

NEW COMMUNITY AUTHORITIES AN UNDERUTILIZED TOOL FOR TRANSFORMATIVE REAL ESTATE PROJECTS

BY BRENDAN HEIL, COLIN KALVAS & CALEB BELL

Transformative real estate projects are increasingly difficult to complete in Northeast Ohio. Traditional lending has shrunk, local and state incentives are stretched, and capital stacks are getting harder to fill. Meanwhile there is historic demand for housing construction. New Community Authorities (NCA), an economic development tool that is underutilized in Northeast Ohio, are one potential solution to financing complex real estate transactions and returning a benefit to the public. This article will explain the nuts and bolts of NCAs and discuss their benefits as a unique economic development and public finance tool.

Historically, in Ohio, new community authorities were used by counties to help transform farmland into large scale housing development. Originally, new community authorities were required to contain residential development and over 1,000 acres of contiguous property. Over time, Ohio law has changed to allow for greater flexibility with NCAs. Currently, municipalities, counties, and some townships can use new community authorities to develop or redevelop as little as a single parcel. The properties involved no longer need to be contiguous, and the project is not required to include residential development. These changes allow local governments to create new community authorities for mixed-use, commercial, or industrial sites that are key economic development priorities. What was once a tool to develop large tracts of farmland has morphed over time into a powerful and flexible economic development tool for urban redevelopment.

A new community authority is a new political subdivision under state law created either by a local government or through a public-private partnership between a statutory “developer” and a local government. The developer must own or control the land that is initially included in the new community

district.¹ The developer can also be a municipality, county, some townships, or a port authority that owns or controls the land in the proposed new community district.

Traditionally, a private developer files a petition to create the new community authority with the relevant local government’s “organizational board of commissioners” (the legislative authority).² Following receipt of the petition, the organizational board of the local government is required to make a determination as to the sufficiency of the petition and set the time and place for a hearing on the petition. After the hearing, the organizational board passes a resolution to create the new community authority and define the boundaries of the new community district.

Through this process, the local government creates a new political subdivision governed by a board of directors. The organizational board appoints at least three, but as many as six, board members to represent the interests of the residents and businesses in the new community district.³ The developer appoints an equal number to serve as its representatives. The organizational board also appoints one member to serve as the local government representative. The appointment process ensures public control of the new entity’s board.

New community authorities have certain economic development super powers. First, they can levy “Community Development Charges” on economic activity in the new community district. These charges can be a uniform fee on each parcel, can be assessed based on the valuation of property in the new community district, or be on the gross receipts or other revenues of businesses in the district.⁴ In other words, the NCA can create charges that work like additional property, sales, income, or bed taxes, or user fees in the new community district. These spot-specific charges allow the new economic activity to pay for the infrastructure or amenities in

the district, instead of burdening existing taxpayers or shifting existing taxes from other priorities.

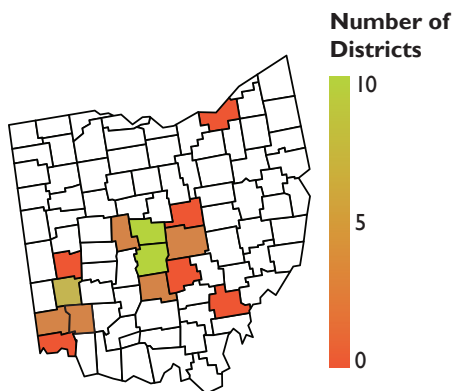
Second, new community authorities have the ability to issue revenue bonds to pay for the development of community facilities. The debt issued by the new community authority is separate from and does not impact a local government’s debt capacity. New community authorities can also own and operate community facilities. Community facilities include parks, cultural facilities, streets, sidewalks, water and sewer infrastructure, parking facilities, public buildings, stadiums, day care centers, fitness centers, and many other assets.⁵

Third, new community authorities can be utilized in addition to traditional public financing on projects. NCAs are often combined with community reinvestment area tax abatements (CRA) or tax-increment financing (TIF) as part of a project’s overall financing strategy. NCAs can be used to create a replacement charge as a way to monetize a tax abatement. For projects with large public infrastructure needs, NCAs can be used to create revenue in addition to a traditional TIF. The flexibility to design charges specific to the economic activity created by the new development can supercharge development possibilities.

Fourth, new community authorities provide the local government with an appropriate level of public input and transparency. A new community authority is a separate political subdivision. As such, the NCA is required to comply with public records laws, open meeting requirements, and is subject to audit. The NCA’s board consists of a majority of members appointed by the local government allowing for appropriate local input. The required makeup of the NCA board ensures that the public’s financial support of a project will result in a benefit to the public and residents and businesses in the district.

The underutilization of NCAs in northern Ohio is likely the result of new community authorities' historic purpose as a method for developing farmland into housing. Currently, Cuyahoga County is home to only one new community authority — the Belle Oaks New Community Authority (Belle Oaks NCA). The Belle Oaks NCA was created for the redevelopment of the old Richmond Heights Town Square Mall. Established through a partnership between City of Richmond Heights and a private developer, the Belle Oaks NCA will leverage property-based charges to monetize a tax abatement, levy bonds, and pay for public infrastructure supporting a mixed-use development that includes over 700 apartments, a Meijer grocery store, and commercial retail. The use of a NCA will result in a new development with amenities and provide a new grocery store for the entire community.

Although there is currently only one NCA in Northeast Ohio, times are changing. Cities and community groups in Cuyahoga County and around the region are exploring opportunities



to use NCAs in innovative ways. Those cities and community groups see NCAs as ways to provide equitable access to enhanced community facilities, fund infrastructure, and revitalize existing community assets. New community authorities are perfectly suited for those goals, because they provide the necessary flexibility to design charges and fund community facilities that support transformative redevelopment.

New community authorities are a powerful public finance and economic development tool for real estate projects. Real estate projects in Northeast Ohio face challenges due to macro-economic trends and market dynamics specific to the Cleveland area. Projects that could benefit from flexible public financing would do well to explore utilizing a new community authority.

¹ R.C. 349.01
² R.C. 349.03
³ R.C. 349.04
⁴ R.C. 349.01(L)
⁵ R.C. 349.01(I)



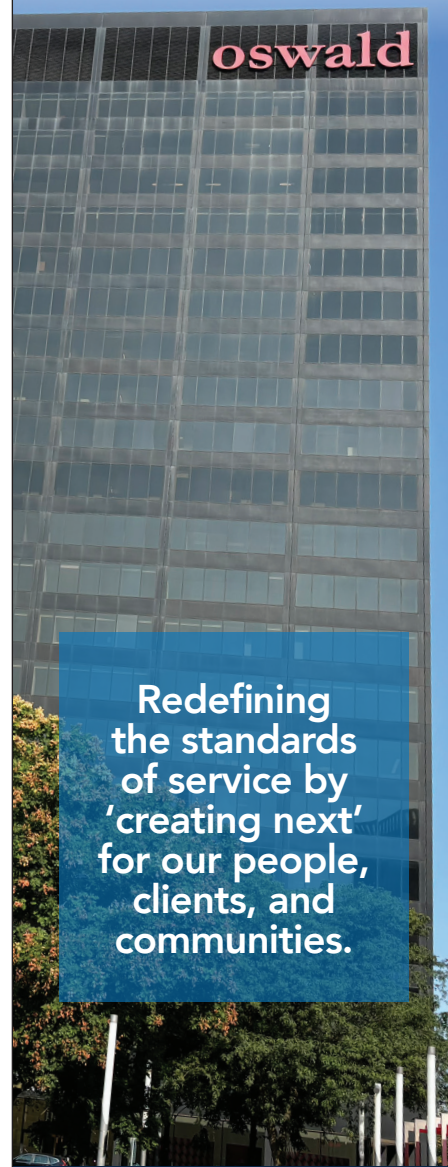
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