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Attorney: 'CDDs are still a valid finance mechanism'

Orlando Business Journal - by [Anjali Fluker](#) Staff Writer

Jan Albanese Carpenter, head of the public finance group for Orlando law firm **Latham, Shuker, Eden & Beaudine LLP**, manages several successful community development districts (CDDs) statewide.

But many other CDDs in the Sunshine State are in default or on the verge of default — and some experts believe that may bring about the end of CDDs as we know them.

CDDs were all the rage during the real estate boom a few years ago, when developers used them to fund the construction of roads, streetlights, sewers and other infrastructure without going into their own pockets.

CDDs were created as a low-interest financing mechanism by issuing municipal bonds and then paying those bonds back by collecting a special assessment from residents and businesses that move into the development after it's completed.

The method has seen some success in Florida, but when the real estate market crashed, the economy declined and construction financing dried up, developers couldn't complete these large planned developments or, in some cases, barely even started them. As a result, there were no residents — and no income — so developers couldn't make necessary payments to the CDDs.

But CDDs are still a valid financing mechanism, so long as the developer has a vested interest in and the financial ability to complete the project, Carpenter said.

The biggest challenge for those involved in CDDs in recent months: It's been a learning process. Some banks didn't realize when they provided loans for projects that CDD assessments were senior to their loans. If the CDDs foreclose on a lien on the property, the districts would get paid first and the banks' portion would be wiped out. Now, banks are learning that, and some are stepping in, taking over properties and paying the assessments to the CDDs.

What happens to developments with established CDDs that have gone into default: There have been foreclosures filed in a number of them. Banks are stepping up in some, saying, "Let us foreclose, and we'll pay the CDD assessments." In some cases, the CDDs will foreclose, hire a developer and find a way to pay back the bondholders. Otherwise, there are tax certificate sales [similar to when county governments sell certificates to investors on properties that have delinquent taxes. The investors buy those certificates, pay the taxes and then the property owners have to pay the investors back with interest].

Who's hurt the most when CDDs go bad: Bondholders. They are stepping into the shoes of any lender. But these are sophisticated bondholders. Most should have known this could happen.

Why so many local CDDs have gone bad: The most recent ones from 2006-07 were hit by the real estate crisis. Bonds were issued and infrastructure was built, but there's not enough development to support the payments.

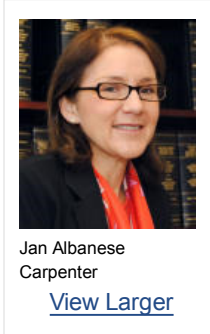
An example of a successful CDD in Central Florida: Celebration is extraordinarily successful. Operations and maintenance costs have not gone up, it's being maintained beautifully, and the community seems happy. Baldwin Park is another good one.

The biggest winners from all that's happening now: Homeowners, because in many cases the developments they live in never would have been developed without the CDDs.

Whether CDDs will survive: I had my doubts when the crisis started, but bondholders, banks and developers are recognizing ways to work these out. This will be best way to finance infrastructure. These were created when local governments didn't have the money to build public infrastructure, and they're still strapped today.

This still will be the only way to expand when cities and counties are not able to pay for sewers, pipes and roads. Plus, there's almost no financing for infrastructure. Lenders require so many guarantees that don't exist in the construction world.

CDDs are going to come back. But bondholders probably will require more security, such as additional sources of construction financing, perhaps personal guarantees and equity from developers or other types of security that a typical bank loan would have.



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