

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO DISSOLVE)
THE CIRCLE SQUARE WOODS) Case No. 10-10434
COMMUNITY DEVELOPMENT DISTRICT)
_____)

REPORT TO THE FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

Pursuant to section 190.005(1)(d), Florida Statutes,^{1/} a local public hearing was conducted on February 15, 2011, before Bram D.E. Canter, an Administrative Law Judge of the Division of Administrative Hearings, in Ocala, Florida.

The hearing was conducted for the purpose of receiving testimony and exhibits and for taking any public comments on the petition to dissolve the Circle Square Community Development District located in Marion County. This Report of the public hearing is made for the consideration of the Florida Land and Water Adjudicatory Commission ("Commission") in its determination whether to repeal the rule that created the district.

APPEARANCES

For Petitioner: Gerald R. Colen, Esquire
7243 Bryan Dairy Road
Largo, Florida 33777

STATEMENT OF THE ISSUE

The issue to be determined is whether the dissolution of the district complies with chapter 190, Florida Statutes, and whether the hearing process has been conducted in accordance with the requirements of chapter 190 and Florida Administrative Code Chapter 42-1.

PRELIMINARY STATEMENT

On August 10, 2010, Petitioners filed a petition to dissolve the district. The Commission determined that the petition was insufficient and Petitioner filed an amended petition on October 11, 2010. The Commission then referred the petition to the Division of Administrative Hearings ("DOAH") to conduct a local public hearing.

At the local public hearing held on February 15, 2011, Petitioner presented the testimony of three witnesses: George Flint, Richard Belz, and Kenneth Colen. Petitioner also introduced 9 exhibits, designated 1 through 9. A post-hearing exhibit was submitted by Petitioner and has been admitted into the record as Exhibit 10. No member of the general public attended the hearing.

After the close of the public hearing, the record was left open for 10 days for the submittal of written comments from the public in support of or in opposition to the petition, as

allowed by Florida Administrative Code Rule 42-1.012. No written statements were submitted to DOAH.

The one-volume Transcript of the local public hearing was filed with DOAH on March 7, 2011. Petitioners timely submitted a proposed report, which was considered in the preparation of this Report.

SUMMARY OF THE HEARING AND RECORD

1. Pursuant to section 190.046(9), if a community development district ("CDD") has no financial obligations and no operating or maintenance responsibilities, and the CDD was established by rule of the Commission, the CDD may be dissolved by the Commission's repeal of the rule.

Whether the District has No Financial Obligations and No Operating or Maintenance Responsibilities

2. On August 2, 2002, the Circle Square CDD entered into an interlocal agreement with the nearby Bay Laurel Center CDD. Pursuant to the agreement, Bay Laurel Center CDD "assumes and absolutely relieves" Circle Square CDD of its obligations to provide water, sewer, and reclaimed water services in the Circle Square CDD. In consideration of Bay Laurel Center CDD's assumption of these utility obligations, Circle Square CDD transferred and assigned all of its utility system to Bay Laurel Center CDD.

3. On May 4, 2004, Marion County entered into an interlocal agreement with Bay Laurel Center CDD. Pursuant to the agreement, Marion County granted authority to Bay Laurel CDD to provide water, sewer, and reclaimed water services to residents within Circle Square CDD.

4. Following Bay Laurel Center CDD's assumption of utility services obligations within the Circle Square CDD, Circle Square CDD no longer has local government functions to perform. The district does not own and is not responsible for the operation or maintenance of streets, parks or other open space, or stormwater facilities. The streets, open space, and stormwater facilities within the district are the responsibility of a homeowners association.

5. The Circle Square CDD is now inactive. On May 18, 2010, the Board of Supervisors of the district passed Resolution 2010-02, which asserts that the district has no financial obligations or operating and maintenance responsibilities.

Whether the District was Established by Rule of the Commission

6. The District was established by the Commission by its adoption of Florida Administrative Code Rule 42S-1.

Statement of Estimated Regulatory Costs

7. Because the District would cease to exist after its dissolution, there would be no regulatory costs associated with

the dissolution beyond the administrative costs related to the repeal of chapter 40S-1.

Other Relevant Matters

8. Section 190.005(1)(d) requires the Petitioner to publish notice of the local public hearing in a newspaper of general circulation in Marion County for four consecutive weeks prior to the hearing. The notice was published in the Star Banner, a newspaper of general circulation in Marion County, for four consecutive weeks, on January 18, January 25, February 1, and February 8, 2011.

9. A copy of the petition was provided to Marion County, the Withlacoochee Regional Planning Council, and the Department of Community Affairs. These entities chose not to respond to the petition or to attend the local public hearing.

CONCLUSIONS OF LAW

10. This proceeding is governed by chapter 190, Florida Statutes. Section 190.046(9), provides for the dissolution of a community development district. It states that, if a district has no financial obligations and no operating or maintenance responsibilities, it can be dissolved by the Commission's repeal of the rule that created the district.

11. The amended petition contained all of the information required by chapter 190.

12. The Petitioner presented sufficient evidence to establish the factors that are necessary to qualify for dissolution of the district as set forth in section 190.046(9).

13. The petition contains a Statement of Estimated Regulatory Costs in accordance with the requirements of section 120.541.

14. The local public hearing was properly noticed as required by section 190.005(1)(d). The local public hearing was held and affected units of general-purpose local government and the general public were afforded an opportunity to comment on the proposed merger as required by section 190.005(1)(d) and rule 42-1.012. No member of the public offered an oral or written statement at the public hearing and no written statements were submitted after the hearing.

CONCLUSION

Based on the record evidence, the petition meets all statutory requirements, and there appears no reason not to grant the petition to dissolve the Circle Square CDD by the repeal of chapter 40S-1 by the Commission.

REPORT SUBMITTED this 25th day of March, 2011, in
Tallahassee, Leon County, Florida.



BRAM D. E. CANTER
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Filed with the Clerk of the
Division of Administrative Hearings
this 25th day of March, 2011.

ENDNOTE

^{1/} All statutory references are to Florida Statutes (2010).

COPIES FURNISHED:

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