

Lesser-Known Development Tool Has Major Impact

By [Kathryn Rossmell](#)



April 21, 2023 – In late March, media outlets shared the news that in an apparent effort to insulate itself from future decisions by its new oversight board, Disney had enshrined a set of development protections in a legal document executed earlier this year.

Politics aside, this set of events thrust into the spotlight two words that are likely to decorate Florida’s news feeds for months or years to come: Development Agreement. This will leave many in the state with two very reasonable questions: What exactly are development agreements? And can they really override future government decisions?

At their most basic level, development agreements are special contracts entered into between a local government with land use authority and a party that wants to develop land.

They were created by the legislature in 1986 to encourage efficient use of resources, reduce the economic costs of development, and ensure adequate public facilities, with the specific intent to encourage private participation in comprehensive planning. In order to attract the type of growth local governments desire, development agreements dangle an enormous carrot grown specifically to tempt private property developers: predictability.

Development agreements have the effect of “freezing” a local government’s land development code and comprehensive plan in place for up to 30 years, with respect to that one development. With a few exceptions, this immunizes developers from future code changes, even though those changes will apply to other development surrounding the protected area.

This type of predictability is well-suited to larger projects that take longer to plan, involve more complicated issues, or will be built over the course of many years rather than a few months. Development agreements allow the developer and the government to arrive at a mutually agreeable set of deadlines and understandings, which can help both parties better plan for the future of the property and the region.

While developers benefit from assurance that their plans can move forward, local governments benefit from this arrangement too. A local government can use development agreements to attract growth of any particular size or shape it desires, set deadlines it would not otherwise impose, and evaluate its long-term planning needs.



The statutes permitting this arrangement give local governments some flexibility for special cases, but nothing in the law requires local governments to use development agreements at all. The decision to use this tool falls squarely in the lap of that local government.

To be clear, development agreements are not magic wands that wipe away government oversight and cannot be used to exempt developers from most requirements that exist at the time the agreement is signed.

For example, developers are still required to provide assurances that the infrastructure necessary to serve a development will be in place concurrent with that development's impacts. And a development agreement cannot exempt a developer from seeking future approvals for site plans, building permits, and other ordinary development orders.

But it does ensure that the set of rules by which the game is played cannot be changed after the starting whistle. And that, for developers and governments alike, is a very big prize.

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