

Getting the Deal Done – Cities Can Help!

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Florida and its urban areas are blessed and cursed by a pervasive system of land development regulation. Well-trained and educated City planners, urged on by elected officials increasingly more sensitive to neighborhood issues, wield their regulatory swords to make sure that developers deliver well-planned and attractive projects – on paper. And, wow – is there a lot of paper!

Every condition and requirement of a project is memorialized in a document that is very often recorded against the property to insure those sneaky developers don't weasel out of their commitments. Unfortunately, many of those City agreements don't contemplate a release upon complete performance, nor do they require the City as a party to the agreement to respond to requests for estoppel information. The recorded documents pile up in title and every potential sale or loan kicks off a long and costly diligence effort on the part of a buyer or lender to understand what, if any, impact the old development agreements have on the property. The buyer is standing there, eager to make an investment in the City, if she could only get a straight answer to the question: "Have all of the offsite road improvements been completed and accepted?" But City staff, so bold about imposing those conditions, become nervous about responding to questions on the status of performance. It's understandable: why should they stick their necks out?

Local governments could get more capital flowing into their local economy and increase the likelihood that paper-projects and half-built projects will be completed if they would set up reasonable procedures to execute releases and estoppels when requested. Empower some staff members, charge a reasonable fee, but respond quickly. It really will help to get the deal done!

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