

The price of preservation: Transferable development right sales price hits \$1.8 million in Pitkin County

TDRs are key part of the program to preserve Aspen-area backcountry

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WW Colorado Holdings LLC, with an address at this house at 1130 Willoughby Way, obtained a transferable development right Dec. 7 for a record price of \$1.8 million. TDRs are typically acquired with the intent of increasing house size. (Kelsey Brunner/The Aspen Times)

The Aspen area's super-heated real estate market has helped push the price of transferrable development rights from \$360,000 last year to close to \$2 million now.

"The big story of the year is the escalating value of what TDRs are selling for," Suzanne Wolff, assistant director of the Pitkin County planning department, told the county commissioners Wednesday. Wolff gives an annual report on how the TDR program is working.

As she was preparing her report in late November, the top TDR sale-to-date had been for \$1.5 million. That was topped with a \$1.8 million sale Dec. 7.

"It's pretty stunning to see those numbers coming in," Wolff said.

The transferable development rights, often called TDRs, are tied to Pitkin County's unique program to severely limit development of the backcountry. The county commissioners in the mid-1990s created Rural and Remote Zoning to limit development in many backcountry areas to 1,000-square-foot cabins. To compensate landowners for limiting development, the county later created TDRs.

The landowners can sell the development right and forfeit their ability to build a cabin. The TDRs can be used in designated "receiving areas" to increase the size of a house. The receiving areas are typically places close to urban cores. Pitkin County has a house size limit of 5,750 square feet. One TDR allows a property owner to add 2,500 square feet. In some cases, the TDRs are used to

create new development rights in a qualifying area.

The county has issued 398 TDRs since the creation of the program. Most of them are on properties zoned Rural and Remote but a handful was created on properties where development was constrained by county regulations or deemed undesirable by the county. Wolff said 269 TDRs have been used or “extinguished” leaving 129 potentially in play.

“People have them, they’re putting word out there and selling to the highest bidder,” Wolff said.

There were 21 TDR transactions in 2021, the highest number since 2013, according to the county’s database.

Year	Number of TDR transactions	Price Range
2021	21	\$375,000 to 1,500,000
2020	15	\$220,000 to \$360,000
2019	10	\$225,000 to \$240,000
2018	15	\$210,000 to \$235,000
2017	13	\$195,000 to \$220,000
2016	15	\$195,000 to \$210,500
2015	19	\$190,000 to \$210,000
2014	17	\$185,000 to \$210,000
2013	21	\$130,000 to \$185,000
2012	22	\$115,000 to \$150,000
2011	11	\$125,000 to \$165,000
2010	10	\$160,000 to \$225,000
2009	6	\$200,000 to \$260,000
2008	10	\$282,500 to \$310,000
2007	34	\$250,000 to \$318,000

This chart prepared by Pitkin County shows the number of transferable development right transactions by year and the sales price range.

Real estate agent Scott Bayens specializes in the TDR market, representing both buyers and sellers. While there are 129 available on paper, many are being stockpiled by landowners for their own use while speculators who are banking on rising prices hold others. The actual number available for purchase is small, said Bayens, who also writes a monthly real estate column for The Aspen Times.

As a result, a TDR topped \$1 million for the first time this summer. At least five TDRs have sold for more than \$1 million this year, Bayens said, and one is under contract for \$1.8 million.

Bayens said the county commissioners’ discussion about possible revisions to the land use code in 2022 have [fueled some of the demand](#). Homebuilders are nervous about the potential for smaller house size restrictions, for example.

“The county has created its own wildfire,” he said. He likened the current interest in TDRs to a “gold rush.”

The sale of the TDR on Dec. 7 is a prime example of that rush. Bayens said it was offered for sale for \$1.7 million, though it wasn’t listed in the Aspen MLS. There were multiple offers, which drove up the price.

In this case, the development right originated on an obscure, 5-acre mining claim near Grizzly Reservoir in the Lincoln Mining District, according to the county database. The county granted the TDR certificate to the mining claim owners in 2001 and it was immediately conveyed to another party for an undisclosed price. The TDR changed hands again in February 2014 when Caroline “Dee” Wyly, the widow of billionaire businessman Charles Wyly, acquired it.

The TDR was sold as part of a court-ordered bankruptcy liquidation. The buyer was WW Colorado Holdings LLC, with an address as 1130 Willoughby Way in Aspen. Wolff said it was likely acquired to increase the size of a home.

Bayens said because of the real estate market dynamics and concerns about possible land use code revisions, TDR prices will likely continue to rise.

“Our values may top out in the mid-\$2 millions,” Bayens said.

The caveat, he said, is if the market is flooded with 12 or more TDRs in a short time.

The county commissioners appeared a bit dumbfounded Wednesday by the TDR sales prices reported by Wolff. Commissioner Greg Poschman said the program has served the county “incredibly well” but that the county “created a monster.” The county essentially created a new currency, he said.

Commissioner Francie Jacober agreed and said the county might have to “rethink” the TDR program.

Commissioner Kelly McNicholas-Kury had a different take on the report. The TDRs represent success in preventing development in the backcountry, she said. That differentiates Pitkin County from most other mountains areas in Colorado and the West.

Bayens agreed with McNicholas-Kury's interpretation.

"It's a great program," Bayens said. "What does it matter that those who have them to sell are now reaping the reward? Thousands of acres of land in some of the most pristine places on Earth have been spared from development."

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