



OFFICE OF INSPECTOR GENERAL
CITY OF JACKSONVILLE

CONTRACT OVERSIGHT OBSERVATION
NUMBER 2015-08-0014

Steven E. Rohan
Interim Inspector General

JANUARY 11, 2017

"Enhancing Public Trust in Government"

Allegation of Improper Influence and Misappropriation of Public Funds

A citizen complaint alleged that the Trails Community Development District (Trails) was wrongfully controlled or influenced by the developer of the Winchester Ridge Development, D.R. Horton (Developer). The complainant alleged that the Developer's attorney was a member of the Trails' Board of Supervisors and the Board of Supervisors was using tax dollars to benefit Developer. Specifically, the Trails paid \$50,000.00 in taxes to maintain property owned by Developer at the front of the development.

Summary of Findings:

Applicable Florida statutes and City of Jacksonville (COJ) ordinances do not prohibit Developer's attorney from serving on the Board of Supervisors and applicable statutes and ordinances do not prohibit Trails from assessing and collecting taxes for the construction and maintenance of public facilities located within the boundaries of the district. Additionally, there is no evidence to indicate that the Trails paid taxes on behalf of Developer.

Detailed Findings:

The Trails was established by COJ Ordinance 2006-661-E on September 12, 2006. The COJ subsequently consented to providing the Trails with certain powers related to operating and maintaining certain facilities for indoor and outdoor recreational, cultural and educational uses.

On August 24, 2015, the COJ Ethics, Compliance & Oversight Office received a telephone call from a complainant asserting that the Trails was being controlled and/or influenced by the Developer. Complainant alleged that Developer's attorney is a member of the Trails' Board of Supervisors and the Board of Supervisors is using tax dollars to benefit Developer. In the allegation, the complainant stated the Trails was paying a tax that was due from Developer related to land at the front of the Trails and that the homeowners were being assessed a fee related to pool repairs that was supposed to be the responsibility of Developer. On August 25, 2015, the Ethics, Compliance & Oversight Office forwarded the complaint to the Office of Inspector General (OIG).

The OIG reviewed applicable Florida statutes as well as COJ ordinances regarding the membership requirements of the Board of Supervisors for a Community Development District. No statutes or ordinances specifically prohibit employees/agents of Developer from being on the

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Board of Supervisors for the Trails. Under Section 190.006(1), F.S. the only restrictions on board members are that they must be residents of Florida and citizens of the United States.

COJ ordinances regarding Community Development Districts, likewise, do not restrict who may serve on the Board of Supervisors. Section 92.04 (d), *Ordinance Code* does require that if a proposed board member is “an employee, stockholder or officer [of the landowner], the nature and extent of such relationship shall be disclosed.” The ordinance does not require such a disclosure to be made to a particular person or department. Because the ordinance does not specify to whom this type of disclosure is to be made, it is difficult to determine whether such a disclosure was in fact made in this instance. Additionally, Sec. 92.04 (d) specifies only people who are an “employee,” “stockholder” or “officers of the landowner.” The ordinance may not be applicable to an agent (such as an attorney). Assuming Sec. 92.04 applies to the Developer’s attorney and Developer has not disclosed “the nature and extent” of its relationship with its attorney who also served on the Board of Supervisors, such a violation does not substantiate or confirm an allegation of improper influence. A review of the record in this case does not indicate any instance of improper influence.

The OIG also reviewed applicable statutes, ordinances and Duval County tax records regarding the alleged improper payment of taxes on behalf of Developer. There is no indication that the Board of Supervisors of the Trails has improperly paid taxes owed by Developer.

Statutes and ordinances allow Community Development Districts, such as the Trails, to assess and collect taxes and assessments to construct and maintain improvements made within the Trails, specifically recreation centers such as the one in question.

Under Section 190.012(2)(a), Florida Statutes, the Trails may “plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for: (a) Parks and facilities for indoor and outdoor recreation, cultural and educational uses. ...” Pursuant to COJ Ordinance 2006-1199-E, the Trails received consent from the City to exercise this power “in compliance and consistent with all applicable laws including the City’s 2010 Comprehensive Plan and City’s land development regulations.” State law also provides the Trails with the ability to collect: Ad Valorem Taxes (to construct, operate and maintain assessable improvements) per Sec. 190.021(1); special assessments to finance district facilities per Sec. 190.021 (2); and maintenance assessments to maintain and preserve facilities, per Sec. 190.021 (3).

Conclusions:

There does not appear to have been a violation of law or regulation regarding employees, stockholders, or officers of the Developer being on the Board of Supervisors for the Trails. It is unknown whether the Developer disclosed that the Developer’s attorney sits on the Board of Supervisors for the Trails, pursuant to Sec. 92.04, *Ordinance Code*; nor is it certain that such disclosure is required.

Based on the above statutes and ordinances, the Trails had the authority to construct, operate and maintain facilities for recreation. Pursuant to COJ Property Appraiser records the Trails has constructed improvements to the property with an appraised value of \$229,040.00 (plus additional improvements such as an in ground pool, wooden deck, canopy etc. valued at over

\$472,000). The statutes establishing Community Development Districts also provide for such districts to assess taxes, special assessments and maintenance assessments to operate and maintain these improvements.

For the reasons above, all allegations of wrongdoing are unfounded.

Recommendation:

The COJ ordinance requirement regarding the notice a landowner is to provide pursuant to COJ, Sec. 92.04 (d) should be reviewed to determine whether it should be clarified to define to whom such a notice is given, and whether an attorney or agent of the landowner should be subject to the requirements of the ordinance.

No further action by the OIG on this matter is warranted at this time and Correspondence Number: 2015-08-0014 is closed. By copy of this Contract Oversight Observation, the OIG has submitted its recommendations to the Administration.

Respectfully Submitted,



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Interim Inspector General

Ken Swain, Contract Oversight Specialist

Dated: January 11, 2017

cc: Sam E. Mousa, Chief Administrative Officer
Peggy Sidman, Managing Deputy General Counsel, Legislative Affairs Department
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