

District and CDD History

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- 1972: the state’s first “ELMS” (Environmental Land Management Study Committee) studied and reported on a host of proposed land use reforms including a proposed development of regional impact (“DRI”) law. As part of its report, the Committee identified two specific recommendations regarding the use of independent districts:
 - ELMS recommended use of an independent district only to “finance” infrastructure for undeveloped land for a new community and to do so as an “incentive” to encourage developers to go through and to endure the new regional impact process (with all of its cost of time and consultants).
 - ELMS recommended further, therefore, that approval of use of an independent district as such a “financing” incentive would be tied to and conditioned upon DRI Development Order approval.
- 1972: simultaneously with ELMS, the state’s Local Government Study Commission studied in substantial part the increasing phenomenon of independent districts as created by special acts of the Legislature. The Study Commission found that the state had progressed to such a sophisticated point legally and economically, especially with the new constitution-based county and city home rule, that the use of independent districts is “bad” and is no longer needed, citing a host of specific problems and criticisms with the use of independent districts. The use of independent districts was reported to result in needless proliferation, duplication and fragmentation of county and city home rule powers.
- 1973: the enactment of the Clam Pass Special Act Independent District, Chapter 73-638, Laws of Florida.
- 1974: the enactment of the special act creating the Pelican Bay Improvement District, Chapter 74-462, Laws of Florida, replacing the Clam Pass District. The legal, policy and political service provided by the Young van Assenderp, P.A. law firm through Ken van Assenderp, Esq., for Coral Ridge Properties (which purchased and developed your Pelican Bay community) was comprehensive and ranged from the PBID to the innovative Corps of Engineers’ approvals.
- 1974: the enactment of two special acts by the Florida Legislature to create other independent districts elsewhere in Florida for ITT (through the auspices of the Hopping law firm and the late Wade Hopping, Esq.).
- 1974: Governor Askew was urged by a senior staff person (Jim Tait, Esq., former Director of the 1972 Local Government Study Commission) to veto the two ITT special

acts and also to veto the Coral Ridge Properties' Pelican Bay Special Act because they were independent districts which the 1972 Study Commission recommended no longer be authorized.

- 1974: on behalf of Coral Ridge Properties and in particular with the late Joe Taravella, CEO, I pointed out to the Governor and to Mr. Tait that vanAssenderp drafted the PBID bill (House Bill 4165) to contain expressed and affirmative reforms to overcome the expressed important criticisms about the use of independent districts set forth in the 1972 Local Government Study Commission Report and that therefore the Pelican Bay Special Act should become law as a prototype for the future.
- 1974: the Governor agreed, after a final meeting in the Mansion with Mr. Joe Taravella (a reform-minded developer who served in ELMS), and he then made the following decision:
 - Neither of the two ITT special acts nor the Pelican Bay act would be vetoed but rather he would let them become law without his signature conditioned upon certain agreements.
 - The first agreement was that the late Wade Hopping, Esq. and ITT agree to incorporate and to conform their two districts to the several specific reforms that van Assenderp had put in the Pelican Bay house bill to address the criticisms of the Study Commission recommendation.
 - The Governor also required that Mr. Taravella, ITT officials, the late Wade Hopping, Esq., then State Senator Bob Graham, officials from county and city governments, officials from the Audubon Society and van Assenderp serve on a "New Communities Task Force" (which he then appointed when all agreed) to study and to recommend a policy for a new law on use of independent districts.
- 1975: enactment of Florida's basic local government comprehensive planning (growth management law) with the yet-to-be-articulated basis for concurrency of land use and infrastructure provision. (See 1985 below).
- 1974-1975: after several meetings, the New Communities Task Force prepared and submitted to the Governor a report that resulted in the New Communities Act of 1975 creating a new section in Chapter 163, Florida Statutes,(since repealed) which:
 - Preserved in law the important notion by the Florida Legislature that an independent district could still be a viable and positive mechanism in the provision of infrastructure in Florida notwithstanding and rejecting, in effect, the 1972 Study Commission recommendations.
 - But perpetuated unfortunately the two 1972 ELMS Committee findings and recommendations that: an independent district is a "financing" benefit or "incentive" to developers to induce them to undergo and to endure the DRI process; and that the independent district should be approved only as part of and conditioned upon the developer getting the development approvals and entitlements under the DRI process.

- 1975-1980: no one used the New Communities Act (there was one attempt) so that its only virtue was the perpetuation of the legitimacy of use of an independent district. The two ELMS Committee bases for the New Communities Act proved to be fatal. It was a mistake to tie development approval to the granting of the use of an independent district. It was a mistake also to treat the district as an infrastructure “financing mechanism” only (and as an “incentive” to get developers to go through the DRI process). No one understood the Act and it just languished. But, the attacks by anti-district activists on the use including abuses of independent districts increased and uncertainty prevailed.
- Late 1979: while the New Communities Act was not being used and the use of independent districts was challenged continuously, vanAssenderp recommended to the Coral Ridge Properties/Westinghouse officials (the late Vice President Werner Buntmeyer and the former in-house counsel, Tom Wright, Esq.) that a new general law be enacted once and for all to provide a legitimate uniform state policy on use of independent districts to manage the provision of infrastructure. One goal was to address and to correct the legitimate negative concerns about abuses and indiscriminate use of such districts. The approach was no longer needlessly to proliferate, fragment and duplicate legitimate infrastructure provision services by county and city governments. The purpose was to put an end to the two counterproductive ELMS recommendations by focusing on management, not financing, by unlinking development approval from district establishment and by requiring the district to comply with county or city land use.
- 1980: accordingly, Tom Wright, Esq. and van Assenderp wrote the first draft which ultimately the Legislature approved and enacted as Chapter 80-407, Laws of Florida, codified as Chapter 190, Florida Statutes, the Florida Uniform Development District Act of 1980, which:
 - Defined terms.
 - Set forth the single and special infrastructure-management purpose of the district.
 - Made clear that the purpose of the district was to be a specialized local government to manage the construction, acquisition and maintenance of infrastructure to property in new communities so that financing was justified only to pay for that critical management function.
 - Untied the approval of the use of such a district from development approvals, requiring district management of systems, facilities and services to be subject always to county and city plans, land use and permits.
 - Made the land use and development approvals control all land uses within the district so that the district could not do anything in the provision of infrastructure that was inconsistent with all applicable planning and zoning limitations and requirements, preempting those to the state and to counties and cities.
 - Rejected therefore the twin problems with the ELMS Committee but included also the positive versions of the reforms in the Pelican Bay Act that had addressed the criticisms in the old Local Government Study Commission of 1972.
 - Created the district and its uniform charter by state law so that all districts established on proposed property would have the same charter.
 - Coincided the best interests of state, county and city public policy and related land use regulation with the marketing and entrepreneurial benefits from and

capabilities of private landowner/developers with the pinpointed, focused, accountable, specialized and responsive single-purpose management by the district of the provision of infrastructure to the property.

- Applied these three coinciding benefits to the development primarily of undeveloped or raw land for new communities of any size and any location, still subject to all the planning and permitting authorities applicable.
- 1985: the enactment of reforms to Florida's growth management law (including codifying concurrency) and also the State Comprehensive Plan which provides in pertinent part the policy of the state on the use of independent districts (rejecting the two-problem-based recommendations of the ELMS Committee) in Section 187.201(20)(b)2, Florida Statutes.
- 1985: Frontier Acres, (State v. Frontier Acres Community Development Dist. Pasco County, 472 So. 2d 455 (Fla. 1985), the case in which the Florida Supreme Court confirmed the constitutionality of landowner voting as established in 190 before residents move in while referencing the single specialized non-financing management purpose of 190 districts.
- 1989: the Florida Special District Accountability Act, Chapter 189, Florida Statutes, based on 190 and 187 reforms.
- 1990: Collier County exercised its PBID succession powers by Resolution 90-335.
- 1980-2010: Increased establishment and use of the state created and state chartered community development districts throughout Florida:
 - With various amendments to the statute
 - There were some amendments that were not in the public interest and that undermine Chapter 190 (requiring a delayed transformation from landowner voting to qualified elector voting for the members of the Board of Supervisors of such districts; and authorizing such districts to approve and to regulate private restrictive covenants).
 - Abuses alleged such as in imposing and levying special assessments and needless confusion about the relationship between CDDs and homeowner associations.
- 2004: the Legislature enacted the Ave Maria Stewardship Community District, Chapter 2006-461, Laws of Florida, which includes provisions to eliminate the abuses of 190 for managing through the district of the provision of infrastructure to new communities on raw or undeveloped land in the Rural Land Stewardship Overlay Area of Eastern Collier County. It is designed to be prototype for a new evolved state policy on independent districts (as was PBID to the birth of the state's first uniform policy on use of independent districts in 1974).
- 2004-2010: the phenomenon of other special acts creating so called "stewardship districts" (there is no such thing legally) patterned after and worded verbatim in many instances from the Ave Maria Stewardship Community District.

- 2004-2010: new criticisms on the use of independent districts such as, for example, allegedly using special assessments to “get around” property tax limitations.
- 2009-2010: the comprehensive redraft of 190 (still a work in progress by vanAssenderp) to take the reforms in the Ave Maria district and other innovations to include not only abuse eliminations, but also to apply use of a district both to new community development on raw or undeveloped land and also to inner city redevelopment (under certain constitutional and public policy limitations and safeguards) such as Pelican Bay.