

Hopping Green & Sams

Attorneys and Counselors

CDDs: An Alternative to Conventional Community Management

Many communities with community development districts (“CDD”) often face the question of whether to leave infrastructure in the hands of a homeowner’s association or whether to turn the infrastructure over to the CDD. There are several considerations to think about in this regard, including but not limited to, the following:

1. *Collection Rates* – In certain circumstances, communities without CDDs have collection rates sometimes as low as 80% or less. Because CDD assessments are collected on the tax roll, CDD assessments are collected at the same rate as taxes, which even in distressed communities are typically 95% or more.
2. *Sovereign immunity* – As compared to a homeowner’s association, a CDD is a superior entity when it comes to liability because CDDs enjoys the benefit of sovereign immunity.
3. *Ability to Issue Tax Exempt Bonds* – A CDD has the ability to issue tax exempt bonds in order to finance repairs to aging infrastructure, the purchase of a community clubhouse, new construction, or other public works. In contrast, an HOA would have to use more conventional financing mechanisms, typically at a higher cost.
4. *Accountability* – CDDs are subject to Florida’s Sunshine Laws, Public Records Laws, Ethics Laws for Public Officers, and governmental accounting requirements. As such, CDD meetings and records are more accessible, and CDDs are typically more accountable than HOAs.
5. *Earlier Turnover* – Turnover of control of a CDD to residents often occurs earlier for CDDs than it does for HOAs. As an example, residents begin to be elected for certain CDDs as early as 6 years after establishment of the CDD, whereas turnover of an HOA typically occurs after 90% of build-out, which may be well after the 6 year mark.
6. *Public Contracts* – CDDs are subject to public bidding requirements for many construction and maintenance contracts. As such, CDD contracts tend to be more fully vetted, and with better pricing. Further, CDDs are often able to purchase goods and materials on a tax exempt basis.
7. *Public v. Private Infrastructure* – Unlike with private infrastructure maintained by an HOA, CDD infrastructure is typically considered to be public, and may need to be held open to the public, subject to reasonable restrictions.
8. *Professional Staff* – CDDs, unlike HOAs, often have a more complete and capable staff, including a District Manager, District Engineer, and District Counsel, all of which are more able to respond to issues that arise.

Changing responsibility for infrastructure may involve changes to real estate documents, homeowner’s association documents, plats, and other related documents, and also have tax implications and other considerations. Please contact Hopping Green & Sams P.A. to determine whether a change may be appropriate, and what steps may be necessary to implement the change.

For more information, please contact Hopping Green & Sams at (850) 222-7500, or visit our website at www.hgslaw.com.