Establishing a Community Redevelopment Area in Your Waterfront Community

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Waterfronts Florida Partnership Program
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Community Redevelopment Area (CRA)

I. Nature of the Tool

Florida law, under Chapter 163 Part III Florida Statutes, authorizes local governments to designate up to eighty percent\(^1\) of a municipality as a Community Redevelopment Area (CRA). The Community Redevelopment Act (Act), adopted in 1969, is intended to help communities revitalize downtowns, preserve historic structures, and otherwise enhance the designated CRA district.\(^2\) In order to establish a CRA, the local government legislative body must adopt a resolution finding that the designated area is a “slum”\(^3\) or “blighted,”\(^4\) or it

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\(^1\) This limitation became effective July 1\(^{st}\), 2006 for all CRAs created after July 1\(^{st}\) with the passage of HB 1583, now Chapter 2006-307 Laws of Florida. The changes were made to §163.340(10), the definition of Community Redevelopment Area. Previously, a CRA could encompass any percentage or all of the community.

\(^2\) FLA. STAT. ch. 163.330 \textit{et seq.} (2005).

\(^3\) Slum is defined as:

- an area having physical or economic conditions conducive to … poverty, or crime because there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and exhibiting one or more of the following factors:
  - (a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;
  - (b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
  - (c) The existence of conditions that endanger life or property by fire or other causes.

FLA. STAT. ch. 163.340(7).

\(^4\) Blight is defined as:

- an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:
  - (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
  - (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
  - (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
  - (d) Unsanitary or unsafe conditions;
  - (e) Deterioration of site or other improvements;
  - (f) Inadequate and outdated building density patterns;
  - (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
  - (h) Tax or special assessment delinquency exceeding the fair value of the land;
  - (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
  - (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
  - (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
  - (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
  - (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
  - (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

FLA. STAT. ch. 163.340(8).
contains a shortage of affordable housing, and that the rehabilitation or redevelopment of the area is “necessary” in the interest of the public's "health, safety, morals or welfare.” Next, upon the finding of necessity and a further official finding that there is a need for a community redevelopment agency (Agency), the local government may create a CRA to exercise the powers of the local government in accordance with the Act.

The CRA is funded through Tax Increment Financing (TIF) and revenue bonds. Under the TIF program, the value of real property in the district is determined on a fixed date. The total real property value of the base year then becomes the “frozen tax base.” The increase in total taxable property value between the base year and year two is called “the increment.” The total tax increment revenues are deposited into the CRA’s trust fund for use in redevelopment projects only within the CRA district. Principally, a CRA is a focused financing tool that channels tax increments paid on properties within the designated CRA district back into the CRA area for redevelopment within the CRA.

II. Relationship to Waterfronts

The Community Redevelopment Act includes specific provisions related to waterfront communities. In its findings of necessity, the Florida legislature recognized that economically and physically distressed coastal areas should be revitalized via CRAs. Further, the Legislature defined CRA to include:

[C]oastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout or inadequate street layout, or a combination thereof which the governing body designates as appropriate for community redevelopment.

CRAs can and have been useful in coastal and waterfront communities to revitalize and maintain areas of public access, including docks, boat slips, boardwalks and pavilions. Waterfront communities have also utilized CRAs to build aquariums, boat storage and mechanic bays, and educational riverwalks.

III. Legal Issues

CRAs have led to questions about a number of issues, including improper delegation of authority to the CRA commission, insufficient number of the findings of blight, overly broad blight definitions, lack of consideration for intergovernmental relationships, lack of public

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5 Fla. Stat. ch. 163.355(1).  
6 Fla. Stat. ch. 163.355. This is referred to as the “Finding of necessity.”  
7 Fla. Stat. ch. 163.356. The Act was amended, effective May 11, 2006, to prohibit the local government from giving the Agency the power of eminent domain. Previously, Agencies could effect takings.  
8 Fla. Stat. ch. 163.385.  
9 Fla. Stat. ch. 163.387. This statute has been substantially revised under Chapter 2006-307, effective July 1st 2006.  
10 Fla. Stat. ch. 163.335(4).  
12 See St. Andrews, Riviera Beach and Jensen Beach CRAs.
influence, lack of accountability, housing and business gentrification, and the straying away of the intended uses of the CRA designation.\textsuperscript{13} While the Florida Supreme Court has not specifically stated that the definition of blighted areas is not overly broad, it has held that open space and undeveloped lands can be considered blighted under the Act.\textsuperscript{14} Additionally, Florida courts have held that some of the statutory conditions for blight are quantifiable and therefore not facially unconstitutional as overly vague.\textsuperscript{15} The Florida Supreme Court has also found that eventual partial private ownership of a redevelopment area does not defeat the public purpose of eliminating slum and blighted areas.\textsuperscript{16}

Courts have addressed the funding issues associated with CRAs, as well. Redevelopment bonds are authorized under the CRA statutes and have been upheld against challenges that they violate the Florida Constitution's prohibition against public bond financing for private purposes.\textsuperscript{17} Further, redevelopment bonds have been challenged as violating the constitutional restraint against bonds secured by ad valorem taxes without a public vote.\textsuperscript{18}

V. Best Policy Practices

The Hollywood Beach CRA, in the city of Hollywood Florida has included the following elements in its CRA plan: constructing public docks on the Intracoastal across from the Hollywood Beach Community Center; improving the beach boardwalk with new lighting, pavers and landscaping; repairing and improving the bandshell; adding barrier-free walkways to provide access to the beach; and adding four new picnic areas, two playgrounds and an entertainment plaza and pavilion open to the public.\textsuperscript{19}

The Charlotte Harbor CRA, in Charlotte County, Florida established its CRA and Community Redevelopment Advisory Commission (CRAAC) in 1992. In 1998, the CRA reported that property values had leveled off and redevelopment was beginning. Remodeling and redevelopment of the town center area began with merchants and homes using the “Old Florida” style.\textsuperscript{20} In addition, the CRA committed to revitalizing and maintaining the

\textsuperscript{13} See Florida Legislative Committee on Intergovernmental Relations, 2003; Florida Senate Committee on Community Affairs, 1999.
\textsuperscript{14} Panama City Beach Community Redevelopment Agency v. State of Florida, 831 So. 2d 662, 668 (Fla. 2002).
\textsuperscript{15} Fulmore v. Charlotte County, 928 So. 2d 1281 (Fla. 2d DCA 2006). While the Fulmore court does rely on much of the Supreme Court’s decision in \textit{Kelo} for its eminent domain discussion and which, in Florida, is no longer a power of the Agency, the court’s discussion of the facial validity and as-applied validity of the blight standards is still good law.
\textsuperscript{16} Holloway v. Lakeland Downtown Development Authority, 417 So. 2d 963, 965 (Fla. 1982). Because of the changes in Chapter 163, effective July 1\textsuperscript{st}, 2006, this decision may be challenged.
\textsuperscript{17} State v. Osceola County, 752 So. 2d 530, 539-40 (Fla. 1999)(finding that a county’s issuance of bonds to fund construction of a convention center did not violate the provisions of Article VII, Section 2, of the Florida Constitution regarding purposes for which revenue bonds can be issued).
\textsuperscript{18} See State v. Miami Beach Redevelopment Agency, 392 So. 2d 875, 898-899 (Fla. 1980) (holding that a municipality's issuance of bonds for a redevelopment project without a vote of local electors did not violate Article VII, Section 12, of the Florida Constitution).
\textsuperscript{20} See Charlotte County CRAAC website, \textit{at} http://www.charlottecountyfl.com/Adv_Committees/CRA/Reports.asp
riverwalk area as its first priority. The new Bayshore Linear Park includes public bike trails, nature trails, picnic areas, and restrooms. It also includes fishing areas and canoe/kayak areas. In 2005, the CRA collected its first TIF revenues, totaling $50,671.  

\[21\] See Bayshore Linear Park, available at http://www.charlottecountyfl.com/Parks/ParkPages/bayshorepark.html
\[22\] Of that money, $14,000 was allocated for revising the redevelopment plan and $36,671 for the sign grant program.