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## Transfer of Development Rights Programs 2022

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# TRANSFER OF DEVELOPMENT RIGHTS PROGRAMS 2022



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# TRANSFER OF DEVELOPMENT RIGHTS PROGRAMS

## EXECUTIVE SUMMARY

Canyon County Development Services Department (DSD) seeks to expand and implement a successful Transfer of Development Rights (TDRs) program in Canyon County. DSD partnered with Boise State University's Idaho Policy Institute (IPI) to investigate TDR programming and ordinance development. Some of the key findings from this research include:

- TDR programs can be effective at preserving agricultural lands as part of a larger toolbox of planning and zoning measures.
- Broad criteria for successful TDRs include setting specific, clear preservation goals and understanding local real estate markets.
- Effective TDR incentives include a mix of market-based and regulatory approaches.
- Intergovernmental TDR agreements are a potential tool to enhance regional collaboration on preservation efforts and are not expressly prohibited by Idaho Code.

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# INTRODUCTION

Idaho is experiencing major population growth statewide, especially near its larger cities (US Census 2022). With Canyon County home to two of Idaho's largest cities – Nampa (2nd in population) and Caldwell (5th) – this growth has led to strong demand for housing across the county, as well as a thriving real estate market. Rapid development spurred by this threatens the long-term viability of the county's agricultural lands, as it is increasingly more profitable for landowners to sell farm fields for development than to continue farming.

As a major producer of specialty crops – including hops, mint, and grapes – Canyon County is an agriculturally significant area. Its significance extends globally as a seed crop region, producing 65% of the world's seed corn (Canyon County, personal communication). For these and other reasons, Canyon County has made agricultural land preservation a policy priority. Under current policy, Canyon County allows the transfer of development rights between contiguous properties with the same owner (Canyon County Zoning Ordinance 07-18-05) for more effective farming or clustering of structures. In theory, an expanded TDR program could allow transfers between non-contiguous properties and different owners.

Canyon County's Development Services Department has partnered with Boise State University's Idaho Policy Institute (IPI) to investigate Transfer of Development Rights programs (TDRs) across the country, explore how these programs incentivize their use, the criteria used in identifying sending and receiving areas, and how viable such a program might be as a farmland preservation tool in the county. IPI's analysis is also informed by personal communication with administrators of existing TDR programs in the mountain west.

## WHAT ARE TDRS?

Transfer of development rights is a process in which the rights to develop a piece of land are severed and allowed to be sold with the intent to use those rights elsewhere in the county. By severing development rights and permitting their sale, these rights can be used independently of the land from which they originated, which allows the original piece of land to be preserved under its current use and direct development elsewhere. Areas where the development rights of land can be sold are designated "sending areas," while areas where those development rights can be used are designated "receiving areas" under Idaho Code (§ 67-6515A.8).

TDRs are an agricultural preservation technique developed and used by local planning and zoning departments to help preserve a county's agricultural lands and open space. Commonly, programs will allow transfer of development rights from a designated sending area to a designated receiving area, with the goal of lowering the degree of development intensity in the sending area and directing more intense development into the receiving area (Danner, 1997). TDR definitions vary depending on the specifics of specific programs, but they typically designate receiving areas to encourage higher density development near cities while preserving farmland and open space in other areas of the county.

TDRs are often portrayed as innovative, market-based solutions addressing a need to guide development without requiring major government intervention or funding. In 2009, there were approximately 140 TDR programs in existence across the United States, although not all were designed to protect farmland - some were instead used to protect environmentally sensitive or historically significant areas (McConnell & Walls, 2009). A 2019 inventory of TDR programs saw that number increase to 363 programs (Timmerman, 2019).

## **PRIOR RESEARCH ON TDRS**

In order to identify best practices and factors that contribute to successful implementation of TDRs, IPI reviewed research about these programs, with particular focus on programs designed to protect farmland. Looking at the body of research on TDR programs, results are mixed. If planned thoroughly, with a clear vision for what their purpose is, these programs may meet with some success (Fang et al., 2019). However, a TDR program is not likely to become a one-size fits all solution for all of a jurisdiction's development challenges, and must often be combined with a larger policy package that may include zoning changes or other incentives for protection of agricultural land and/or directing development into intended areas (Fang et al., 2019).

Some research criticizes TDRs for not being the “win-win” solution they are often portrayed as, arguing they typically serve to place an increased cost burden on development, acting as “yet another growth control in metropolitan areas where such controls have caused housing crises and major harms to the national economy” (Hills & Schleicher, 2020, p. 79). Yet other research acknowledges that by incentivizing property owners in sending areas, TDRs support development in receiving areas. TDR programs can also be a useful political tool to build support for targeted development, as opposed to agriculture-threatening sprawl development (Walls & McConnell, 2007; Shahab, Clinch, & O'Neill, 2018). Table 1 displays several examples of TDR programs across the U.S. that prior research generally regards as successful.

**TABLE 1: SUCCESSFUL TDR PROGRAMS ACROSS THE UNITED STATES**

County, State	TDR Program
Calvert County, Maryland	This program is deemed as one of the most successful TDR programs. Its success is attributed to having a strong market for TDRs and preserving farm land. A county-wide downzoning was adopted years after the program was established to increase density to receiving areas in residential zones, town centers, and a rural zoning designation called the Rural Community District (RCD). In the RCDs, which make up over 40% of the land, landowners are able to sell development rights to protect their land from development or use development rights to develop properties more densely than baseline zoning. (McConnell & Walls, 2009)
King County, Washington	The King County program, located in the vicinity of Seattle, is designed to protect and avoid development on rural and forest lands. The county has a TDR bank and interlocal agreements with municipalities to accept higher density developments. King County’s program is well known for its promotion and education to the public through their website and press releases. (McConnell & Walls, 2007; Pruetz & Standridge, 2009)
New Jersey Pinelands, New Jersey	The New Jersey Pinelands TDR program has preserved over 50,000 acres of ecological and natural resources. The Pinelands Development Credit (PDC) was created to avoid development in sending zones. Those wishing to buy land to increase density above baseline can buy PDCs. The success of the program required 60 jurisdictions to conform their code to implement the TDR program and have plans that are consistent with municipalities’ Comprehensive Management Plans. (LeJava, 2009; Pruetz & Standridge 2009)

## **CHOOSING SENDING AND RECEIVING AREAS**

Research on TDRs suggests that local governments should choose sending and receiving areas based on specific land use goals and local real estate market conditions (McConnell & Walls, 2009). Existing TDR program administrators noted that decisions around sending and receiving areas are impacted by local governments’ land use goals, interjurisdictional agreements with surrounding municipalities, and the conditions of their local real estate market (personal communication).

### **LAND USE GOALS**

The most successful TDR programs are those that tie sending and receiving areas to specific land use goals (McConnell and Walls 2009). According to administrators in existing TDR programs, in order to best preserve agricultural land or protect wildlife habitat, sending areas should be large tracts of open space (personal communication, insert dates). If the intent of the TDR program is to preserve agricultural uses, this can help ensure the preserved land remains a viable option for large-scale farming. Additionally,

selecting sending areas that are well-known and valued by the community helps build coalitional support for TDR programs, as their benefit to the wider population is more easily explained.

Designation of receiving areas are also impacted by a jurisdiction's land use goals. Research suggests they should be small enough to encourage density, while still maintaining the area's overall capacity requirements (McConnell et al 2003). Under an ideal TDR program, receiving areas are located within cities, city impact areas, or near industrial developments to promote higher densities in those areas while limiting urban sprawl.

Having a clear purpose for where sending and receiving areas are located increases the likelihood that administrators, buyers and sellers, and the community can target properties that will have the most impact on agricultural land preservation and density. This, in turn, can contribute to a TDR program's success.

## **INTERJURISDICTIONAL AGREEMENTS & EASEMENTS**

The primary benefit of TDR programs rests on the assumption that, once a development right is sold, the land in the sending area can no longer be developed. Whether that is actually the case or not can depend on the structure of the TDR program and the tools available to the local governments implementing them – specifically the power to place easements as well as enter into interjurisdictional agreements.

Idaho counties that implement TDR programs on their own are limited to unincorporated areas wholly under their own jurisdiction. Often they will still afford some level of deference to municipalities when it comes to their unincorporated Areas of Impact (AOIs), but the level of deference is ultimately the county's prerogative. This can complicate implementation, as often the most desirable receiving areas are within city limits, which are better equipped to handle increased density.

One way TDR programs have addressed this issue is through interjurisdictional agreements. By formalizing how counties and municipalities will interact with regard to the TDR program, development rights from sending areas in the unincorporated county are able to be used in receiving areas within city limits. Boulder County, CO is an example of a county that has a formal TDR agreement with the City of Longmont, CO. Under this agreement, TDRs can be transferred from unincorporated county lands to within city limits, encouraging density within the city and limiting sprawl. In addition, the agreement provides a means for the county and city governments to collaborate on not only the location of sending and receiving areas, but the overall number of development rights available to transfer.

Without an interjurisdictional agreement or some other mechanism, implementation of a TDR program's preservation goals can be problematic. While a county may have the authority to limit future development on lands under its jurisdiction, in some cases those limitations may only last until a city annexes that land within its boundaries. Following annexation, development decisions may fall entirely under the city's purview, unless some form of easement is placed on the land beforehand. For many TDR programs whose aim is conservation of land or open space, the ability to place easements on lands that have sold their development rights is crucial to ensure restrictions on development are guaranteed



into the future.

TDRs are traditionally used to preserve open space, agricultural lands, and wildlife habitat (Pruetz and Pruetz 2007). Interjurisdictional cooperation is a vital component of long-term preservation. Programs that work with cities to establish intergovernmental agreements to allow receiving areas within city limits are more successful in terms of maximizing density while still maintaining open tracts of land in unincorporated county lands. Such agreements would most likely require approval by both county commissions and city councils. Similar opportunities may exist between county governments, as intergovernmental agreements that take a more regional approach to agricultural land preservation may be viable.

## **REAL ESTATE MARKET CONDITIONS**

Another key aspect in successful TDR program implementation concerns the real estate market. By understanding existing real estate market conditions and prices, programs are able to provide participants with better information surrounding the development rights market, which in turn can inform whether individuals wish to buy-in to it. Research indicates that TDR programs may thrive in more actively growing areas, as developers see value in purchasing TDRs in order to develop more intensively within receiving areas, which in turn can increase demand (Daniels, 2007). Conversely, areas without strong demand for development, such as exclusively rural areas, are less likely to realize benefits from TDR programs, as development rights under existing zoning conditions are sufficient to meet the area's needs (Kopits et al. 2008).

Balancing TDR supply and demand can be challenging and is something most programs grapple with. Not all properties are equal in value - those closer to high-growth areas may have greater valuations, which may make those property owners less likely to engage with TDR markets unless they can be certain they will receive a price for the development rights roughly equivalent to the benefit they would have received had they simply sold their property to be developed.

Since TDRs can increase the cost of development, research suggests that the impact of this cost should be taken into consideration in the planning phase, as the additional cost may slow or discourage development in an area unless demand for development is particularly strong (Hills & Schleicher, 2020). In addition, smaller, local developers may be more impacted by these additional costs than larger firms, which can result in inequitable economic outcomes for smaller businesses. Carefully planning the implementation of TDR programs taking these various market conditions into account can help position it for greater long term success.

## **INCENTIVIZING TDRS**

Creation of a TDR program alone is not sufficient to preserve agricultural land. In order to be effective, it must be used - and since it exists as a parallel market to development avenues already available, this often entails jurisdictions offering incentives to encourage buy-in. Research indicates that TDR programs often benefit from certain incentives for both buyers and sellers. Incentives can usually be grouped into one of two types: market-based incentives or regulatory incentives. Under market-based incentives, local governments typically either try to manage market conditions or create tools that make



using the TDR program easier. Under regulatory incentives, local governments adopt rules or regulations that directly impact TDR program operations.

## **MARKET-BASED INCENTIVES**

One approach to incentivizing TDR usage relies upon influencing the overall market for development rights. A key feature of successful TDR programs is the relative balance between sending and receiving areas. Similar to other markets, an oversupply of TDRs from sending areas may drive down prices and discourage landowners in these areas from engaging in TDR programs, as it can be more profitable to pursue other alternatives. Likewise, an undersupply of TDRs may drive up prices and excessively limit or discourage development in receiving areas, because the necessary supply of development rights is insufficient (McConnell & Walls, 2009). Therefore, localities must carefully consider the development capacity of receiving areas and limit sending areas based on development demand in more dense areas. This balance can help keep both sellers and buyers interested in participating in TDR programs.

A straightforward mechanism used by TDR programs to encourage private TDR transactions is creating a registry of sellers and buyers. This not only helps buyers and sellers to find one another, but allows jurisdictions to maintain perspective over the totality of the TDR market within their program. Developers can use a registry to find landowners with development rights for sale and vice versa. Creating a TDR registry is a relatively simple way to facilitate transfers, while having the opportunity to collect data in order to set market rates and achieve land use goals.

Some research points to TDR banks as an important element of TDR programs, because they can provide a way for local governments to manage supply and demand challenges (Danner, 1997; Pruetz & Standrige, 2009). While registries provide a resource for private buyers and sellers to find one another with little government involvement, TDR banks can be more directly involved in transactions and managing the overall TDR market. This can be accomplished by buying up surplus TDRs and storing them for times of demand or by making reserved TDRs available in times when demand exceeds available supply. In addition, they can act as a clearinghouse for identifying potential buyers and sellers and can establish prices for TDRs. A downside to the use of TDR banks, however, is that they require a larger level of government intervention and funding, which limits one of the commonly perceived advantages of TDR programs (Hills & Schleicher, 2020; Kaplowitz & Machemer & Pruetz, 2008; Pruetz & Standrige, 2009).

Finally, pricing of development rights may also be impacted by the availability of historical transaction information. One way programs can incentivize their use is to maintain a historical database, as without access to this data it can be difficult to determine a fair market value for development rights, especially at the outset of a TDR program. Local governments may choose to facilitate pricing, but given the market-based approach underlying most TDR programs, many choose to leave it up to sellers and buyers to determine prices among themselves, since the time and costs incurred in a TDR program are dependent on how it is implemented, the administrative transaction costs, and if program incentives affect the pricing. The more complex and robust the program is in its offerings, the more individuals may be incentivized to use it – but in turn it can inflate the overall cost of the program. Once a TDR program is established, local governments may mimic the prices recorded for private TDR transactions for any government owned development rights, as many localities take a “wait-and-see” approach to see how much TDRs sell for in private transactions.

## **REGULATORY INCENTIVES**

Even in market-based systems, local governments will likely play some role in how development rights are valued by implementing various regulatory policies that affect how a TDR program operates. One of these is determining the quantity of development rights associated with a particular property in a sending area. Typically, the number of TDRs that a landowner is allowed to sell is tied to the acreage of the property, although zoning levels may impact this calculation (McConnell & Walls, 2009). Alternatively, some adopt a flat development right per parcel, regardless of acreage. Determining how many development rights exist and how they may transfer is one of the major regulatory levers that TDR programs have to incentivize usage.

In addition to determining the quantity of development rights, local governments can also determine their overall quality. Local governments typically manage the quantity and quality of development rights needed for more intensive stages of development in receiving areas. For example, some programs might require only one TDR to build an additional dwelling unit in a receiving area, while others might require multiple TDRs (McConnell & Walls, 2009).

Local governments may also impact the TDR market via zoning decisions. The stricter the baseline zoning in sending areas, the less property owners stand to make from development and the more likely they are to sell their TDRs (albeit at a likely lower price). Likewise, if the density limits for receiving areas are already matching current development levels, then developers have little reason to purchase TDRs, but if TDRs are necessary to reach a level of development that is in higher demand, then TDRs are more likely to be purchased and prices are likely to increase (McConnell & Walls, 2009; Pruetz & Standrige, 2009). This process is called downzoning and some local governments incentivize TDR participation by using it in either sending or receiving areas, or both, at the risk of dampening growth and development overall - particularly if both areas are downzoned (McConnell & Walls, 2009). Some states restrict the use of downzoning, however, as it is seen as removing a development right to which landowners already had access to outside of the TDR program. Idaho prohibits downzoning under some circumstances in Idaho Code § 67-6515A(4).

Some jurisdictions take a different approach, implementing zoning standards that make it very difficult to develop in sending areas regardless of whether the property still has

development rights or not. This directs development toward receiving areas, spurring use of the TDR program, or to other areas of the county. Property owners in these sending areas do not have the opportunity to get the same value out of their properties that they would if their properties could be developed. In this case, the sale of development rights could be viewed as partial compensation for loss, rather than a purely market-based transaction. Of course, this approach may be less likely to be supported by property owners in sending areas (Hills & Schleicher, 2020, McConnell & Walls, 2009).

## TDRS IN IDAHO

Idaho's Local Land Use Planning Act grants localities the authority to establish TDR programs, as outlined in Idaho Code § 67-6515A.<sup>1</sup> Under this statute, local governments may enact TDRs in order to preserve open spaces, enhance agricultural lands, and protect wildlife. However, all TDR sales must be voluntary and parties may choose to either make sales permanent or instead agree to a maximum allowed time for development. In addition, it stipulates that water rights do not transfer with development rights and any unexercised development rights shall not be taxed as real property. Box 1 summarizes several key provisions that local governments must comply with when establishing a TDR program in Idaho.

### BLAINE COUNTY

Blaine County, Idaho takes a compensatory approach. In their case, sending areas were downzoned as part of their designation as sending areas, decreasing the value of those properties. However, these properties were then given the ability to sell development rights as a means of recuperating some value from the property, if not the entire market value that they might have brought in had they not been downzoned. Strong support for the protection of agricultural lands throughout the community, made this politically feasible, especially as it included many of the landowners whose properties would be placed in the sending areas.

#### BOX 1: KEY PROVISIONS IN IDAHO CODE

Local governments that enact TDRs must comply with several key provisions of Idaho Code § 67-6515A, including:

**Public Notice** - Local governments must give proper public notice with hearing procedures, as outlined in Idaho Code § 67-6509.

**Market Analysis** - Local governments must conduct a market analysis to ensure receiving areas have the capacity for additional development rights (Idaho Code § 67-6515A.2).

**Perpetuity of Restrictions** - Generally restrictions of development in sending areas are held in perpetuity, but local governments may choose to lift restrictions under certain circumstances (Idaho Code § 67-6515A.3).

**Keep Density Requirements** - Local governments cannot reduce existing density requirements in order to require property owners to purchase new TRDs (Idaho Code § 67-6515A.4).

**Proper Documentation** - Local TDR ordinances must include a process and "instruments" for the transfer of development rights to occur (Idaho Code § 67-6515A.7A). Written documentation must include a description of the sending and receiving properties, as well as recorded consent of all parties in the transfer. See Appendix A for example documentation from Blaine County.

<sup>1</sup> Note that any information provided in this report is for informational purposes only and must not be considered legal advice. For additional details and restrictions, refer to Idaho Code § 67-6515A.

To determine sending and receiving areas the county held community meetings with residents, mapping out locations that would be ideal, and educating them about the benefits of the program. Prevailing anti-growth politics in the area resulted in a hesitance among the community to designate receiving areas in locations that would most benefit from increased density. Instead, receiving areas were placed outside of urban centers, which may inadvertently encourage sprawl and the consumption of non-protected farmland for development in those peripheral receiving areas.

Blaine County's TDR ordinance is the most robust in Idaho, given that stakeholders identified sending areas whose preservation the broader community supported and designated specific receiving areas for increased development. However, in Blaine County, prices are set solely by sellers and buyers, not by the county itself. The county asks applicants to voluntarily disclose prices, so some price estimates are kept by the county, but they may not be exhaustive.

Blaine County's ordinance could provide a baseline or template for other counties in Idaho interested in establishing TDR programs. Its adopted process for calculating development rights within sending areas of a maximum of one unit per 20 acres means that it could serve as a model for other counties to emulate, setting a consistent expectation about TDR calculations throughout the state (Blaine County Code 10-10-5). Additionally, the county already has an application process that complies with Idaho Code 67-6515A(7A), thereby reducing the level of work needed for prospective TDR programs. Applications under Blaine's program must include maps of sending and receiving areas, the legal description and parcel numbers of the sending area, a copy of the deed for the sending area, the number of existing residences/structures, and an administrative fee. See Blaine County Code 10-10-5 for more details on this application process.

## **PAYETTE COUNTY**

The goal of Payette County, Idaho's TDR program is the preservation of prime agricultural lands. It is highly market-based with transactions and prices negotiated directly by sellers and buyers. Like Blaine County, Payette's program also requests voluntary disclosure of prices, so a rough estimate of TDR market values may be known, although again it may not be exhaustive. While Payette County has a TDR ordinance, a key difference is that it does not designate specific sending and receiving areas. Rather, sending and receiving areas can be located throughout the county, provided it is in unincorporated areas. Although there are no formal agreements between Payette County and its cities, the county generally does not allow transfers out of city impact areas, but will allow transfers into those areas. Payette County currently uses a public hearing process to garner public input about TDR applications.

Payette County has materials that can be used in building a new TDR program. Required application materials include a conceptual plan, map and information about receiving property, information about irrigation and availability of water (sending and receiving), a meeting with the irrigation district (if applicable), other information required by the zoning administrator, and an administrative fee.



## INTERJURISDICTIONAL TDR AGREEMENTS

There are currently no interjurisdictional TDR programs in Idaho. However, these types of intergovernmental agreements are not explicitly prohibited in Idaho code. At least one county reported attempting to enter into intergovernmental agreements with city governments, but none have been successfully negotiated. Another county has worked with cities to transfer development rights to receiving areas within city impact areas in exchange for extending utility services to the receiving areas, but in this case both the sending and receiving areas remained in unincorporated county lands.

## CONCLUSION

TDRs are a potential tool to preserve agricultural land in Canyon County, especially if included in a larger toolbox of preservation policies. Successful TDR programs in the U.S. typically have clear and planned land use goals for both sending and receiving areas and understand local real estate market conditions. These considerations will help the public, administrators, sellers, and buyers have more information about TDR programs, the prices and investment opportunities, and inform shared values of land preservation, which in turn can incentivize their use. The TDR market can potentially perform better with these conditions.

Providing incentives that are a mix of market-based and regulatory approaches can make it easier for buyers and sellers to participate in the program. Sellers and buyers can make connections for sales more easily and counties can maintain a certain level of transparency in estimating prices, as well as overall supply of development rights. Other TDR programs in Idaho can be used as examples in the development of a TDR program in Canyon County. Interjurisdictional agreements could increase regional cooperation to preserve agricultural land and open spaces, as it would allow TDR programs to cross county boundaries and/or designate receiving areas within city limits. As with any government program, active and efficient management is vital to its overall success.

# REFERENCES

- Chan, E. H. W. & Hou, J. (2015). "Developing a framework to appraise the critical success factors of transfer development rights (TDRs) for built heritage conservation." *Habitat International* 46, pp. 35-43.
- Chiodelli, F. & Moroni, S. (2016). "Zoning-integrative and zoning-alternative transferable development rights: Compensation, equity, efficiency." *Land Use Policy* 52, pp. 422-429.
- Daniels, T. (2007). "Zoning for successful transferable development rights programs." *Zoning Practice* (12), pp. 2-7.
- Danner, J. C. (1997). "TDRs - Great idea but questionable value." *The Appraisal Journal* 65(2), pp. 133-142.
- Fang, L., Howland, M., Kim, J., Peng, Q., & Wu, J. (2019). "Can transfer of development rights programs save farmland in metropolitan counties?" *Growth and Change* (00), pp. 1-21.
- Feitshans, T. A. (2002). "PDRs and TDRs: Land preservation tools in universe of voluntary and compulsory land use planning tools." *Drake Journal of Agricultural Law*, 7(2), pp. 304-340.
- Hills, Jr. R. M. & Schleicher, D. (2020). "Building coalitions out of thin air: Transferable development rights and 'constituency effects' in land use law." *Journal of Legal Analysis*, 12, pp. 79-135.
- Hou, J., Chan, E. H. W., & Li, L. H. (2018). "Transfer of development rights as an institutional innovation to address issues of property rights." *Journal of Housing and Built Environment*, 33, pp. 465-479.
- Johnston, R. A. & Madison, M. E. (1997). "From landmarks to landscapes: A review of current practices in the transfer of development rights." *Journal of the American Planning Association*, 67(3), pp. 365-378.
- Kopits, E. McConnell, V. & Walls, M. (2008). "Making markets for development rights work: What determines demand?" *Land Economics*, 84(1), pp. 1-16.
- Kaplowitz, M. D., Machemer, P., & Pruetz, R. (2008). Planners' experiences in managing growth using Transferable Development Rights (TDR) in the United States. *Land Use Policy*, 25(3), 378-387.
- Lee, F. G. (1998). "Transferable development rights and the deprivation of all economically beneficial use: Can TDRs salvage regulations that would otherwise constitute a taking?" *Idaho Law Review*, 34(3), pp. 679-710.
- Linkous, E., Laurian, L. & Neely, S. (2019). "Why do counties adopt transfer of development rights programs?" *Journal of Environmental Planning and Management*, 62(13), pp. 2352-2357.

- Local Land Use Planning Act, Transfer of Development Rights, Idaho Code § 67-6515A (1999 & rev. 2003 & rev. 2014). <https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH65/SECT67-6515A/>
- McConnell, V., Kopits, E. & Walls, M. (2003). "How well can markets for development rights work? Evaluating a farmland preservation program." *Resources for the Future*. [discussion paper]
- McConnell, V., Walls, M. & Kopits, E. (2006). "Zoning, TDRs and the density of development." *Journal of Urban Economics*, 59(3), pp. 440-457.
- McConnell, V. & Walls, M. (2009). "U.S. experience with transferable development rights." *Review of Environmental Economics and Policy*, 3(2), pp. 288-303.
- Pruetz, R. & Pruetz, E. (2007). "Transfer of development rights turns 40." *Planning and Environmental Law*, 59(6), pp. 3-11.
- Pruetz, R. & Standridge, N. (2009). "What makes transfer of development rights work?" *Journal of the American Planning Association*, 75(1), pp. 78-87.
- Radford, R. S. (1998). "Takings and transferable development rights in the supreme court: The constitutional status of TDRs in the aftermath of suitum." *Stetson Law Review*, 28(3), pp. 685-698.
- Shahab, S., Clinch, J. P. & O'Neill, E. (2018). "Estimates of transaction costs in transfer of development rights programs." *Journal of the American Planning Association*, 84(1), pp. 61-75.
- Shahab, S., Clinch, J. P. & O'Neill, E. (2019). "An analysis of the factors influencing transaction costs in transferable development rights programmes." *Ecological Economics*, 156, pp. 409-419.
- Stevenson, S. J. (1998). "Banking on TDRs: The government's role as banker of transferable development rights." *New York University Law Review*, 73(4), pp. 1329-1376
- Timmerman, D. (2019). "An inventory of transfer of development rights programs in the United States." University of North Carolina at Chapel Hill. [master's project]
- US Census Bureau. (2021). "How does your state compare? Population change for states (and Puerto Rico) from July 2020 to July 2021." Retrieved from <https://www.census.gov/library/visualizations/2021/comm/how-does-your-state-compare.html>
- Walls, M. & McConnell, V. (2007). "Transfer of development rights in U.S. communities: Evaluating program design, implementation, and outcomes." *Resources for the Future*. [report]
- Walls, M. (2012). "Markets for development rights: Lessons learned from three decades of a TDR program." *Resources for the Future*. [discussion paper]

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