Neighborhood improvement district, creation of

Number: INFORMAL

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The Honorable Ari Abraham Porth
Representative, District 96
1300 Coral Springs Drive
Coral Springs, Florida 33071

Dear Representative Porth:

You ask about the interplay between sections 163.506 and 165.508, Florida Statutes. According to your letter, one of your constituents is concerned that a neighborhood improvement district was created without the 75 percent written approval described in section 163.508(2), Florida Statutes.

While this office has no information regarding the creation of the neighborhood improvement district in question, the following informal comments are offered in an effort to be of assistance. Part IV, Chapter 163, Florida Statutes, the "Safe Neighborhoods Act,"[1] authorizes the governing body of a municipality or county to form safe neighborhood improvement districts through the adoption of a planning ordinance. As stated in section 163.504(1), Florida Statutes,

"The governing body of any municipality or county may authorize the formation of safe neighborhood improvement districts through the adoption of a planning ordinance which specifies that such districts may be created by *one or more of the methods established in ss. 163.506, 163.508, 163.511, and 163.512*. No district may overlap the jurisdictional boundaries of a municipality and the unincorporated area of a county, except by interlocal agreement." (e.s.)

Sections 163.506, 163.508, 163.511, and 163.512, Florida Statutes, thus establish different methods of establishing neighborhood improvement districts. Nothing in the act states that a local governmental body must comply with all the provisions of sections 163.506, 163.508, 163.511, and 163.512, Florida Statutes; rather the act authorizes the creation of such districts by one or more of the methods set forth in the enumerated statutes.

Section 163.506, Florida Statutes, provides for the creation of a local government neighborhood improvement district, but does not require the approval of the property owners.[2] Pursuant to subsection (6) of the statute, a local government improvement district may be dissolved by the governing body by rescinding the ordinance creating the district. The governing body is required to consider rescinding the ordinance if presented with a petition containing the signatures of 60 percent of the residents of a district.

Section 163.508, Florida Statutes, provides for the creation of a property owners' association neighborhood improvement district and requires, among other things, that the property owners form an association in compliance with this section, or use an existing property owners' association in compliance with this section, which shall be a corporation, for profit or not for

profit, and of which not less than 75 percent of all property owners within the proposed area have consented in writing to become members or shareholders. Pursuant to subsection (4) of this statute, a property owners' association neighborhood improvement district continues in perpetuity as long as the property owners' association created pursuant to this section exists under the applicable laws of the state.

Section 163.511, Florida Statutes, provides for the creation of special residential or business neighborhood improvement district and provides for referendum approval of such districts while section 163.512, Florida Statutes, addresses the conditions for creation of a community redevelopment neighborhood improvement district. Thus, sections 163.506 and 163.508 (as well as sections 163.511 and 163.512), Florida Statutes, set forth different methods of creating types of neighborhood improvement districts.

I trust the above informal comments may be of assistance.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/srh

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[1] Section 163.501, Fla. Stat.

[2] *See* s. 163.506(1), Fla. Stat., providing:

"After a local planning ordinance has been adopted authorizing the creation of local government neighborhood improvement districts, the local governing body of a municipality or county may create local government neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:
(a) Specifies the boundaries, size, and name of the district.
(b) Authorizes the district to receive a planning grant from the department.
(c) Authorizes the local government neighborhood improvement district to levy an ad valorem tax on real and personal property of up to 2 mills annually.
(d) Authorizes the use of special assessments to support planning and implementation of district improvements pursuant to the provisions of s. 163.514(16), including community policing innovations.
(e) Designates the local governing body as the board of directors of the district.
(f) Establishes an advisory council to the board of directors comprised of property owners or residents of the district.
(g) May prohibit the use of any district power authorized by s. 163.514.
(h) Requires the district to notify the Department of Legal Affairs and the Department of Community Affairs in writing of its establishment within 30 days thereof pursuant to s. 163.5055."