

The POA BULLETIN

The Property Owners' Association of The Villages

Champions of Residents' Rights Since 1975

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What are CDDs? Are they "Scams" or Vehicles for Worthwhile Development?

There are now almost 200 CDDs (Community Development Districts) in the state of Florida. The Villages is a good example of these CDDs and illustrates some of the benefits and problems of these special governmental units.

CDDs are special purpose taxing and development districts created in 1980 through passage of Florida State Statute #190. The purpose of this Chapter 190 law was and is to promote housing development through use of tax-free bonds that developers use to lower the initial cost of these residential communities. Developers issue bonds to pay for initial infrastructure (sewers, roads, water supply, grading, utilities, etc.). Bonds are eventually paid off by residents over periods of 10-30 years.

The main advantage of CDDs is that housing is initially less expensive. Major

development costs are deferred and are financed through the use of tax-free bonds. This leads to one of the main disadvantages that housing costs are inflated over time as the bonds need to be repaid.

Some, furthermore, might make the point that government subsidizes these developments through tax-free bonds with lower property taxes because the values of the properties are initially lower. Thus, the benefits for a few are shouldered by all taxpayers.

Developers like the Chapter 190 law because they are able to offer housing at a lower initial cost than would otherwise be the case. The offering prices of houses are usually quite attractive compared to non-CDD housing developments because of tax-free, low-interest financing that defers initial costs into the future.

County governments like the Chapter 190 law because developments that might otherwise not be built are in fact built because of the tax incentives and pricing advantages. Property tax revenues are eventually higher than would otherwise be the case since developments are, in fact, built.

Residents like the Chapter 190 law because the initial buy-in cost of the housing is often lower than otherwise would be the case. This is because the initial infrastructure costs are deferred and the houses cost less.

The charge, however, has been leveled at some developers that the debt obligations assumed by housing buyers are not fully explained or understood at the time of the initial sale.

Some developers, furthermore, have perverted the concept of the Chapter 190 law and turned it to their advantage at the expense of the residents.

How do developers do this?

First, developers maintain control of the decision-making mechanism in some CDDs through unusual maneuvers. These maneuvers allow developers to effectively make all the major-decisions in the CDDs for their own advantage. Residents are not allowed to make these major decisions.

Second, developers appoint their own hand-picked supervisors to these special CDD boards. Often these supervisors are employees or business associates of the developer. Residents never have the opportunity to elect these supervisors who make all the major decisions, mostly at the direction of and for the benefit of the developer.

Third, developers use special appraisal techniques, approved and accepted by their hand-picked boards, to sell common properties back to the residents in the CDDs at grossly inflated prices. Residents often buy into the development not realizing that common properties are not owned by the development and that they, the residents, will be obligated to buy these facilities eventually at inflated prices.

Fourth, developers appoint the district administrators and staff who represent the views of the developer and often ignore the needs and interests of residents.

Fifth, a variety of lawyers, accountants, consultants, etc., often work for combinations of



developers, county governments, CDD boards, etc., in ways that suggest conflict-of-interest problems. However, the Chapter 190 law effectively exempts these operatives from state conflict-of-interest laws. The losers here are often residents who end up compromised on conflict-of-interest issues.

Sixth, liens are placed on the new homes of the initial buyer for repayment, over 20-30 years, of the developer's original development costs. This is another way that initial buy-in costs are lowered and eventually shifted back to residents.

Thus, homeowners pay more than once for the features and amenities coming with their "Dream Home." When prospective buyers are shown a new community, they are shown all the attractive neighborhood amenities: golf courses, swimming pools, club houses, recreation centers, tennis courts, flower beds, water retention ponds, guard shacks, entrance facilities, and many other facilities that are very impressive on first view. And the sales rep, normally an agent of the developer, will explain how valuable all of this is. Buyers often do not get a full explanation: that their new home is effectively the collateral for the public bond the developer used to build all of this; that their future "amenity fees" are being used to pay back this public bond; and that their "monthly fees" will pay for everything, including law suits.

Buyers are being asked to pay twice for the same thing all over again and again. The Orlando Sentinel published an award-winning series of articles on CDD issues in October, 2000. The key article in the series was entitled "Top Dollar For Plain Old Stuff." It detailed the transactions in The Villages in the mid-1990s in which the VCCDD paid the Villages developer \$84 million for \$8.8 million in property.

The \$8.8 million value was determined by county appraisers. However, an "income-approach" appraisal method, rather than a "market-based" appraisal method, was preferred by the developer and used to justify the \$84 million. The Sentinel said that the economic consultant who devised the appraisal technique worked for both The Villages developer (seller) and the VCCDD (buyer) in this transaction.

Tax-fee bonds valued at \$84 million were issued to make the payment to the developer. Residents are obligated to repay these bonds over 20-30 years from monthly "maintenance fees."

The purchase was approved by VCCDD supervisors hand-picked by the developer. Residents had no say about whether to accept the deal or assume the debt that they are now obligated to repay. Many residents view this as an example of "Taxation Without Representation."

The Sentinel also pointed out that the University of Florida urban planning professor, who wrote some of the original 1980 law, said that the goals of the law are still worthwhile, but that some of the abuses by developers suggest that major portions of the law need to be completely revised. Furthermore, a Volusia County attorney, who is both a lawyer and a developer, said that CDDs are a means of "legalized land fraud."

In conclusion, the Chapter 190 law that created and now regulates CDDs is a mix of good and bad. The POA has maintained that, everything considered, it is perhaps 90% that is good and 10% that needs improvement. The POA is working to address this 10% that continues to be a problem. If the POA is eventually successful, CDDs like The Villages will be even better places in which to live.

This article was abstracted from the CCFJ website
article by Jan Bergemann entitled
"Taxation Without Representation."

VCCDD May Soon Spend \$240 million to Buy Facilities

The POA Bulletin, in its September, 2002, issue, called for a moratorium on further sales of Villages facilities by the developer to the VCCDD.

It was noted that three bond issues, amounting to a total of \$240 million, were being readied for issue and that the sales could proceed as soon as required paperwork was completed.

The bond validation process has been completed and the "income approach" appraisal is ready. The bond issue and the related facilities sale could be completed in the near future.

It is disappointing that the VCCDD is proceeding with these transactions given that resident approval has not been given. Furthermore, residents have not had the opportunity to vote approval of the assumption of the quarter-billion-dollar debt obligation. As previously reported, the developer's hand-picked supervisors in the VCCDD are making the final decision.

The three related bond issues include: \$120 million for Recreation Revenue Bonds; \$100 million for Utility Revenue Bonds; and \$20 million for Solid Waste Revenue Bonds.

The VCCDD has not yet clarified the details of what will be included. The estimate is that the Recreation Bonds will cover the sale of a variety of recreation facilities, including, in Marion County, the two new executive golf courses, recreation facilities, pools, entrance facilities, landscaping beds, retention ponds, courts, etc. Along with the facilities would come assignment to the VCCDD of the monthly fees paid by residents.

This mirrors several similar transactions between the VCCDD and the developer. In the mid-90s, the VCCDD purchased property valued at \$8.8 million from the developer for a payment of \$84 million. More recently, the VCCDD bought facilities from the developer for a net of \$36 million that included the Savannah Center and had a cost on the books of the developer estimated at \$5-\$10 million.

Because facility sales like this are done at inflated prices, the monthly fee paid by residents is higher than it would otherwise need to be. For example, the \$105.00 (max.) monthly fee is broken down into a charge of \$70.00 (est.) for maintenance and administration and \$35.00 (est.) for debt service from previous facility sales. Had previous sales been made at more reasonable valuations, the monthly debt service portion could be in a range of, say, \$5.00-\$10.00. So, the total monthly fee could be about \$75.00-\$80.00.

The POA opposes this inflated-value sale. The POA could support the sale at a reasonable valuation based on a market-based appraisal technique. The developer must have an incentive to build topnotch facilities for our community. But, excessive pricing is not appropriate.

The POA views this as a fundamental Residents' Right issue and called on the VHA in September for support on this important question. With a new set of officers in place, it is hoped that the VHA will reconsider the POA request and now support the call for a moratorium.

The POA is Joining Alliance With Cyber Citizens For Justice

The POA is actively considering joining forces with Cyber Citizens For Justice (CCFJ), an internet-based consumer activists group in an Alliance to address mutual goals. The Concerned Homeowners in Partnership (CHIP) group in Ocala is also part of the Alliance.

The POA welcomes the opportunity to work closely with CCFJ and CHIP. Our combined resources could significantly strengthen the POA's efforts to achieve meaningful reform of various laws that regulate Homeowners' Associations and Community Development Districts.

This would also supplement the POA's ongoing efforts with the Florida Silver Hair Legislature (FSHL). At the recent annual legislative session of the FSHL in Tallahassee, a POA-sponsored bill to reform the CDD law Chapter 190 was passed overwhelmingly by delegates to the session and accorded the meaningful "Priority Bill" status.

Jan Bergemann, president of CCFJ, declared: "In unity there is strength. Only united homeowners have a chance to succeed against the powerful [developer] industry." "We homeowners," he went on, "have in many ways been treated as the stepchild of the people in charge. But forming an alliance among these organizations will give us the possibility to have a profound effect upon the outcome of 'good public policy.' Our alliance, being able to make fast decisions and reach many people by the speed of the Internet, will hopefully have the necessary impact to influence 'health, welfare, and safety' for the citizens of Florida."

April Fools Day Revisited (Don't Believe Any of This)

The VCCDD has hired retired General Norman Schwarzkopf as head of homeland security. His first assignment was to figure out what to do about the POA. The president of the POA was flattered by this attention and thanked the VCCDD for this vote of confidence. The General investigated POA activities in detail – and then decided to join the POA as a member.

The VHA Corner

This Bulletin column will report monthly on items of interest regarding the VHA. These articles will publicize VHA positions and activities that relate to its role as a homeowners' organization in The Villages.

This month's column deals with the recent election in the VHA that produced a new board of directors and new officers.

In this recent election, a slate of directors, hand-picked by the VHA hierarchy, was unopposed and elected by a single ballot cast by the VHA secretary. Then, these directors met in a closed, backroom session to pick the new officers.

The VHA needs to change its election procedure to allow all resident members of the VHA to vote for officers and directors in an open and free election.

The problem here is that the VHA has grown into a self-perpetuating, monolithic, regime of buddies that ignores Residents' Rights in favor of support for the developer.

Alternate views are not tolerated; area reps that sympathize with the concept of Residents' Rights are drummed out of the organization.

The POA, on the other hand, allows open nominations for any officer or director position. And, the officers and directors are elected by the membership at a regularly scheduled meeting.

Furthermore, POA membership is not constrained at monthly meeting from voicing their views or even criticizing the offices or directors.

Why does the POA elect officers this way? Because the POA is a homeowners' organization for members and represents their best interests.

Why does the VHA elect its officers and directors in carefully controlled and/or backroom sessions? Ask them sometime in a VHA monthly meeting. See if they tell you why they don't trust the membership to elect officers and directors.

Paul Heim Resigns as POA Vice President

Paul Heim has resigned as Vice President of the POA. Paul and his wife Dorothy are planning to move back to Colorado where Paul grew up and has family and friends. Paul was a valuable officer and director of the POA and will be missed. Under his direction, POA membership grew over 50% during this past year. Paul also authored many articles that appeared in the Bulletin and other publications. Paul, good luck in the future!

Cheers and Jeers

Remember that we need material for this column of comments and opinions. Please send in your submission and be sure to sign your name.

CHEERS - To the Villages developer for offering to build a VA medical facility in The Villages. This is a very nice gesture. Now, please, don't sell the facility to the VCCDD at an inflated price.

JEERS – To the editor of the Daily Sun TV booklet for not noticing that the Family channel moved from channel 31 to channel 69 over six months ago. Channel 31 is now a home shopping channel. Is anybody awake over there??

JEERS – To the Southwest Florida Water Management District (SWFWMD, or more affectionately, Swift Mud) for continuing the drought water restrictions even though recent rainfall has been abundant. Continuing to cry “wolf” compromises their credibility on this serious issue.

CHEERS – To the new newspaper in The Villages, The Reporter, published by the Ocala Star-Banner. This free paper, mailed to our homes, offers the promise of objective reporting and comprehensive coverage. For serious news, this could be a nice alternative to the Daily Sun.

JEERS – To all those drivers who run red lights and/or slip though right-hand turns without stopping. Also to drivers who don't use their directional signals on traffic circles or for turns.

CHEERS – To all the new stores around the Square and Main Street. It is starting to feel like a very nice downtown area. And, also CHEERS to Panera's — what a great place for lunch or coffee and a roll for that mid-afternoon break.

JEERS – To all those who leave cups on the ground after entertainment on the Square. Why not take the cups and other refuse and toss them into the trash receptacles?

JEERS – To bathers at the pools who monopolize two or more chairs or leave towels on chairs during extended times away from the pool.

Orlando CDD "Scam"

The Baldwin Park CDD in Orlando is a good example of developer excess in the formation of a CDD.

This old naval training center was decommissioned and turned over to the city of Orlando for development. The location of the property was outstanding.

However, the Orlando Sentinel noted that the city sold it for a song to a developer (the Pritzker family) who promised a nice middle-class housing development with homes in a \$100,000-\$275,000 range. But, the Pritzkers turned it into a CDD, issued \$76 million in bonds for the initial infrastructure (for which the resident pay-back will be up to \$2,000 annually for 30 years), upped entry-level home prices to \$300,000, and set yearly maintenance fees at \$950 (\$250 extra for town homes).

The Sentinel said this took advantage of one of Florida's biggest real-estate "scams" — the CDD.

This page is provided by:

Jan Bergeman

President of Cyber Citizens For Justice (CCFJ)

<http://www.ccfj.net>

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