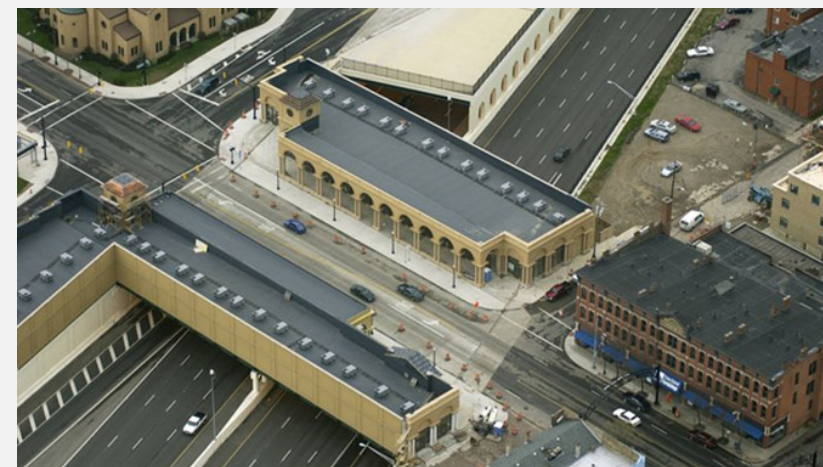
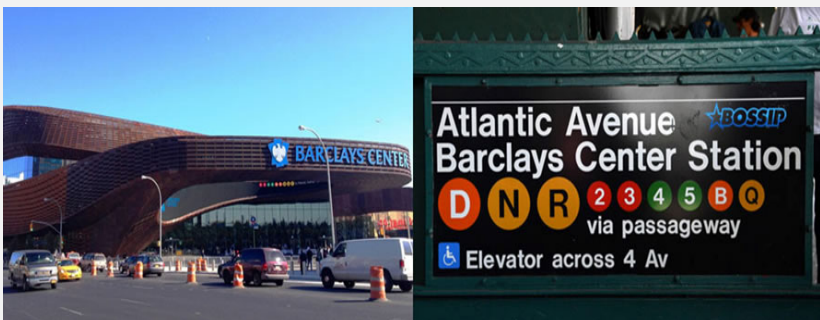
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# TOOL #4—RIGHTS/ENTITLEMENTS

## Land Owners, Developers, Corporate Sponsors

- **Joint Developments—Air Rights & TDRs**
- **ROW Use Agreements**
- **Naming Rights**
- **Solar Energy Panels**



# LAND USE/ZONING INCENTIVES

**Outside MP process, zoning changes are typically initiated bottom up by developers based on their project needs**

- **Air Rights & TDR**

- ✓ Unused air rights above railroad tracks/stations transferred for free in exchange for tax generating major developments projects
- ✓ For high demand areas, these air rights can be monetized by leasing and sales; pre-established public benefit trust fund can be set up for city-wide benefits

- **Upzoning & Density Bonuses**

- ✓ Upzoning approval rates are especially high for cities where local MP is outdated; sometimes used as political tool by elected officials
- ✓ Density bonuses are most common LVC tool for affordable housing

# PROJECT CASE EXAMPLES

- **MassDOT Air Rights**
- **Boston Landing & Assembly Square**
- **MBTA Naming Rights Solicitation**

# SUGGESTED DISCUSSION TOPICS

- 1. Yield/Revenue Potential—Amount, Timing, Stability, Flexibility**
- 2. Equity—Financial Responsibility**
- 3. Efficiency—Benefit vs. Cost, Direct Usage-Based**
- 4. Administrative Ease**
- 5. Transparency**
- 6. Political/Legal Feasibility**

# YIELD/REVENUE POTENTIAL

- **Difficult to predict; vary significantly from case to case**
- **Since each case negotiated separately, there is potential to assure sufficient revenues to cover needed improvements**
- **At minimum, financial obligations and risks that fall on developers (and other stakeholders) help to defray risks to government**

# EQUITY

- **Can be considered equitable because the intent of the process is to hold developers and other stakeholders responsible to enhance equity than do nothing situation**
- **Inequity may occur if earlier developers use spare capacity and subsequent developers are held accountable**
- ✓ **Can use “zone of benefit” concept to mitigate (i.e., recovery of cost of off-site improvements that benefit others)**

# EFFICIENCY

- **Generally efficient due to correspondence between cost obligation and benefits received**
- **Generally encourages development designs that minimize transportation impacts and cost of mitigating impacts**
- **Efficiency issues can arise if the need for mitigation influences development location decisions**
- **Can be administration intensive with significant resources committed to negotiation; more suited for large scale developments**



# ADMINISTRATIVE EASE

- **May be difficult and costly to administer**
- **Each case negotiated separately; less predictable**
- **Highly trained and experienced staff may be required**

# TRANSPARENCY & POLITICAL/LEGAL

- **Although each process can be clearly defined and established, cannot expect uniform & consistent outcome**
- **Potential for manipulation on either side of negotiation**
- **Political & legal feasibility varies from jurisdiction to jurisdiction**