

Fla. City Sues For \$9M Bond Issue By Redevelopment Agency

By Nathan Hale

Law360, Miami (May 21, 2014, 4:37 PM ET) -- The city of Pompano Beach, Florida, has taken Broward County to state court, in an attempt to validate an extension of the city's community redevelopment agency and the issuance of \$9 million in bonds, according to a complaint filed Monday.

Broward County has held that an extension of the Pompano Beach CRA requires approval of the Board of County Commissioners. The case could have a bearing not only on several city projects that depend on the bonds, but also on the county's authority over other municipalities' CRAs, said Pompano Beach's attorney [Jamie Cole of Weiss Serota Helfman Pastoriza Cole & Boniske PL](#).

"Certainly the general concept is if the county is going to continue to be opposed to CRAs, then ultimately as these CRAs' terms expire, [the county commissioners] could accomplish their goal of eliminating them all," Cole said, describing the dispute as a philosophical difference.

The concept of the CRA is to draw developers to an area with the guarantee that as new projects increase the property values, the tax revenue they generate will be poured back into further improvements to that area.

Broward County — and other Florida counties, Cole noted — would prefer to eliminate CRAs so that all the tax revenue flows to the county and so that it can draw from a single pot to fund individual projects wherever it wants in the county.

"This piecemeal basis," as Cole describes it, "works for individual projects, but you can't redevelop an area that way," he said.

The city established the Pompano Beach CRA in 1989, based on a 1980 delegation of power from the county to "adopt redevelopment plans and modify same," according to the suit.

The CRA's term was originally set to expire in 2019, but Pompano Beach passed a resolution in 2010 to extend the term to 2040, and last September authorized the CRA to issue \$9 million in bonds — which depend on that extension — including tax increment financing that would be paid by the county.

In its complaint the CRA also seeks validation of the bonds, which it plans to use for streetscape improvements, landscaping, lighting, building improvements, property acquisitions and an incentive program. These projects, the largest of which appropriates \$5.2 million for downtown streetscape work, are jeopardized by the county's opposition, Cole said.

"There's definitely a slew of projects that they want to move forward with, that they can't do," he said of the city and CRA.

The county objected in 2010 to Pompano Beach's extension of the CRA, but the issue did not become ripe until last year, when the city authorized the bonds. The parties engaged, unsuccessfully, in intergovernmental dispute resolution until the city authorized the filing of the suit at the beginning of the month, according to Cole and court documents.

The county has claimed that it passed a 1999 resolution to reduce the broad powers allocated to the city in 1980, according to the complaint.

But the city contends that the 1999 resolution was "actually only a conceptual outline of terms" and points to a provision requiring the commissioners' approval to extend an existing CRA's terms that was to be set "after a date certain (still to be negotiated)."

"Because the county and the city were unable to reach a meeting of the minds, the date certain 'still to be negotiated' was never established," the city says. "The city never agreed to limit the scope of the county's original 1980 delegation, as to extension in the duration of the redevelopment plan or otherwise."

Also, a 1999 amendment to the county's administrative code applies only to CRAs created after 1999 and contains no language of retroactive applicability, the city holds.

To back up its claims, Pompano Beach says it made a public records request with the county in November 2013, and was told the only resolution or ordinance in which the county commissioners claimed to have altered the 1980 delegation of power was one made in 1989, which reaffirmed the 1980 decision and actually gave the city more redevelopment authority.

It also cites a 2006 report from the county auditor that characterized the city's CRA as having "full authority," the highest designated level of delegated power.

"The city seeks a declaration that the county's delegation of authority was still in effect in 2010 and therefore the modified development plan that extended the duration of the CRA is legal and valid," the suit says.

Assistant County Attorney Rene Harrod said Wednesday that the county has not yet been served with the lawsuit.

The Pompano Beach CRA is represented by Jamie A. Cole and Daniel L. Abbott of Weiss Serota Helfman Pastoriza Cole & Boniske PL.

Broward County is represented by county attorney Joni Armstrong Coffey.

The case is Pompano Beach Community Redevelopment Agency, Northwest District Area et al. v. State of Florida et al., in the 17th Judicial Circuit Court of the State of Florida.

--Editing by Edrienne Su.

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