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Reply to: *Lakewood Ranch*

MEMORANDUM

TO: Community Development Districts

FROM: Andrew H. Cohen, Esq.

DATE: March 16, 2016

RE: 2016 Legislative Update

The 2016 Florida legislative session concluded on March 11, 2016. Below are several bills that impact community development districts ("CDDs"). Copies of any bill can be viewed at the legislature's website: www.leg.state.fl.us, or feel free to contact me for further assistance with locating any specific text of legislation. Please also check our website for legislative and additional updates throughout the year.

House Bill 479

This new law revises Chapter 189, Florida Statutes, supplementing legislation passed in a previous session, with new requirements related to CDD websites. The law has already been signed by the Governor and takes effect October 1, 2016. The following summarizes the most significant changes associated with the newly adopted legislation:

1. The tentative budget was always required to be posted at least 2 days prior to the public hearing on the budget and now must remain on the website for at least 45 days.
 2. The final adopted budget was always required to be posted within 30 days after adoption and now must remain on the website for at least 2 years.
 3. A listing of the CDDs regularly scheduled public meetings for the upcoming fiscal year must now be posted.
 4. The most recent copy of the CDD's public facilities report must now be posted.
 5. A link to the Department of Financial Services' website for access to the CDD's annual financial audit on file (<https://apps.fldfs.com/localgov/reports/>) must now be posted.
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Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

Venice
217 Nassau Street S.
Venice, Florida 34285

6. The agenda for meetings and workshops, along with any meeting materials available in an electronic format, must now be posted at least 7 days before each meeting or workshop. The information must remain on the website for at least 1 year after the meeting or workshop. Importantly, this requirement does not preclude amendment of the agenda at the meeting and/or workshop if the necessity arises.

House Bill 273

This new law revises Florida's Public Records Law (Chapter 119, Florida Statutes). Most notably, the new law amends Section 119.0701, Florida Statutes, to require the following language be added (in at least 14-point boldfaced type) to any contract with an individual or entity providing services to a public agency and acting on behalf of said public agency:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT ...(telephone number, e-mail address, and mailing address)...

The above language is in addition to the other public records language already required to be in such contracts, which now must also be slightly modified in order to be in compliance with the statute.

The law also puts more specific requirements on any such contractors complying with the public records laws including, but not limited to, providing records upon request from the public agency's custodian of public records, and keeping/maintaining and transferring public records to the agency upon completion of the contract.

Requests for public records are still to be made directly to the agency, but if the records are not possessed by the agency, the agency must immediately notify the contractor of the request and the contractor must provide the records within a reasonable time or be subject to penalties.

The law is effective immediately, but the contract requirements apply to contracts for services entered into or amended on or after July 1, 2016.

House Bill 971

This bill amends Section 190, Florida Statutes, and has not been signed by the Governor as of yet. Once delivered to the Governor, the Governor has fifteen (15) days to consider the bill. If signed by the Governor or not vetoed within the requisite time period, this bill would modify certain provisions related to the formation and merging of CDDs and clarify that CDDs may authorize towing from CDD owned property under certain circumstances. The revisions include:

1. Authorizing a county or municipality to form CDDs in size up to 2,500 acres which would revise the current 1,000 acre size reference.

Community Development Districts

March 16, 2016

Page 3

2. Clarifying that CDDs have the ability to tow from CDD roadways and other District owned property.
3. Referencing the merger of up to 5 CDDs pursuant to certain procedures and clarifying the Board composition among other matters.

Senate Bill 1004

This bill amends Section 119.071, Florida Statutes, and has not yet been signed by the Governor. If signed by the Governor or not vetoed within the requisite time period, this law would permit disclosure of records relating to a “security system plan” under certain circumstances including but not limited to disclosure to (i) another local, state, or federal agency or (ii) upon a court order.

As always, if you have any questions about the new legislation, please feel free to contact me. We thank you for the continued opportunity to serve as District Counsel.

Respectfully,

Andrew H. Cohen