Elected Officials Frequently Asked Questions Concerning Metropolitan Districts

Are there any long-term impacts on town elections due to metropolitan district decisions? The perception is that people living in districts with higher mill levies don't vote for other municipal or school district ballot measures.

There is no data compiled confirming this perception. Landowners work with cities and counties to provide residents within the metropolitan districts the public infrastructure that is necessary. Metro districts understand voters' sensitivity to any type of an increased tax burden and work closely with the cities and counties to ensure that the infrastructure and amenities that are spelled out in the service plan meet the demands of the city/county and of the residents and nothing more.

How are my metro district taxes calculated?

Property taxes are calculated based on the assessed value of your property times the property tax rate which is also known as the mill levy. The assessed value is determined by the County Assessor's office each year and is based on the market value of the property. As an example, a residence that is determined to have a market value of $450,000 would have an assessed value of $32,175. This is calculated by taking the market value ($450k) times the state assessment ratio (7.15%). If we assume that this property had a mill levy (tax rate) of 145 mills the total property taxes would be $4,665 (calculated by taking the assessed value $32,175 divided by $1,000 times the mill levy of 145). The mill levy for any property is comprised of all the taxing authorities that provide services to that property which could include the city, county, school district and other special districts.

The Metro District Education Coalition, a non-profit organization, has developed a series of tools to educate the broader community on the mathematical equation between mill levies and assessed property values

Developer notes are often annually appropriated and don't show up as debt. This has an impact on the mill levy and people frequently don't know about them. How can people be more engaged and learn more about how to find answers to these questions?

While it is true that developer notes may not be considered "debt" of a special district in all cases, the financial statements will report ALL obligations that have been incurred by the

District. However, for developer notes and subordinate obligations, it can be difficult to understand how these obligations will impact the mill levy long term. Reviewing the District's annual audit with someone that is skilled in government accounting would be a good way to analyze what the future impact may be. Further, any obligations would remain subject to the District's service plan mill levy cap.

What is the role of the Board of County Commissioners in providing transparency and oversight on an ongoing basis?

Cities and counties can require disclosure and transparency beyond what is required by state law through the service plan that they approve. In addition, many cities and counties have links on their websites to metropolitan districts and other special districts within their jurisdiction to make it easy for their residents and businesses to find information.

What happens if a metropolitan district fails?

If a metropolitan district fails to meet its obligations under or exceeds its authority as set forth in its service plan, the city or county may call for a quinquennial (five year) review of the service plan and the metropolitan district's performance, and, upon making the proper findings, freeze the district's unused debt capacity. The local jurisdiction, however, cannot force the metro district to do things outside of the items included in the service plan.

Most jurisdictions require that the district enter into an intergovernmental agreement with the jurisdiction which make the salient terms set forth in the service plan contractual obligations between the city/county and the district. As such, if the district does not comply with the requirements, the city/county has a contractual breach claim against the district. In addition, the city/county can call the district in for a quinquennial review as noted above. When the district issues debt, typically they are limited mill levy pledges which say that as long as they impose the agreed upon maximum mill levy, they are not in default even if that mill levy doesn't produce the revenue required for the annual payment. That is the risk that the bondholder takes.

Does Amendment 41 apply to metropolitan districts?

Under Amendment 41, the term "local government" is restricted to a county or municipality. Quasi-governmental entities, such as special districts, are excluded from this definition. Thus, Amendment 41 does not apply to metropolitan districts.

How is the board composition of a metropolitan district determined?

During the early stages of a development, the land is undeveloped and there are no residents to run for a board seat, thus the developer and landowner work together to make up the initial board. Once there are residents in the community, these individuals can run in regular elections to serve on the board and can help to manage the district's debt and operations. The funding mechanism for metro districts only works if developers can reasonably be assured that the public improvements required by the city or county are able to be financed and constructed. Typically, once the project is complete, residents take over the board and manage the debt and operations over time. In some instances, this transition can occur very early on in the project. The first election at which residents can run for the board occurs as early as 6 months after the organization of a district. Further, if there are vacancies on the board, any eligible elector, including residents, can request appointment to that vacant position.

Can a metropolitan district refinance bonds without homeowner consent or knowledge and extend the length of time that their debt is outstanding?

The board of a metropolitan district can only refinance debt within the constraints outlined by the approving municipality or county in the metropolitan district's service plan. This often includes a limitation on the length of time that debt can be outstanding and that a mill levy for debt can be imposed. Thus, while it is possible for a metropolitan district board to refinance debt and extend the maturity of their debt, it can only do so within an approved framework that was put in place when the district was formed.

Metropolitan district board meetings are publicly noticed and open to the public, like other municipalities and counties. The general public may choose to attend board meetings and express their views on any topic. As communities build out, they often vote to put residents on the board that have the ability to make decisions that best suit the community's goals for managing the debt that was used to pay for its public improvements. Over time, metropolitan districts pay off their debt, and cities, counties, or other local governments to whom improvements were dedicated continue to maintain them over time.

Why would there ever be a master/subordinate type structure and how do you respond to the complaint of taxation without representation?

Since the 1980's, the master/subordinate model of districts has been phased out and this terminology is no longer used. However, a common tool used today is a "control district" or "coordinating district" or "operating district" which is an umbrella district that ensures cost efficiencies for redundant services provided by each metro district under the umbrella such as landscaping, accounting, legal, etc. These control districts have boards and all meetings are publicly noticed allowing for public involvement. The financing districts impose mill levies and/or fees and coordinate with the control or coordinating district to provide facilities and services on a cost-effective and more efficient basis. This structure also enables the improvements to be phased with the development phases so that the properties located within the respective districts are paying for their share of improvements and not for improvements on earlier or later phases of improvements. Thus, if Phase I develops first, it is located within a district for the phase and pays for its improvements. It does not, then, pay for the improvements within Phase II, Phase III, etc.

Every district has an elected board of directors and districts are forms of representative government just like cities and counties. Residents move into communities at different stages of development and inherit whatever obligations exist within that community at the time they purchase their home. This is no different from a resident moving into a new city—previously approved and issued taxes and debt apply to that property. If the board makes decisions residents to not like, change can occur through elections or petitions for recall. As with city councils and boards of county commissioners (and legislators as well), board goals and philosophies change with new membership. Resident involvement through the ballot box effects this change.

Why are the operational costs of districts so high?

Because districts operate as independent, political subdivisions their operational needs are separate and distinct from other governments. These needs include regular meetings, elections, maintenance contracts, construction contracts, legal representation, accountancy and management needs, engineering needs, insurance, audit requirements and more. Many of these needs are required by state law, by district service plans and/or as a matter of good public policy. Some districts also own and maintain improvements and amenities such as pools, clubhouses, parks, streetscaping, etc., and provide enhancements such as holiday lighting and snow removal services. Elected district boards determine the level of operations and manage the expense of operations either by contract with consultants or by hiring and managing staff.

How can residents access information about their metropolitan district?

Residents and property owners can gain access to special district information through the Division of Local Government's "Local Government Information System." Special Districts are required to post various annual filings with the Division of Local Government, including director information, annual budgets, annual audits, current maps of the district boundaries and the underlying Service Plan. This information can be found via a search of all special districts at https://dola.colorado.gov/lgis/.

In addition, with the passage of SB 21-262, metro districts must have their own website which must contain the same information.

Finally, residents may also request documents from the district's manager and/or legal counsel. The contact information for the district is available on the Division of Local Government's website.

What are the differences between GIDs SIDs and metropolitan districts?

A GID (which is created by a municipality; a PID is similar and is created by a county) has virtually all of the same powers as a metropolitan district. One advantage to a GID is that it can finance anything the creating municipality can. Thus, a GID can finance a broader array of projects including dry utility lines (electric, gas, phone). One of the differences between a GID and a metropolitan district is that the governing body is the City Council or the Town Board of Trustees.

A SID, (which is created by a municipality; a LID is similar and is created by a county) is a different financing vehicle. It is not a separate corporate entity; rather it is a geographical area within the municipality in which the municipality may levy special assessments on property benefited by the improvements to be financed. Thus, the City Council or Town Board makes the decisions. SIDs are a capital financing vehicle and not an operating entity. The assessment that SIDs collect is not a property tax based upon assessed value. The assessment does have a perpetual lien on the property, which lien is superior to all other liens except general property taxes. The assessments are often collected by the county treasurer on the tax bill. Sometimes SIDS are collected by the municipal treasurer. The assessments can be paid in full within 30 days after the assessments are levied by the municipality and thereafter are paid in installments with interest over 20 years. The assessments can be prepaid by a property owner at any time. In case of failure to pay an installment, the entire amount comes due.

How do you respond to residents who believe that it is unfair that they have to pay for the city to review metro district activities?

Oversight from the local jurisdiction is important since taxpayer dollars are being expended. Metro district staff work closely with city and county staff to ensure that metropolitan districts meet the city or county requirements and that they comply with the terms of the service plan that is adopted by the city or county.

Is there a way to ensure transparency and a greater understanding about how metropolitan districts work?

We believe that more transparency and education about metropolitan districts is essential. State law currently requires a number of transparency measures which are included in **Addendum A.** SB 21-262 also increased transparency greatly. It is important to note that the Metro District Education Coalition (MDEC) continues to advocate for greater transparency including a requirement that all MLS listings disclose that a property is in a special taxing district. MDEC is also developing a series of tools such as videos to help explain what metropolitan districts are, how they are governed, and how they finance public improvements for communities. More information can be found at www.MetroDistrictEducation.com.

Can bonds be extended beyond the life of the asset?

In determining the amortization and maturity of its debt, a district considers the useful life of the asset as well as the maintenance/repair/replacement needs of those assets in the future. Many district-financed improvements are dedicated to other governments who accept those ongoing obligations. Note also that tax-exempt financing under federal tax law requires a relationship between the useful life of an asset and the maturity of the debt financing that asset

What is the threshold for forming a district i.e. size, acreage, etc. Regionally significant improvements?

The threshold for forming a district is not set in statute. However, the jurisdiction in which the district is proposed may have adopted requirements relative to these matters. Additionally, even if there are no set standards to follow, there is a threshold where it may not make economic sense to form a district for a small subdivision with a limited number of residents or property owners. A pre-requisite for organization of a district is the approval of the city or county in which the district is proposed to be located. Therefore, the approving city or county will evaluate these matters as a part of the approval process to determine, in part, whether organization of a district is in the best interest of the community it will serve.

My developer told me that my mill levy is a temporary tax that would be paid off in 2018 and it isn't. Who makes sure this is temporary?

Cities and counties work with the landowners and developers of these projects to design and construct infrastructure that will allow for connections like roadway systems to other parts of the community and provide amenities to the new project itself. City council members and county commissioners determine the amount of property taxes that the metropolitan district will be able to charge and set the maximum amount of time those taxes can be in place to pay for the required public infrastructure. Most often these taxes are in place for 30-40 years to repay bonds issued up front to pay for the infrastructure. Specific information on the allowed taxation in a district can be found in the district service plan approved by the city or county.

How do you explain subdistricts that are created for Greenfields within districts?

Subdistricts have been permitted to be formed for the last 20 years. They allow Title 32 districts to tax a smaller area (i.e., the subdistrict) within the overall district in order to finance improvements related to that smaller area. If the subdistrict were not formed, the district would be required by the state constitution to impose a uniform mill levy within the entire district. For example, water and sanitation districts and park and recreation districts have used subdistricts to finance improvements in certain areas.

What is the role of a property owner vs. homeowner involvement in a metropolitan district?

At the early stages of a new development, the only eligible voters in a metropolitan district election will be the owners of the property. Once there are residents in a community (whether property owners or not), those individuals can run in regular elections to serve on the board. Those individuals can then help to manage the district's debt and operations over time. A transition generally occurs from developer to resident control of metropolitan district boards as projects mature and residents become eligible for election to the board.

How can we ensure the effective use of districts so they can continue?

It is important for local governments and citizens alike to understand the ways that metropolitan districts can facilitate the construction of regional public infrastructure and the impact districts have on keeping home prices as affordable as possible during our continued growth. Ensuring that metropolitan districts are well understood by all stakeholders is a key part of the Metro District Education Coalition's (MDEC) mission. To the extent that MDEC can assist in describing how they work for any stakeholder group, please reach out to us and we would be happy to provide support.

I don't like having another level of government to deal with.

Metropolitan districts are community partners that help local jurisdictions pay for public infrastructure within a new community. Residents are made aware whether their property is in a metropolitan district prior to purchasing their home and can make the personal decision about whether to live in a metropolitan district or not.

Why is there continual refinancing that creates perpetual taxes?

Through the service plan, city council members and county commissioners determine the amount of property taxes that the metropolitan district will be able to charge and set the maximum amount of time those taxes can be in place to pay for the required public infrastructure. After bonds are initially issued, typically the credit quality of the district improves as development occurs within the district and the assessed valuation of the district increases. This improved credit quality typically allows the district to lower the interest rate on its debt through a refinancing, because the debt of the district becomes less risky and investors are therefore willing to accept a lower interest rate. Interest rates in the overall municipal bond market may also decrease over time, allowing the district to save money by refinancing. As part of these refinancings, the final maturity of the bonds may be extended. Service plans usually contain an outside period (often 40 years) after which no taxes may be levied, or after which taxes may be levied under certain circumstances, such as after approval is obtained from a homeowner-controlled board. Each district and its service plan are unique, however, so there is not one answer to this question that applies to all districts."

Does the creation of metro district lower a home price thus giving a town less tax revenues?

The use of Metropolitan Districts to fund infrastructure does stretch out the payment of public improvements over time, which has the effect of lowering the price of a home, all else equal, because those improvement costs would otherwise be paid up from by the homeowner. While raising home prices may be desirable from the standpoint of a municipality seeking to generate property tax revenue, the cost of housing along the Front Range is currently high enough that many people cannot afford to purchase a home. Many communities have decided that using Metropolitan Districts to build public infrastructure makes sense to keep home prices down and to increase the supply of housing in the market, which also tends to keep prices low.

Why is there a significant change in taxes from a new home and the valuation change to one a few years later?

Property taxes are paid in arrears in Colorado. When land is developed and new homes are constructed on that land, property taxes owed to all taxing jurisdictions will be based on the value of the property prior to when the home was constructed. This value is almost always significantly lower than the value of the finished home. Taxes will not be owed on the full value of the home until the beginning of the second year after home ownership. For instance, a home that was constructed and purchased this year will be assessed next year and taxes owed on the full value in the beginning of the following year.

This change in valuation has nothing to do with a metropolitan district that may be on the property. Metropolitan district taxes are assessed against the value of the property like any other taxing jurisdiction.

When can homeowners get on the board of a metropolitan district?

Residents and property owners are eligible to run in regular district elections that are held biennially in May (May of even years until 2022 and May of odd years starting in 2023). Notices are sent to residents in a metropolitan district by one of the following ways: (1) mail to each household within the special district; (2) included as part of a newsletter or other statement, letter or notice sent to the eligible electors within a district, (3) posted on the official website of the special district, or (4) posted through the Special District Association.

Any director elected or appointed to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district; except that a petition shall not be filed to recall a director whose term of office expires in less than six months from the date the petition is presented for filing. A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition must be filed to initiate a recall election.

How do you respond to the phasing of amenities when the financing is too tight and at the end of the project and the developer says, "Oops, we ran out of money" and then doesn't live up to their commitment?

Metropolitan districts work within the constraints provided by the city or county, through the service plan, to build as much public infrastructure as possible with the money that's available to them. These roads, parks, sewers and other public infrastructure costs are a shared responsibility between the creator of the community, the metropolitan district, and the approving local government since the metropolitan district generally cannot cover all the public infrastructure costs on its own.

In addition, the district's ability to finance improvements will depend on the assessed value of the district, the limitations contained within the service plan (such as a limited mill levy or maximum debt term), the success of the development overall, and general municipal bond market conditions. Further, while developers often comprise the initial boards of directors of districts, the district is a separate entity, and is only permitted by law to finance certain types of public improvements. There may be other amenities discussed by the developer which are not the district's responsibility, and the district ultimately is not responsible for statements made by the developer.

For more information: www.metrodistricteducation.com or email metrodistricteducation@gmail.com.

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