

Concern: The legislation gives the RDA the authority to issue bonds (for project financing) and exercise eminent domain, or condemn private property for public use.

Realities:

- a. The legislation makes the distinction between what an RDA *shall* do, and what it *may* do. Some are certain requirements, and others are certain authorities – like tools in the RDA’s toolbox. The “may” powers outlined in the law (IC 36-7.6-3-2) allows the RDA to, among other things, condemn property. Other provisions of this statute provide financial authorities to the RDA.
- b. The RDA Ordinance and Articles and By-Laws presented for consideration specifically state that the Our Southern Indiana RDA cannot exercise the provisions of financial commitment and eminent domain. These documents state that the process of bonding and eminent domain are reserved for the elected bodies that have the authority to exercise these powers.
- c. All counties are considering the same ordinance and bylaws (most recent drafts of each are attached). Both the ordinance and the bylaws, as presented, restrict the ability of the RDA to unilaterally condemn property or to incur debt based upon tax collections or special assessments. The County Council’s action on these items create an agreement that these bylaws and rules for operating the RDA (IC 36-7.6-2-12) will be observed.
- d. Regardless, however, there are many safeguards in place to ensure the RDA Board operates in compliance with the wishes of the members:
 - The five RDA directors are to be appointed by the Executives, or Commissioners, of each County. These individuals will be appointed knowing these restrictions have been made.
 - The RDA board is subject to open door laws, so all the Board’s activities and decisions will be made in public forums.
 - If the RDA acts in violation of the authority granted it by the elected bodies that created it and tries to enact either tax assessments or eminent domain, these are both very long, drawn out, and public processes. Elected officials are likely to hear about it as soon as it happens. There are public notice requirements. Neither of these actions can be done quickly or quietly.
 - The RDA can be challenged with the legality of operating against its bylaws. The RDA can be sued over it. This would be an ugly court battle that no one will want to defend because it goes against the bylaws and ordinance.
 - The RDA’s appointing authorities have the ability, according to IC 36-7.6-2-9 (b), to remove RDA Directors with a $\frac{3}{4}$ vote of the executives of the appointing authorities. All of the members of the RDA can vote that the RDA Directors are in violation of the Counties’ ordinances and the RDA by-laws.
 - No one in any of the five counties supports the RDA having the ability to usurp the powers and authorities of the elected bodies. The RDA Directors are going to need to cooperate and work in tandem with elected officials, and are not going to publically challenge the wishes of the bodies that appointed them.