



Frequently Asked Questions Regarding Community Development Districts

The following information briefly answers the most commonly asked questions regarding the establishment, governance, and powers of Community Development Districts under Florida law.

Q: What is a Community Development District?

A: A Community Development District (“CDD” or “District”) is a special-purpose unit of local government established pursuant to and governed by Chapters 189 and 190, Florida Statutes. A CDD is a type of, and the most popular form of, Special District. Special Districts are similar to cities and counties, except that Special Districts are organizations of local special-purpose government rather than general-purpose government. A CDDs special powers are generally limited to funding, installing, operating, and maintaining public infrastructure. Other forms of Special Districts include Water Control Districts, Housing Authority Districts, and Fire Control Districts. Chapter 189 of the Florida Statutes addresses Special Districts generally, while Chapter 190 is devoted specifically to CDDs. CDDs have become a popular form of special-purpose government in Florida, and there are currently more than 500 throughout the state.

Q: What powers are CDDs permitted to exercise?

A: As special-purpose local governments, CDDs possess certain legal powers similar to those held by cities and counties. CDD powers include the right to enter into contracts, to acquire and dispose of real and personal property, to adopt rules and regulations, and to obtain funds. These funds are obtained either by borrowing, issuing bonds, or levying assessments and taxes. CDDs also have

certain special powers relating to the provision of basic public improvements and community facilities, such as roads, bridges, and water management services. Finally, after obtaining the consent of the local general-purpose government, CDDs have the power to construct or acquire, and to operate other types of facilities, including recreational amenities, fire stations, and security guardhouses.

All District powers are exercised subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts that have jurisdiction over the CDD. Similarly, the creation of a CDD does not alter the requirement of obtaining the necessary government approval for any activities or construction within the District. By law, CDDs do not have zoning, permitting, or comprehensive planning powers.

Q: How are CDDs governed?

A: CDDs are governed by a five-member board of supervisors elected initially by District landowners on a one-acre, one-vote basis. For voting purposes, any fraction of an acre is rounded up to the next whole acre. The board of supervisors will select a district manager who oversees the works of the district and is generally responsible for any maintenance or improvements undertaken by the District. The district manager also formulates the District's annual budget that is presented to the board for approval. CDDs also typically retain the services of an attorney and an engineer.

If the District is comprised of less than 5,000 acres of land, has 250 "qualified electors" (residents of the District registered to vote in the county in which the district land is located) living within its borders, and if six years have passed since the creation of the District, supervisors will then be elected by the qualified electors residing within the boundaries of the District rather than the landowners. If the District is greater than 5,000 acres in size, landowners continue to elect the board supervisors until ten years have passed and at least 500 qualified electors reside in the District.

Q: Are there any regulations applicable to the Board of Supervisors?

Board meetings are governed by the open meetings law, and therefore must be noticed in a local newspaper and conducted in a public forum. Subject to the requirements of the public records law, CDDs must make District records available for public inspection during normal business hours. The supervisors

themselves are subject to the same financial disclosure requirements as other local elected officials.

The District is also required to submit its annual budget to the overarching local government which has the option to review and comment on it. By law, the board of supervisors must adhere to competitive bid requirements when entering into contracts for construction, maintenance, or professional services when the contract price will exceed certain statutory limits. These requirements, as well as the myriad of governmental reporting and auditing requirements imposed on CDDs by statute, ensure that CDDs are particularly visible and accessible in relation to other entities exercising responsibility over the development of community infrastructure.

Q: How is a CDD different than a Homeowners' Association?

A: While other kinds of special districts and homeowners' associations ("HOAs") may address certain issues relevant to developments, none of them have the specific powers necessary to provide the infrastructure of a community in the manner contemplated by the legislature when CDDs were created. In addition to their inability to effectively finance major capital improvements, HOAs generally do not meet regulatory agency requirements for stable, perpetual entities for long-term infrastructure maintenance. Further, HOAs do not operate under the same open meeting, public records, and financial disclosure laws as CDDs. CDDs also have the ability to place annual assessments on the county tax roll, helping ensure funds for CDD activities are timely collected. CDDs can operate District facilities and perform the maintenance tasks traditionally completed by HOAs. HOAs, however, can perform one function that CDDs cannot, namely the general enforcement of deed restrictions and the exercise of architectural control.

Q: What are the non-ad valorem special assessments levied by CDDs?

A: Non-ad valorem special assessments are annual monetary assessments assigned to properties within a CDD based not upon the value of the property but rather upon the relative benefit the infrastructure and operations of the CDD provide to the property in proportion to the benefit received by the other tracts of land within the District. CDDs typically levy two types of non-ad valorem assessments: bond debt service special assessments, and operations and maintenance ("O&M") special assessments. Bond debt service special assessments amortize the bond debt assessed against each lot, parcel or acre

for the public facilities and infrastructure acquired or constructed by the District. O&M special assessments fund the general annual operations and maintenance activities of the District. Bond debt service assessments are typically fixed (they stay the same from year-to-year) and usually have a 30-year term. Each year, the board of supervisors holds a public hearing to adopt its annual O&M budget.