

## HOUSE BILL 10-1143

A BILL FOR AN ACT  
 CONCERNING THE AUTHORITY OF THE REGIONAL TRANSPORTATION  
 DISTRICT TO ENTER INTO AGREEMENTS PERMITTING SPECIFIED  
 USES AT ITS TRANSFER FACILITIES

Written Testimony Submitted To: House Local Government Committee  
 Honorable Cheryl Peniston, Chair

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Representing: Myself

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A. General Objections to HB10-1143:

1. I'm uncomfortable that RTD owns land that is not necessary to its transit operations. I would prefer that the legislature encourage RTD to divest itself of such property and use the proceeds to pay down the cost overruns of FasTracks.
2. RTD is, as it is fond of reminding us, an award-winning transit agency. It is not an award-winning developer. Not all of the FasTracks cost overruns are due to circumstances that no reasonable person could have foreseen. For example, steel and copper prices were going through the roof before the FasTracks bond issue and RTD should have, but did not, revise its cost projections before going to the voters with the bond issue. The legislature should not reward failure to react to market conditions with expansion of RTD authority into non-transit related development.
3. Residential development is still in a tailspin. Why would the people of Colorado even consider allowing a public agency to enter into such a precarious market?

B. Specific Objections to HB10-1143:

1. Page 1 - Title states that this is a bill for an act allowing RTD to enter into agreements permitting "specified" uses at its transfer facilities. Everywhere else in the bill, the authority is for "residential or other uses." That's not very specific.
2. Pages 3 & 4 - Section (3) - states that "any person obtaining the use of any portion of a transfer facility... shall be required to compensate the district by payment of rent at fair market value, or, ... by the provision of services or capital improvements to facilities used in transit services, ... such that the total benefit to the district is not less than the fair market rental value..." This is dangerous territory for the district. Who quantifies the value of these in-kind services or improvements? The district has already proven it does not excel in cost projections.
3. Page 4 - Section (4) states that non-transit uses "shall not be permitted if the use would ... reduce the availability of adequate parking for the public." Current or future? According to the district's own research, the 2nd "most important area for light rail service improvement" in 2008 was - Park-n-Rides (2008 Light Rail Customer Satisfaction & Trip Characteristics - February 2009 report by the Howell Research Group). Also, according to RTD's own research; "There are three primary ways in which Southeast Light Rail passengers traveled to/from the Southeast Light Rail Station they used for their trip: drove alone and parked (40%), walked (25%) and bus (21%)" (2007 Southeast Light Rail Customer Satisfaction & Trip Characteristics - August 2007 report by the Howell Research Group). The same report found that new riders were "more likely to drive alone and park" and "more likely than prior riders to be Park-n-Ride users" (60% - 50%). Encouraging new riders would seem to be a common sense goal for the district. Developing any

"extra space" at transfer facilities as parking would seem to be a more common sense game-plan than committing that space to residential *or other uses*.

4. Page 4 - Section (4) - eliminated prohibition of *residential or other uses if the use would...result in a competitive disadvantage to a private business reasonably near a transfer facility engaging in the sale of similar goods or services*. No private business is allowed to compete with RTD in the provision of transit services. It seems fundamentally unfair to allow RTD to compete with the private sector in providing residential *or other uses*. It also seems to be fiscally irresponsible. Residential property constructed on private land is simply and clearly assessed property tax. Residential property on public land is subject to possessory interest property tax - a difficult and unwieldy proposition for county coffers, given the constant monitoring necessary to ensure the tax is collected through a change in tenancy and that there is no tax collected on vacant developments.
5. Page 4 - Section (4) - "The provision of residential uses or other uses at transfer facilities shall be...conducted in a manner that encourages multimodal access from all users." In Denver County, multimodal is a euphemism for 'reduced parking requirements.' It is an unfortunate reality that reducing parking does not reduce demand - it only shifts parking to surrounding residential streets.

#### C. Conclusion

HB10-1143 does nothing to protect or promote the best interests of the people of the State of Colorado.

Please review the attached information regarding non-transit related development at the University Light Rail Station.

## University Light Rail Station A Short History

A part of the T-REX project, the University Light Rail Station was completed and accepted by RTD in 2005. In addition to a bus transfer station, the ULRS includes a 540-space parking garage of 4 stories set above an enclosed ground floor space meant to house retail shops that are 'ancillary to transit use.'

To the west of the parking garage is a landscaped detention pond to house run-off from the parking garage. Unfortunately, the pond was constructed on land owned by the City and County of Denver - part and parcel of the Buchtel Blvd. Parkway.

Technically, of course, that made said construction illegal.

Enter Mile High Development. The City would vacate the land, which would cause ownership to revert to the adjoining property owner (RTD), the City would rezone the land from R-3 to RMU-30. which would decrease parking requirements, and Mile High would build a residential tower of up to 140' on the land - a bright, gleaming transit oriented development.

Enter the public - owners of the City, RTD and, of course, always the last to be invited to the table. Both area Registered Neighborhood Organizations and the neighborhoods they represent opposed the site vacation - and lost. The public opposed the rezoning - and lost.

Enter the law - RTD is not allowed to negotiate and enter into agreements 'for the provision of residential uses at transfer facilities.' End of story? Sadly, no...

Nothing in existing law prevents RTD from selling its property for residential development. And, in executive session on Aug. 19, 2008, that is exactly what the RTD Board voted to do - sell the parcel for \$500,000. Not on the open market, not at competitive bid, not after eliciting other, possibly better, proposals - no, the Board voted to sell publicly-owned property to one developer and one developer only.

The public backed off. If the property was going to become privately-owned, and the private owner wanted to take all the risks and back his vision with his own money - well, this is America, after all.

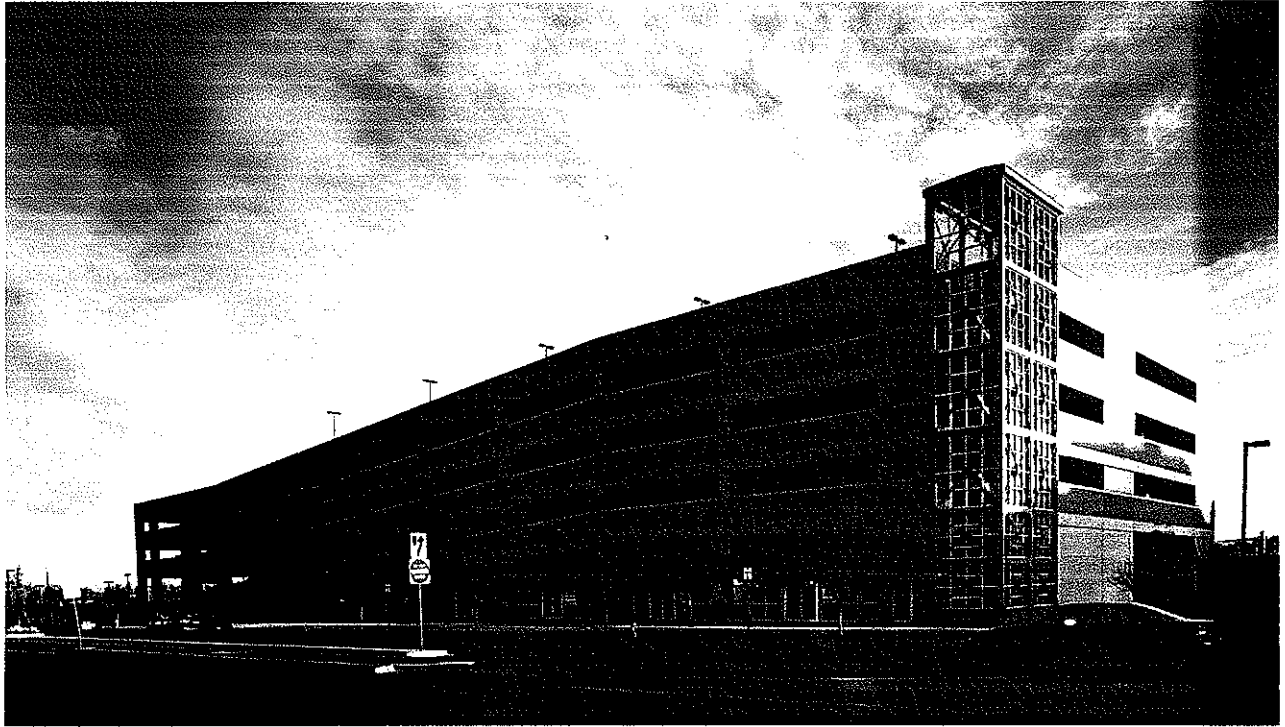
So, that's the end of the story, right? No...

For whatever reason, the sale to Mile High did not go through. And, RTD did not put the property on the open market or seek other proposals. Instead, the agency came to the legislature with HB10-1143.

In the meantime, let's revisit the ground floor of the parking garage. Given RTD's apparent desire to engage in non-transit development, what better place to showcase the agency's acumen in the field? Surely the space is filled with retail venues generating both sales tax for RTD's benefit and also possessory property tax for the schools in Denver County?

Enter a reality check. Nearly 5 years after RTD accepted the parking garage as a finished product, the ground floor remains unfinished and unoccupied - a glass-enclosed pile of rock. No shops, no revenue, no reason for the legislature to put its imprimatur on RTD's expansion into non-transit related enterprise.

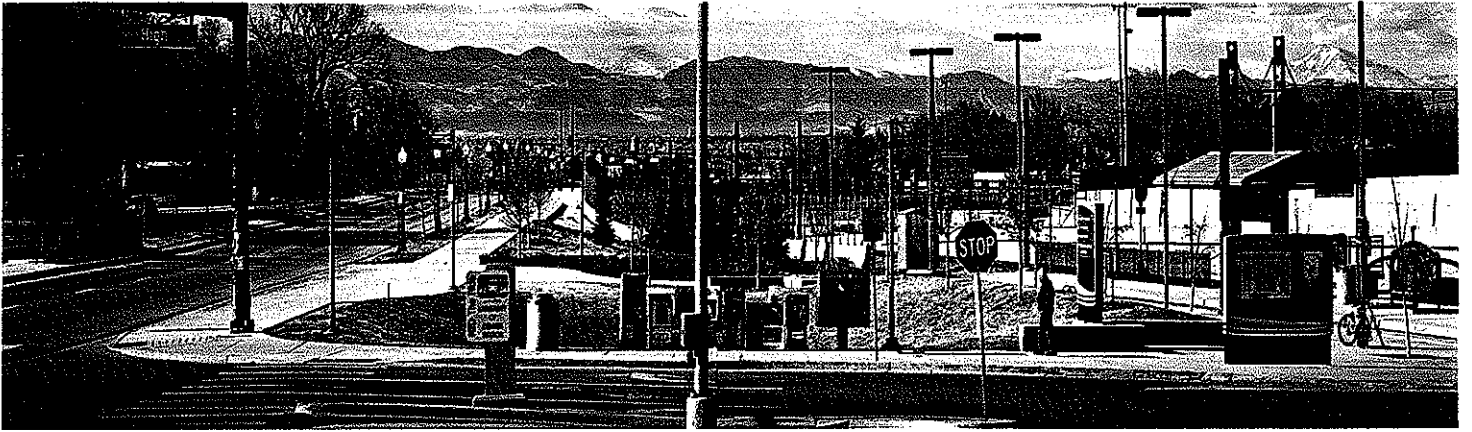
The history of the University Light Rail Station is a cautionary tale - and, it appears, the end of this sad story is in your hands.



UNIVERSITY HILL RAIL STATION PARKING GARAGE.



RTD PARKING GARAGE 2 GROUND FLOOR -  
EMPTY FOR 5 YEARS



CLOSEUP VIEW OF PROPOSED RESIDENTIAL  
DEVELOPMENT SITE AT UNIVERSITY LIGHT  
RAIL STATION



UNIVERSITY LIGHT RAIL STATION - SITE OF  
DETENTION POND & PROPOSED RESIDENTIAL  
DEVELOPMENT - APPROX. 81 ACRE