A Presentation to the Bertie County Tourism Development Authority

Building an Effective Destination Leadership Organization

The ABCs of TDAs

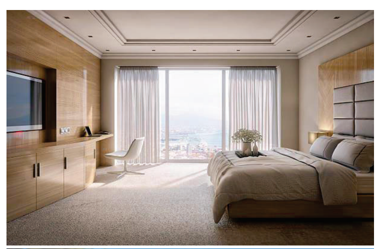
- A Tourism Development Authority (TDA) is the vehicle created by the State to oversee the collection and investment of occupancy taxes in most communities in NC.
- In NC, it's a "quasi-governmental" body, usually a board of representatives from the local visitor economy and the community, plus ex officio members.
- TDAs can only be created by a specific act of the legislature, granting approval to a local body (county commissioners or a city council) to appoint most of its members and formally authorize an occupancy tax.
- The legislation is always specific to that community.

Overview of North Carolina Occupancy Taxes

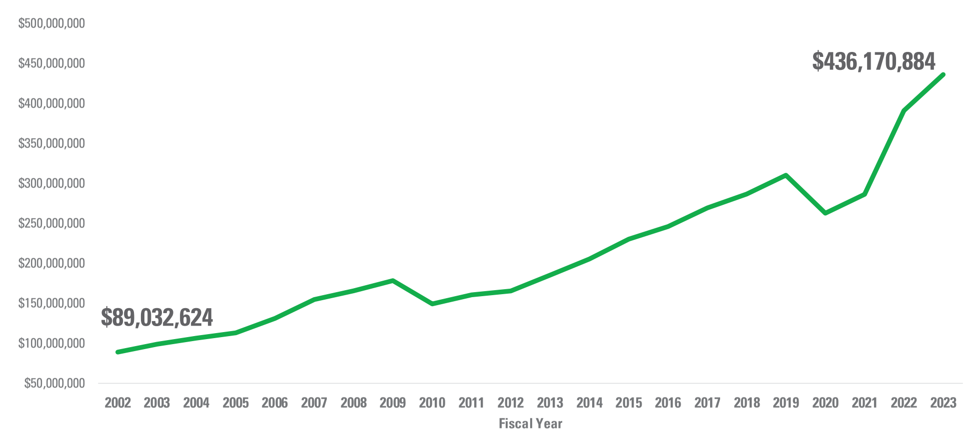
First occupancy tax legislation was passed in North Carolina in 1983.

- 90 NC counties enabled to collect occupancy taxes.
- 110 NC cities and towns enabled to collect occupancy tax, sometimes in addition to county tax.

Tax rates range from 1% to 6%. The total rate charged to the guest cannot exceed 6%. The only exception is Mecklenburg County, which levies an 8% tax.



Statewide Local Occupancy Tax Revenue Collections by Year, FY 2002-2023



Note: Data missing for some jurisdictions in some years, so annual totals shown may not represent exact statewide amount collected. Source: NC Department of Revenue

Who Pays the Tax?

- Guests of all commercial lodging for stays of 90 nights or less.
- Properties that rent for less than 15 days a year and that do not use Airbnb or VRBO are exempt.
- For rentals made via Airbnb and VRBO, the tax is paid directly by those platforms by agreement with the NC Department of Revenue.
- Occupancy tax always in addition to sales tax.
- Tent campgrounds and RV parks are excluded.

Bertie County Occupancy Tax Legislation

The Bertie County occupancy tax of up to 6% was authorized in 2023:

At least 2/3 invested in the promotion of tourism: "To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities."

Up to 1/3 invested in "tourism-related expenditures."

"Tourism-Related Expenditures"

"Expenditures that, in the judgment of the TDA, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the city/county. The term includes tourism-related capital expenditures."

- Before occupancy tax guidelines were adopted in 1997, a few destinations allocated the tax to their general fund or "tourism-impacted" areas such as fire, police, and waste disposal. Many of these were beach communities.

- "*Tourism-related*" has been used to support a variety of projects, including capital assets—stadiums, arenas, convention centers, wayfinding, visitor centers, museums, etc.—and non-capital expenses such as events and maintaining certain destination assets.

CURRITUCK SLAPPED WITH SUIT OVER $40 MILLION IN OCCUPANCY TAX SPENDING

May 23, 2019 · OBX Today · Featured · Comments Off

BUDGET & TAXES, BUSINESS, LAW, LOCAL GOVERNMENT, STATE GOVERNMENT

Appeals Court rules against Currituck County in occupancy tax dispute

CJ STAFF · MARCH 19, 2024

The Currituck County Case

- Under its legislation, the Currituck County commissioners serve as the TDA.
- County was directing occupancy tax funds intended under its legislation for "tourism-related expenditures" (including beach nourishment) into the general fund and using for activities such as public safety services and equipment.
- Their legislation provides that tourism-related expenditures are those that "in the judgment of the Board of Commissioners, are designed to increase the use of lodging facilities, meeting facilities, recreational facilities, and convention facilities in a county by attracting tourists or business travelers to the county."
- County sued in 2019 by property owners collecting the tax, alleging improper use of revenue.
- Commissioners argued they had discretion to determine tourism-related expenditures and said that public safety was impacted by tourism, and thus appropriate.

The Currituck County Case

- Court of Appeals ruled that even though the state statute gave commissioners discretion to determine what was tourism-related, that discretion is not without limitation.
- No evidence was presented of county making a reasoned determination that public safety services and equipment were tourism-related prior to the expenditure.
- There was also evidence that the entire budget of some public safety line items was being funded out of occupancy tax. (In other words, it wasn't a portion of the funding that was based on tourists' use.)
- There must be some evidence that the governing body over the tax made an actual determination using their discretion and the language within the legislation that the expenditure met the criteria *prior* to the expenditure. (Here, it seems the county was directing tax revenue into operating fund and then tried to justify it after they got sued.)

North Carolina Constitution, Article V, Section V

"Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose."

Bertie County TDA

Your Destination <u>Leadership</u> Role

Three Components of a NC Tourism Development Authority

Legislation
- Mandate

Already in place: Put heads in beds!

Policy
- Manage Risk
- Create Legal Protection
- Establish Priorities

Process
- Clarity
- Efficiency
- Accountability

Destination Leadership Responsibilities

The staff and board of a publicly-funded TDA have a <u>fiduciary duty</u> to ensure that lodging tax dollars are spent in accordance with the specific legislation and rules governing their use.

Fiduciary: Relating to or involving trust

What does it mean to execute a fiduciary duty?

"Perform each of their duties as board members…in good faith and with that degree of diligence, care and skill which an ordinary prudent person in like position would use under similar circumstances and may take into consideration the views and policies of any elected official or body, or other person and *ultimately apply independent judgment in the best interest of the authority, its mission and the public*."

Public Authority Board Member and Staff Training, State of New York

The Strategy of Tourism Investment Decisions

- Will the TDA be just a pass-through for lodging tax dollars granted to other organizations?
- If so, what are the strategic objectives associated with those grants?
- What guardrails will there be around grant processes?
- Will you feel compelled to make grants even if they're not always in tourism's best interest?

What Can the TDA Invest In?

At least 2/3 of tax revenue must go to **destination promotion**.

- This can include marketing grants to local tourism partners.

Up to 1/3 of revenue can be invested in **tourism-related expenditures,** including:

- Capital assets
- Event execution grants
- Maintenance of tourism assets

Plus the fund balance.

What Can the TDA Invest In?

Destination promotion or tourism-related expenditure?

If tax revenue is invested in marketing of an event, it's a promotional expense (funded from the 2/3 of revenue for promotion).

If revenue is invested in hiring a band, Port-a-Potties, stage rental, or fireworks, it's a tourism-related expense (funded from 1/3 of revenue).

Roles of a Destination Leadership Organization

- Destination promotion
- Catalyst for destination enhancement
- Active supporter of tourism growth
- Helps identify sources of project funding
- Works closely with local, state, and federal governments
- Critical partner in economic and community development
- Brings stakeholders together for collaboration and mutual benefit
- **Activate, collaborate, facilitate, advocate**

The New Tourism Problem Solver Paradigm

Activate: Our investment of resources directly affects growth of the visitor economy and the destination experience.

Collaborate: We share responsibility for influencing the visitor economy and the destination experience, via purposeful allocation of resources and working together with other organizations.

Facilitate: We bring together stakeholders who serve different but important roles in the development of the destination experience, to align with a common goal, or we help find funding for projects that support tourism.

Advocate: We don't directly invest our resources, but it's in the best interest of the visitor economy for us to influence other organizations' policy and investment decisions.

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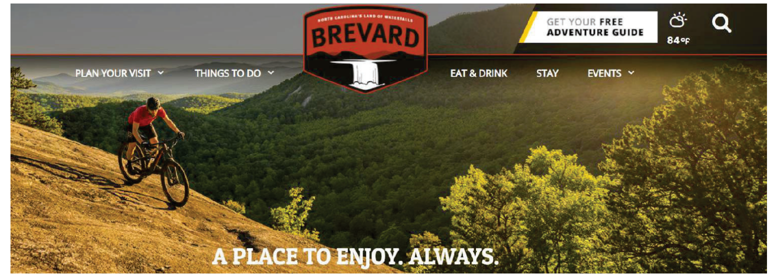

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The following are some of the projects that Transylvania Always has funded:

Butter Gap Area Trail Improvements

$30,000 to The Pisgah Conservancy for contracted NEPA surveys that are required within the project area.

Cantrell Creek Project

$20,000 from TCT in partnership with The Pisgah Conservancy, Trout Unlimited, REI, Backcountry Horsemen, Mills River Partnership, Mountain True, and Pisgah Area SORBA. The project created a new 2.5-mile trail away from the creek resolving the Issue of eroded soil, which was causing damage to aquatic life.

DuPont State Recreational Forest Trail Consultation

$2,500 to DuPont State Recreational Forest to hire a technical trail expert to evaluate the Triple Falls

Waterfall Safety PSA

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Build Upon Existing Assets

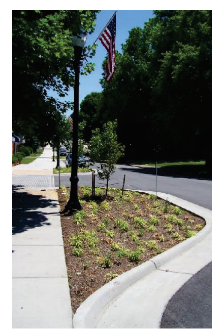
"This <u>current destination asset</u>

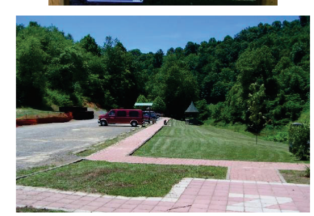
+

____

would make us a better place to live <u>and</u> visit."

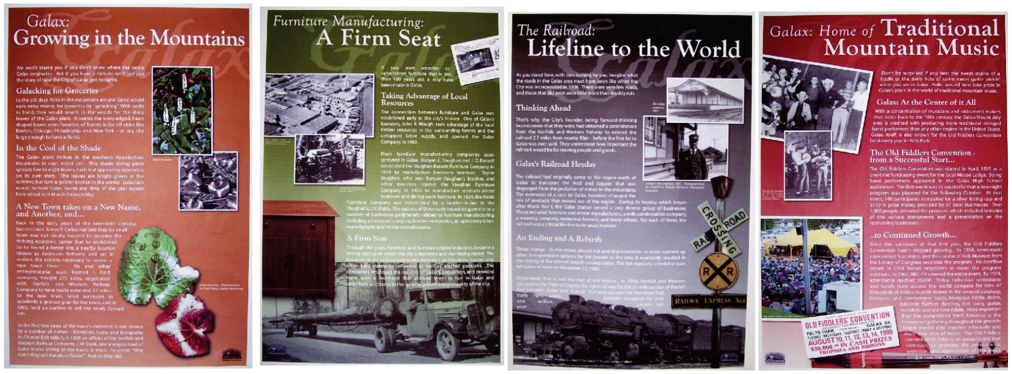
New River Trail Extension



With the help of the VDOT and TEA-21 Funds, extended the New River Trailhead to Downtown Farmers Market

New River Trail Extension



Final phase of the project: installation of interpretive signage, landscaping, benches, and sculptures made from recycled railroad ties and rails.

New River Trail Extension

Examples of Tourism Fairy Dust

What can you add to community quality of life projects that would also benefit visitors and enhance the destination?

- Bike repair stations
- Restrooms
- Public art
- Interpretative signage
- QR codes
- Audio tours
- Performance venues
- Bus shelters as "art"

Why Be Involved in Your Destination's "Visitor Experience Development"?

What is "Tourism Product Development"?

1. "Brick-and-mortar" capital project examples

- Convention and conference centers
- Arenas and stadiums
- Other sports facilities
- Performing arts venues
- Attractions
- Parks, greenways, and trails
- Placemaking initiatives, such as streetscapes and public art
- Visitor centers
- Wayfinding

What is "Tourism Product Development"?

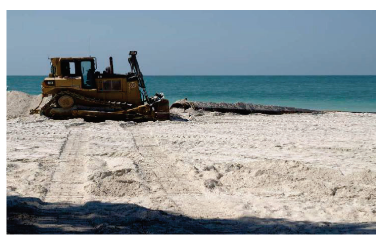
2. "Soft" product, typically non-capital investments of a shorter duration:

- Festivals and events
- Sporting events
- Concerts
- Exhibitions

What is "Tourism Product Development"?

3. Other Experiential Enhancements:

- Beach renourishment
- Maintaining the visit experience
- Holiday decorations
- Tourism-related business development
- Marketing-focused "trails" that tie together existing assets (*Example:* Alabama Bass Trail, Kentucky Bourbon Trail, Santa Fe Margarita Trail, Tupelo Cocktail Trail, etc.)



Events and Destination Leadership Organizations

Most TDAs do <u>not</u> get directly involved in the execution of special events, preferring to work with their partners to put on the event and support them financially or with marketing resources.

Why Be Involved in Destination Product Planning?

*" Choreograph the overall destination experience"**

- **Grow demand.**
- **Thwart competitive threats.**
- **Enhance quality of life in the community.**
- **Generate economic impact.**
- **Feed the destination brand.**
- **Increase organizational relevance.**
- **Take control of your destiny.**

* *Greg Oates, Skift, 7/29/15*

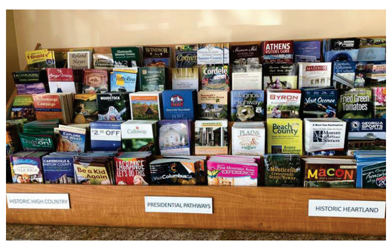
Always Ask Why: What Strategic Objectives Do Your Investments Fulfill?

- Increases length of stay?
- Penetrates a new daypart or season?
- Increases spending?
- Drives repeat visitation?
- Generates new visitation?
- Attracts a new audience?
- Creates marketing buzz?
- Enhances community quality of life?
- Enhances destination quality of visit?
- Adds value to visit?

Evolving from Just a Destination <u>Marketer</u> to <u>Leader</u>

"Old School" Destination Marketing Organizations:

- Mostly sales and marketing focused
- Little emphasis upon the destination brand.
- Little collaboration with local governments and traditional economic development entities
- Not very strategic



BERTIE COUNTY 1722 NORTH CAROLINA

Community promotion is still very important!

HALO MAGIC

Creating a Singular Place Brand for Destination Marketing & Economic Development

NORTH Dakota
Be Legendary.™

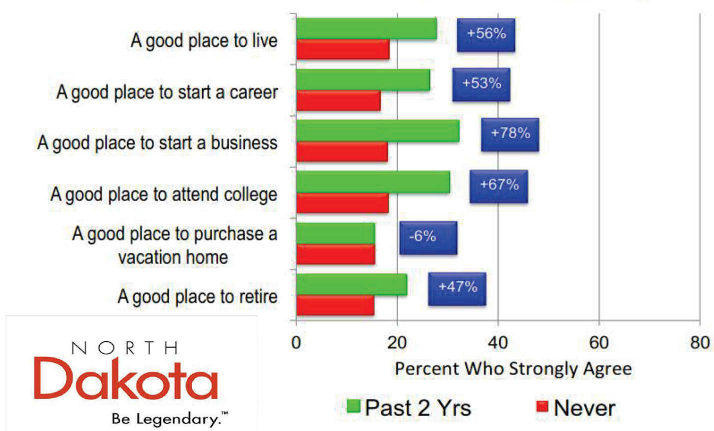
Those who saw the North Dakota tourism campaign were more likely to think of it as...

- A place to live? Yes, up 41%.
- A place to start a career? Yes, up 100%.
- A place to start a business? Yes, up 75%.
- A place to attend college? Yes, up 87%.
- A place to purchase a second home? Yes, up 113%
- A place to retire? Yes, up 75%.

NORTH Dakota Be Legendary.™

Source: Why Tourism Advertising Is More Powerful Than You Think, Forbes.com 3/19/2015

Impact of Visitation on North Dakota's Economic Development Image



NORTH Dakota Be Legendary.™

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TDA Bylaws

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TDA Bylaws

- A tourism development authority is a legislatively-created independent legal entity. It is not a committee or a commission.
- Bylaws typically define membership of the board and appointment in alignment with the state enabling statute, objective of the TDA, number of members, member tenure, officers, duties of officers, the frequency of meetings, the formation of committees, open meetings policies, and other related issues.
- Bylaws can be altered at any time by the board and should be reviewed periodically by the board.

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Conflict of Interest Policies

Conflict of Interest Policies

- Intended to support your fiduciary duty as a board.
- Board members must not seek to derive gain from a business transaction or advance their own political, personal, or business interests.
- Must disclose relevant information regarding potential conflicts of interest to avoid any appearance of impropriety and eliminate risk of liability before any action is taken.
- The board member must recuse themselves from both discussion of the topic and any votes on the matter. The board will ultimately determine if a conflict of interest exists.
- Board members with a conflict of interest must also refrain from influencing other BCTDA board members and/or staff on such matters.
- Board members should not accept gifts from any suppliers or contractors of the BCTDA.
- Indictments should also be grounds for removal from the board.

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