

The Future of Community Redevelopment Agencies

As the 2018 Legislative session approaches, Community Redevelopment Agencies (“CRAs”) are once again a hot topic of debate. CRAs are local agencies created to help with the economic recovery, redevelopment, and revitalization of urban areas that are subject to “blight” or “slum.”

While CRAs are ubiquitous in Florida, they have become controversial over the past few years. Critics assert that CRAs should be eliminated or reformed, citing examples of insufficient oversight, political favoritism, mission creep, and lack of transparency. Proponents of CRAs, on the other hand, including the Florida League of Cities, contend that CRAs are a critical tool for achieving redevelopment goals and major infrastructure improvements through the use of tax increment financing (“TIF”) to support bonds and leverage matching funds from the state and federal governments. This public debate resulted in legislative bills being filed last session, and again this year, proposing to reform and even terminate CRAs.

What are CRAs?

Under the Community Redevelopment Act of 1969, municipalities or counties may create CRAs within their jurisdictions, where blight, slum, or both are present. In most cases, CRAs are located within the urban cores of municipalities, but they impact the entire county by collecting and expending taxes within the CRA that otherwise would have been shared at large between the municipality and the county. However, both jurisdictions ultimately benefit when CRAs are successful in achieving redevelopment goals, thereby generating higher taxes for both jurisdictions over time.

CRAs are designated by the host local government based on a Finding of Necessity, which documents compliance with statutory eligibility requirements, followed by the host local government’s adoption of a CRA Redevelopment Plan after considering the recommendations of the CRA. Most CRAs are governed by a board of commissioners appointed by the local governing body, although a local governing body can choose to function as the CRA board itself. Municipalities and counties may delegate broad powers to the CRA to implement the CRA Redevelopment Plan, such as soliciting redevelopment proposals, entering into contracts, constructing improvements, borrowing and expending funds and, with approval of the governing body, may issue redevelopment bonds and acquire property, demolish structures, and conduct other activities involving the disposition of property.

Most CRA projects are funded through TIF, which is the increment of property tax equal to 95% of the difference between the amount of property tax revenue produced before the CRA designation and the amount of property tax revenue produced after the CRA designation. CRAs also typically rely on bonds backed by forecasted TIF revenue, which enables the CRA to direct bond revenue toward infrastructure improvements and other community redevelopment activities.

Recent Developments and Legislative Reactions

In 2016, a Miami-Dade Grand Jury was convened to investigate a number of CRAs and released a report, citing CRA mismanagement of public monies, CRA board corruption, and lack of spending accountability. However, the scope of the investigation focused on a limited number of CRAs, all within Miami-Dade County, and acknowledged that some CRAs were “effectively and efficiently” using their monies to achieve the goals of the Community Redevelopment Act. The Grand Jury determined that reforms were necessary to prevent abuses, and provided recommendations to ensure greater accountability and re-focus CRAs on their core mission of achieving redevelopment, including the provision of affordable housing.

In response to the Grand Jury findings, two reform bills are working their way through committees as the 2018 session approaches. Senate Bill (“SB”) 432, by Senator Tom Lee, and House Bill (“HB”) 17, by Representative Jake Raburn, seek to reform how CRAs are created and how they operate by addressing issues such as CRA board membership, CRA board ethics and training, and reporting and auditing requirements. While the bills share certain features, HB 17 is more aggressive: it proposes to terminate CRAs.

SB 432 (1) expressly states that TIF funds cannot be used for festivals or street parties, to promote tourism, or for certain types grants; (2) caps the amount of CRA monies that can be used for administrative expenses at 18%; (3) imposes on CRAs the lobbying ethics considerations in Chapter 112, Florida Statutes; and (4) imposes additional criteria for board member eligibility. Last session, SB 1770 would have limited the CRA creation method to a super majority vote of the governing body and provided for the sunsetting of CRAs; however, SB 432 does not address CRA creation or sunsetting.

HB 17 mandates that (1) CRAs that do not report revenues, expenditures, and debts for three consecutive fiscal years will be declared inactive; (2) limits CRA creation to a special act by the Legislature; and (3) provides for the sunsetting of all current CRAs in the year 2038 or on the date of expiration in the CRA’s charter, whichever is earlier. However, if the CRA has a bond obligation, the CRA would remain in existence until the bonds mature, and a CRA may continue its operations past 2038 by a super majority vote of its local governing body.

The Florida League of Cities strongly supports CRAs and opposes limitations on the use of TIF funds and sunsetting CRAs, while the Florida Association of Counties has not yet taken a position. Some counties have expressed concern regarding the long-term period for bonds to mature, whether the benefits of successful redevelopment outweigh the risks of redevelopment and the long-term diversion of tax revenue. Still, others have suggested that other programs may be more effective in utilizing TIF to achieve redevelopment. Generally, cities, main street programs, downtown authorities, affordable housing advocates and many developers support CRAs, citing that CRA tax incentives finance improvements in residential neighborhoods, help grow commercial businesses, spur job creation, and support affordable housing efforts.

The Future of CRAs

We believe that changes are in store for CRAs in the coming years. While we don't support terminating CRAs because they are a valuable redevelopment tool, we do see the wisdom of finding solutions to improve the CRA process, especially to address the problems that have been recently highlighted.

Our Land Development, Zoning & Environmental team has extensive experience working on CRA-related issues throughout Florida. We work with developers on projects ranging from focused infill and brownfield sites to larger, more complex, downtown redevelopment strategies. Due to the challenging conditions within many CRAs and the structure of CRA programs, successful redevelopment projects demand creative strategies and unique public private partnerships.

We will continue to monitor pending legislative actions and inform you of any developments. Please contact our team if we can assist you with any CRA-related issues.