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MEMORANDUM

DATE:	January 7, 2020
TO:	Mayor and Councilmembers
THRU:	Darin Atteberry, City Manager; Jeff Mihelich, Deputy City Manager; and Jacqueline Kozak-Thiel, Chief Sustainability Officer
FROM:	Josh Birks, Economic Health and Redevelopment Director
RE:	**ITEM #2 – WORK SESSION - DENVER POST ARTICLE MEMO**

This memorandum responds to a request from the January 6, 2020 Leadership Planning Team ("LPT") to provide a previously distributed memo regarding metro districts. The memo, distributed on December 12, 2019, addressed several concerns raised in a series of articles published in The Denver Post between December 5, 2019 and December 9, 2019. The original memo is attached to this cover memo.

The original memo dated December 12, 2019 is also available at:
http://citydocs.fcgov.com/?cmd=convert&vid=218&docid=3414750&dt=MAIL+PACKET

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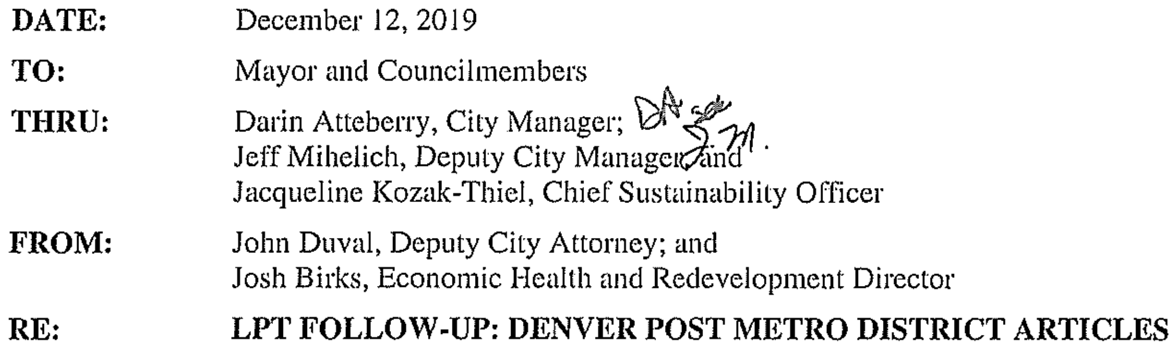
MEMORANDUM



DATE:	December 12, 2019
TO:	Mayor and Councilmembers
THRU:	Darin Atteberry, City Manager; Jeff Mihelich, Deputy City Manager; and Jacqueline Kozak-Thiel, Chief Sustainability Officer
FROM:	John Duval, Deputy City Attorney; and Josh Birks, Economic Health and Redevelopment Director
RE:	**LPT FOLLOW-UP: DENVER POST METRO DISTRICT ARTICLES**

This memorandum responds to a request from the December 9, 2019 Leadership Planning Team ("LPT") to provide an overview of the City's current Metro District Model Service Plan. The request specifically asked for a list of the safeguards included in the City's approach that address a number of concerns raised in a series of articles that ran in The Denver Post between December 5, 2019 and December 9, 2020 (articles were included in both the electronic and print versions).

BOTTOM-LINE:

The City's current Metropolitan District Model Service Plan ("Model Service Plan") was included in the policy revision approved by City Council on August 21, 2018 and later amended on February 5, 2019. The Model Service Plan includes several provisions that address most of the concerns raised by recent articles in The Denver Post. In addition, the City's Policy for Reviewing Service Plans of Metropolitan Districts (the "Metro District Policy") focuses on substantive community benefits as opposed to solely basic infrastructure.

BACKGROUND:

Beginning on December 5, 2019 (online version) and continuing through December 9, 2019 (both online and print versions), The Denver Post ran a series of articles detailing the findings of an eight month long investigation into the workings of Title 32 Metropolitan Districts ("Metro Districts") in the State of Colorado. The series of articles was titled "*Metro Districts: Debt & Democracy.*"

Staff reviewed the newspaper articles summarizing the concerns raised into five themes. A brief description of the theme and a list of the safeguards included in the City's Model Service Plan are provided below. Many of these safeguards are best practice and employed by other communities.

<u>Lack of Transparency</u> – Little to No Voter Oversight/Lack of Clear Disclosure

Concern: The articles highlight that Metro Districts are often formed by a developer before any residents have purchased homes creating a future debt obligation well before the homeowners can

participate in a Metro Districts' democratic process. In addition, the articles raised concerns about the disclosure processes to residents when they purchase a home in a Metro District.

City Safeguards:

- Enhanced disclosure – The City's Model Service Plan includes a specific form of enhanced disclosure, which must be approved by the City Manager, recorded with the County Clerk and Recorder's Office, and provided by the Developer to each potential End User of a residential lot. "End Users" under the Model Service Plan are the residents and owners of the residential and commercial structures that are built with the Metro Districts' boundaries and cannot be the developer or builders of these structures.
- Enhanced Reporting – Each Metro District is required to submit an enhanced annual report to the City, which is then be published on the City's website.
- Enhanced Board Transparency – A District's Board must hold a public board meeting in three of the four quarters each calendar year. Furthermore, a District shall not enter into any agreement by which the End User's electoral control of the Board is removed or diminished.

Runaway Debt – No Checks and Balances to Avoid Insolvency

Concern: The articles describe several circumstances in which a Metro District has gotten into a fiscally troubling position by constantly refinancing debt, pledged to repay a loan that continues to accrue interest without the ability to refinance, or committed to repay without limit on the taxes imposed on residents.

City Safeguards:

- Debt Cap – The City's Model Service Plan includes a specific Maximum Debt Authorization based on the financial plan and anticipated use of debt by the district. This maximum debt amount cannot be exceeded without the City Council first approving an amendment to the District's service plan.
- Debt Mill Levy Cap – The Model Service Plan caps the Debt Mill Levy by imposing an Aggregate Mill Levy Maximum of fifty (50) mills allowing for up to ten (10) mills to support the operations of the District. This means that the taxes cannot rise above this cap to repay any debt without the City Council approving an amendment to the service plan.
- Debt Mill Levy Imposition Cap – The City further restricts the collection of taxes to repay debt by imposing a limit on the length the debt mill levy can be imposed to forty (40) years from December 31 of the year a service plan is approved by City Council. This restricts the length of time that a district can impose a tax to repay debt and in effect limits the length of time a district may have outstanding debt to no more than forty (40) years. Again, these restrictions can only be removed or changed through an amendment of the service plan approved by the City Council.
- Refunding Debt Restrictions – The City's Model Service Plan restricts the refunding of debt exceeding the forty (40) year restriction in two ways: (1) if a majority of the issuing District's Board is composed of End Users and have voted in favor or refunding; or (2) such refunding will result in a net present value savings – meaning an overall reduction in the cost of the debt to the District.

Continuously Rising Taxes – **Rapid and On-going Property Tax Increases**

Concern: The articles describe the situations of several residents ("End Users") within districts where the residents experience rapid and on-going property tax increases due to the Metro Districts mill levy. The articles conclude these situations stem from the influence of Gallagher Amendment adjustments, lack of disclosure, and other provisions within a Metro District's service plan.

City Safeguards:

- Mill Levy Cap – The City's Model Service Plan caps a district's mill levy by imposing an Aggregate Mill Levy Maximum of fifty (50) mills allowing for up to ten (10) mills to support the operations of the District. This means that the taxes cannot rise above this cap for any purpose. The Mill Levy Cap can only be increased by an amendment to the service plan approved by the City Council.
- Gallagher Adjustments – The City's Model Service Plan allows for adjustments to the Aggregate Mill Levy Maximum when the State's method of calculating assessed valuation for Taxable Property changes (a "Gallagher Adjustment"). However, such increases or decreases in the mill levy shall be determined so that to the extent possible, the actual tax revenues generated by such mill levies, as adjusted, are neither enhanced nor diminished as a result of such change occurring. Therefore, while the Aggregate Mill Levy Maximum may increase over fifty (50) mills it may only do so if it does not increase the revenue to the district. Therefore, an individual taxpayer's bill should not increase despite seeing a mill levy increase because of a corresponding decrease in the residential assessment ratio used to determine the assessed valuation for Taxable Property.

NOTE: The articles describe several circumstances where the taxes due in year 1 are significantly lower than the taxes due in year 2 on a new home. This is typical whether a home is within a Metro District or not. This shift is because taxes are paid a year in arrears in Colorado. The taxes a new resident pays in a new construction home in Year 1 is often based on the lot or partially constructed home's value, which is significantly less than the fully constructed home's value, which is the basis for taxes in Year 2.

Junior Bonds

Concern: The articles describe several circumstances where a developer purchased subordinate debt as part of a Metro District's debt portfolio. These "junior bonds" bear higher interest rates and may create a seeming windfall for a developer that purchases these bonds. The article claims this practice creates a clear conflict of interest and obligates residents to continue to pay District mill levies in perpetuity.

- Debt Mill Levy Cap – *Described above.*
- Debt Mill Levy Imposition Cap – *Described above.*

NOTE: Nothing in the City's Model Service Plan forbids or discourages the issuance of subordinate debt by a District. However, all debt is subject to the Debt Cap; therefore, if all of the Debt Cap is issued as senior debt then there would be no available capacity for issuing subordinate debt.

Transfer Fees

Concern: One article in the series focuses on the management of Transfer Fees – a fee charged at the time a home is sold within a Metro District – specifically the portion of the fee intended to benefit the community. *NOTE: After a lawsuit in 2011, legislative changes were enacted which no longer allow the collection of transfer fees by Metro Districts.*

NEXT STEPS:

City Council will review and discuss policy options related to the policy for Reviewing Service Plans of Metropolitan Districts on January 14, 2020 date at a work session.

BUSINESS > **REAL ESTATE** • Investigative

Colorado metro districts and developers create billions in debt, leaving homeowners with soaring tax bills

Districts were created as answer to TABOR, give developers enormous power

By **DAVID MIGOYA** | dmigoya@denverpost.com | The Denver Post
PUBLISHED: December 5, 2019 at 6:00 am | UPDATED: December 12, 2019 at 11:27 am

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The two-story, five-bedroom place just east of Loveland was as sweet as Tlene and Tyler Sterkel dreamed it would be, from the custom finishes in the basement to the granite countertops and the en-suite master bedroom.

Then their first property tax bill arrived. Already on a tight budget, they stared at a bill that had gone from $818 at their closing in 2014 to nearly $3,500 barely a year later, then $4,400 two years after that.

"We were suddenly buried in property taxes we couldn't afford," Tlene Sterkel said. "The mortgage on the house we could afford just fine. But the taxes murdered us. We never saw it coming."

Their $312,000 home was one of more than 1,900 planned for a community known as Thompson River Ranch, a 650-acre development on the edge of

Nearly half the Sterkels' tax bill — and the reason it had shot up so quickly — went to Thompson Crossing Metropolitan District No. 4, the quasi-government metro district that controls the area where they purchased. The district's tax levy was the only one to increase each year they were in their home.

Metro districts are taxing authorities created by subdivision developers, with the consent of the local government, for the sole purpose of selling government-like bonds to finance their projects. Repayment of the bonds is tied to future property taxes assessed to the homes that will eventually be built.

Joe Amon, The Denver Post

Construction continues on a street in the Thompson River Ranch community in Johnstown on Oct. 14, 2019.

But a Denver Post investigation into the inner workings of the state's 1,800 metro districts found a governmental system that operates without the usual oversight of voters, without the usual restrictions on conflicts of interest, and without the usual checks and balances to ensure communities won't spiral into insolvency. .

Instead, Colorado law permits developers to elect themselves to serve on a district's board of directors, then use that position to approve tens of millions of dollars in public financing for their businesses, and leverage the property taxes on homes they haven't yet built. No regulations stop these developer-controlled boards from approving arrangements that are financially advantageous to their business, allowing them to finance overly ambitious plans without fear of liability, knowing future homeowners

The Sterkels are among tens of thousands of Colorado homeowners buried in a cycle of debt generated by the builders and developers who created the metro districts where they live.

By law, property owners must vote on any new tax and metro districts are no different, except that when a district is created, the only voters are the developers, their spouses, and a few business associates. The Post found instances in which as few as two or three people created a metro district, then approved millions of dollars of tax obligations for communities of hundreds of homes that didn't yet exist but would be on the hook to pay for decades.

The Post also found a recurring practice of developers buying the very public financing bonds they first approved as metro district board members — a conflict of interest they acknowledge by filing statements with the Colorado secretary of state's office. The bonds that developers typically buy, known as junior bonds, are designed to remain unpaid for decades, allowing interest to compound while ballooning their investment returns.

The Post found at least a dozen large metro districts in Colorado are dangerously underwater with hundreds of millions of dollars of debt and homeowners swimming in hefty property tax bills. The debt obligations are so much higher than the assessed value of the homes leveraged to repay them - some as much as 200 percent higher - that they are unlikely to ever catch up. A few will never stop paying.

The amount of debt that developer-controlled metro districts have authorized statewide already sits at nearly 100 times Colorado's state government debt of $17 billion, according to a Denver Post review of thousands of pages of district filings with state and local government offices detailing that debt.

By 2015, those districts had already issued $19 billion of that, according to the most complete public records available, with another $1.2 trillion in borrowing waiting to be sold, The Post found. And the number grows each time a new metro district is formed.

The newspaper also found instances where a district's runaway debt stalled only after residents wrestled control of the boards — the Fossil Ridge Metropolitan District in Jefferson County among them — causing developers to resign in the face of recall petitions before they could

"It's like being stuck in the never-ending cycle of a bad credit card," said Charles Wolfersberger, a Thornton accountant whose eponymous firm manages several resident-controlled metro districts. "You buy a $1,000 sofa for your living room, suddenly you have $5,000 on your card because you can't even handle the minimum payment of interest charges."

In Thompson Crossing, for example, homeowners' property taxes haven't been enough to repay bonds the district sold 13 years ago to build its infrastructure — the sidewalks, sewers, streets, and water lines. A refinancing plan has sunk the community deeper into debt, forcing some homeowners to try and sell their way out, while others, like the Sterkels, fell to foreclosure.

The Sterkels admit they could have been better consumers and checked for the property tax details of their community before purchasing. But with no tax history in a new development, it's unclear how much they could have learned about the tax obligations they would eventually face or the tax promises the metro district had made long before their home was ever built.

"It just doesn't seem that difficult to let a homebuyer in a new development know what to expect," Sterkel said. "It almost seems dishonest not to."

The law doesn't require developers to make readily available or easily found the types of disclosures the Sterkels say could have helped them. Information about future property taxes are often not provided to buyers in new developments, minimal warnings about the general risks of a special taxing district are buried deep in a stack of mortgage paperwork, and complex tax advisories and transparency notices are filed with relatively unknown government offices rather than given to the homeowners they're intended to inform.

RELATED: *Read more from this Denver Post investigation here.*

"It is us who give (developers) the power of taxation," said Loveland Mayor Jacki Marsh, whose city wrestles with development and has approved only a handful of metro districts, Centerra the largest among them. "It's un-American, really. The metro district, when it's formed, now has the authority to tax people who don't even live there yet, to borrow money that other people have to pay back. And it's only a couple of people making that decision."

Joe Amon, The Denver Post

Jacki Marsh, Mayor of Loveland, in her downtown shop Rabbask Designs, in Loveland on Oct. 11, 2019.

In Windsor, a city of about 18,000 people in Weld and Larimer counties and home to more metro districts than any other city of its size, officials see metro districts as the only way to meet the needs of a growing community.

"If we had not accepted and worked with metro districts, we'd not be able to develop as we have, and the land and amenities would be just too expensive," said Kim Emil, Windsor's assistant city attorney. "Development has been crazy."

Of the more than 3,000 special districts in Colorado today — there were fewer than 1,300 of them a decade ago — better than half are metropolitan districts, every one of them created by a developer, The Post found in a review of public filings with the Colorado Department of Local Affairs.

"Almost every home that sold in the (Denver) metro area that's new (construction) falls within a metro district," said Bruce Rau, Oakwood Homes' president of land acquisition and the president of the Thompson Crossing metro district. "There are very few that don't."

Joe Amon, The Denver Post

Bruce Rau listens during the budget discussion in a meeting of the Thompson Crossing Metro Districts 3-6 at the Abundant Life Tabernacle in Johnstown on Sept. 17, 2019. Rau is president of all 4 districts.

TABOR ushers in new era

There was a time when developers recouped the costs of building a subdivision entirely through the sale of the homes they created. For that reason, subdivisions were often limited in size or scope. Developers kept control of their costs by minimizing how much they spent.

The largest expense is a development's initial infrastructure, which goes into the ground long before a single home is built. Costs quickly run into the tens of millions of dollars. In the past, it was simply a part of the investment a developer made on a new project with the hope of recouping it as homes were sold.

Sometimes a developer was fortunate enough to gain the cooperation of a city or county, which would issue its own bonds to help pay for the infrastructure that connected the new subdivision to the rest of the community. The process rarely included any say from voters as elected officials handled the public policy.

Though metropolitan districts have existed since the 1940s, they weren't as favorable a method of construction, mostly because of the technical details and restrictions on getting projects done

"Originally metro districts were disfavored by municipalities and counties," said attorney Brian Matise, an expert on special districts. "But over time, these counties and municipalities came to see (them) as a way of shifting the costs of public services onto these districts and away from their taxpayers."

The watershed moment, Matise said, was the success of the Highlands Ranch Metropolitan District, which was organized in the 1980s and became the largest unincorporated community in the U.S. The Highlands Ranch service plan was eventually amended to allow it to provide most of the services and infrastructure of a municipality.

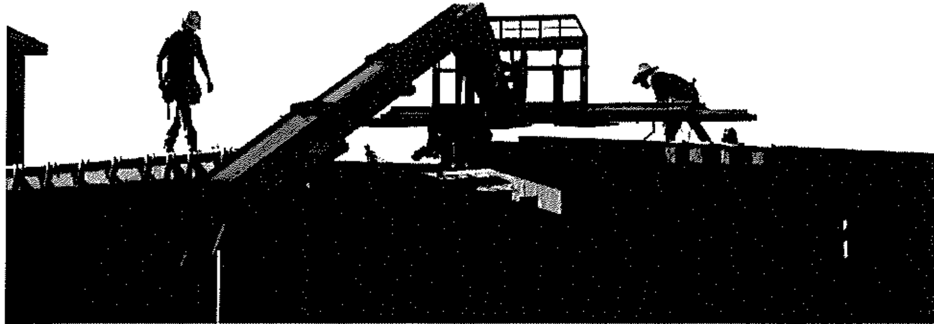
Any thoughts of doing a development "the old way," with cities taking on the infrastructure financing burdens, came to a screeching halt with the passage of the Taxpayer's Bill of Rights (TABOR) in 1992, requiring any tax increase to be put before the electorate. Voters routinely refused to approve increases to pay for someone else's construction because, as one financial expert put it, "growth should pay for itself."

"Metro districts in Colorado exist for a specific reason: to finance public infrastructure," said Sam Sharp, managing director of public finance and head of the special district group at D.A. Davidson & Co. in Denver, one of the most prominent underwriters of metro district bonds in the state. "It's mostly because TABOR limits cities from doing it."

> ***RELATED:*** *Even Highlands Ranch metro districts, which are considered successful, remain nearly $30 million in debt*

At about the same time, changes to the Special District Act — the law that was devised for the creation of fire, library and recreational districts — greatly expanded the powers of metropolitan districts by allowing the quasi-government entity to issue unlimited debt as long as the investors were banks or institutions — a group that would eventually include the developers themselves.

"Large infrastructure is difficult to finance, and it's most difficult to finance in the private sector. You almost can't get bank financing today for infrastructure," Rau explained. "Metro districts are a very efficient way to do this."



Joe Amon, The Denver Post

Home construction continues in the Thompson River Ranch community in Johnstown on Oct. 14, 2019.

The proposers of the district, usually developers who own all the land, create a plan for what's to be built and a rough parameter for how that will happen and how much it is likely to cost. The plan typically outlines how high property taxes can go to repay that cost — all of it dependent on a developer actually building all of the houses promised.

Once approved by the sponsoring authority, such as a city or county government, the proposers must petition the nearest state district court to be formed and legally recognized.

Then, there is a vote of the property owners within the proposed district – generally just the developers, their spouses and a select handful of business associates who were given an interest in a small piece of property. In a review of thousands of pages of special district documents, The Post found one example where 12 people voted and another where the electorate was two people. The average is about six voters, the review found.

Those same voters also get to decide who will serve on the district's board of directors — nearly always each other — and formalize how much debt the district can incur, debt that's based on no concrete formula yet will be paid by homeowners who eventually move into the district. In the most

Rau said boards make it that high because getting voter approval at a later date to levy additional taxes – such as after homeowners move in – could be problematic.

"Once you've completed the (initial) election, it's very difficult to do something different," he said. "These districts have very long lives with many twists and turns."

Proponents say the arrangement actually benefits both developer and homeowner by spreading the cost of millions of dollars in infrastructure improvements over several years and paying it with property taxes rather than charging it up-front, divvied up per house, in a one-lump sum at the time of purchase.

"The structure provides for the vital infrastructure needed to accommodate our growing population and planned communities, which people want," said Ann Terry, executive director of the statewide Special District Association in Denver. "They don't want communities with roads that don't connect, or no green space or good schools. They want a nice place to live."

Critics of special districts contend bond interest rates are far higher than today's 30-year mortgages, which remain at a fixed level rather than fluctuate, as the property tax assessments have done.

"Most mortgages today are at 4% or 5% over 30 years, so the up-front expense can be spread out just like the bonds," Wolfersberger said. "And the bonds are at a far higher percentage rate. That math doesn't really hold up anymore."

How a $1.8 million investment balloons to $22 million payday

When developers create a metro district, there is often a reimbursement agreement they sign – they typically are on both sides of that agreement, as the developer and as a member of the metro district board of directors – guaranteeing the district will repay any money the developer has spent during infrastructure construction.

This agreement frequently calls for bonds to be sold to investors to cover the repayment. The developer-controlled board generally agrees to sell the tax-free bonds in chunks; the largest amounts are known as senior bonds, and the smaller ones are known as junior or subordinate bonds.

Although institutional investors such as banks and pension funds often buy a metro district's bonds, The Post found that district developers, with increasing regularity, are keeping the smaller junior bonds for themselves, according to thousands of pages of bond documents reviewed by the newspaper.

Junior bonds generally have a higher interest rate of return and are repaid only after the senior bonds are retired. As unpaid interest on the junior bonds accrues, the potential paydays to the developers are impressive.

For example, the developer-controlled Big Dry Creek Metropolitan District in Adams County in 2017 issued a pair of senior bonds totaling $11 million at about 6% interest to cover the costs of building its infrastructure. They were primarily sold to institutional investors and are to be paid over 30 years.

The district also issued junior bonds for $1.8 million at 9% interest, also for infrastructure costs.

Joe Amon, The Denver Post

Home construction continues at Thompson Crossing in Johnstown on Sept. 19, 2019.

The buyer of those junior bonds will see a $1.8 million investment become a $22 million payday, according to bond documents. That's because no payments are scheduled to be made to its investors for at least 20 years, effectively ballooning the interest rate to 29.5%.

Of the five members of the district's board of directors to approve the bonds and sale to the investor, two worked for Lennar and two others for the developer, TCIRATO LLC, according to conflict of interest statements filed with the Colorado secretary of state.

"This seems to be a common theme lately, where developers are cashing in on their investments by purchasing their own bonds at ridiculously high rates," Wolfersberger said. "The returns on the investment, what they're charging homeowners, borders on usury abuse."

Lennar representatives did not respond to emails from The Post regarding this story.

The Post found dozens of similar examples across the state, with developers buying a district's tax-free junior bonds – essentially loaning themselves money at huge returns on the backs of future homeowners who buy into the development.

It happened at the Banning Lewis Metropolitan District No. 4 in Colorado Springs last year. The district, the projected site of 3,581 homes, issued more than $9.4 million in bonds to start development. Records show its developer, Oakwood Homes, which also controls the metro district board that issued the bonds, has an interest in $1.9 million of junior bonds with an expected payday of more than $10 million.

> ***RELATED:*** *How developers use bonds, mill levies to ensure they are repaid*

"Developers take the risks to take on those bonds and get paid back over time," Rau explained.

The same is true at Amber Creek Metropolitan District in Thornton, which issued $17 million in senior bonds in 2017 to investors at varying interest rates up to 7.75%. Another $1.7 million in junior bonds went to its developer/builder, Lennar Colorado, at 10.7% interest with an expected payday of $25.8 million over 30 years, bond documents show. The effective interest rate: 39.6%.

Though many say the repayments are not guaranteed – the junior bonds are often referred to as "hope bonds" – and typically have an expiration date that wipes the debt clean if the bonds are not paid in time, bond documents reviewed by The Post show in nearly every case a one-sentence clause buried deep within hundreds of pages of bond paperwork requires a

"In the event the Junior Lien Pledged Revenue is insufficient or anticipated to be insufficient to pay the principal of, premium if any, and interest on the Bonds when due, the District shall use its best efforts to refinance, refund, or otherwise restructure the Bonds so as to avoid such payment shortfall," according to the Amber Creek junior-lien bond indenture of trust agreement and several other agreements reviewed by The Post.

"How it's set up, the bondholders – the developers – agree they'll never fully get paid back and we keep making the payments pretty much forever," said James Gertson, a resident in Thompson River Ranch who ran for the district board of directors to better understand what was happening to his tax bills.

Frustrated, Gertson eventually resigned from the board, sold his home and moved out.

"The developers weren't at all worried because they would get their money in the end, through a refinance or other district obligation on the homeowners," Gertson said. "The whole system is rigged against the homeowners. It's not set up for them at all. It's set up for the developers."

Joe Amon, The Denver Post

Home construction continues in the Thompson River Ranch community in Johnstown on Oct. 14, 2019.

Increasing taxes catch homeowners by surprise

Homeowners in metro districts frequently say they're caught by surprise when the first property tax bill arrives, often with an enormous increase because Colorado is always a year behind in assessing its taxes. This year's bill pays for last year's assessment, so a new home in a metro district won't see the actual property tax costs for a year or two after the buyer moves in.

Homebuyers already have various self-help tools they can use to determine whether they live in a metro district, SDA's Terry said. There's also a paragraph in real estate closing paperwork that lets them know they could be in a special district that has additional taxes, she said.

Some say the paragraph is hardly specific enough and others say it's too confusing: "Special taxing districts may be subject to general obligation indebtedness that is paid by revenues produced from annual tax levies on the taxable property within such districts. ... Buyers should investigate the special taxing districts in which the property is located by contacting the county treasurer, ... the board of county commissioners, the county clerk and recorder, or the county assessor."

There is also transparency paperwork filed with county officials and available online with the Colorado Division of Local Affairs, whose task it is to monitor districts.

"If a homebuyer is considering a home in a planned community, realizing they will have more mills assessed for a house than they would in Lakewood or Denver, for example, those are the choices they can make," Terry said. "That's the beauty of a democracy."

Tlene Sterkel said that's fine and good, but thinks there's a simpler way: "Why can't they just tell me what it's going to cost?"

Like others, the Sterkels' troubles began long before they ever thought of moving in.

Eight years earlier, in 2006, the board that represented their metro district issued more than $24 million in bonds to pay for installing the subdivision's infrastructure.

Made up entirely of members tied to Oakwood Homes and WR Investments, the board approved bonds that were long-term promises to repay the developers for money they fronted on the project. The more homes they built, the more tax money available to pay it all back.

"Most of these metro districts are set up as a very cozy relationship," Wolfersberger said.

If the number of new homes didn't keep up with the schedule to repay the bonds, homeowners would quickly find themselves in a jam as taxes reached their zenith. For the Sterkels, had they stayed, they would have been in their 60s by the time the streets they drove or the sidewalks they walked in their neighborhood would be paid for.

That's if things went according to plan. They didn't.

"We had the biggest increase in our first year, about $700 right away," Patrick Horell said of his property taxes at Thompson River Ranch. "The next time, it went up another $200. Our values were the same, but the levy kept increasing. It just keeps increasing and doesn't look like it will stop."

Joe Amon, The Denver Post

Patrick and Katherine Horell with their four-month-old daughter Emerson and Aspen, the family golden retriever, in their home at the Thompson River Ranch community in Johnstown on Oct. 14, 2019.

The Sterkels also watched as their tax bill kept climbing out of reach, seemingly without explanation. Their home was foreclosed in 2016, just two years after they signed the papers to buy it. Their taxes had exploded to nearly $5,000, most of it to pay for the metro district's debt.

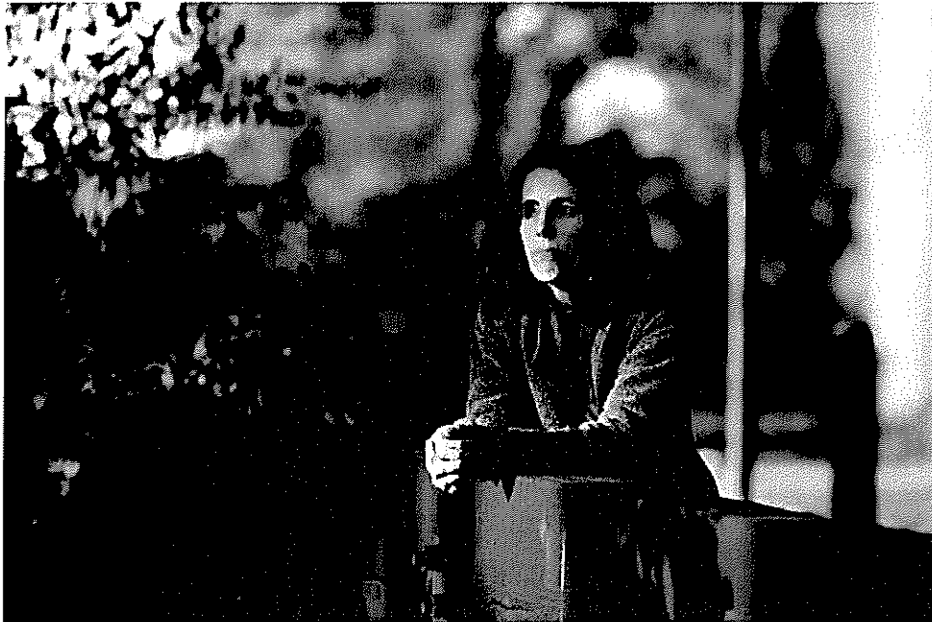
"We tried everything we could to find a way to keep our house," Tlene said.

Rau said it's up to homeowners to mind their finances.

"In their first year, homeowners will see much lower costs, and then the second year they will see those additional costs," he said. "Like anyone, if you have a lower cost and don't budget for the higher cost, you get frustrated."

Critics say the problem isn't bad budgeting by homeowners, it's poor money management by the developer-controlled boards that created the debt. And despite that problem, they say, only the homeowners feel the pain.

The bonds issued by Thompson Crossing in 2006 were recently refinanced because the property taxes collected from the homes that had been built there weren't enough to cover the interest payments. The $24 million tab had exploded to $34 million, according to bond records.



Joe Amon, The Denver Post

Natalie Allen, new District 4 board member, outside her home in the Thompson River Ranch community in Johnstown on Oct. 15, 2019.

"It's quite obvious that things are not running well here," said Natalie Allen, a resident and newly appointed board member at Thompson Crossing. "We were not able to pay the bondholders and we were told we didn't have enough revenue. Oakwood said they need to build 1,000 more homes for that to happen, and this year they built 57. That's just not a

As part of the refinancing deal, the owners of those initial bonds – unknown to dozens of residents in Thompson Ranch who were interviewed for this story – have agreed to accept a single $28 million payday to cover it all and walk away.

The bonds' owner – Metro District Acquisition Fund 1 – is made up of close professional associates who have worked on other metro district projects with Oakwood Homes, the subdivision's builder and controlling force, The Post found.

Thompson River resident Jerome Burke II was miffed when he learned of the arrangement.

"The builder takes out a loan in the guise of the metro district board, passes the obligation to repay the loan (bonds) to the residents yet to come," he said. "And then we learn the ones buying the bonds are their buddies. How is this a win/win for anyone other than themselves?"

Metro district advocates insist that they are only looking out for Colorado's future.

"Metro districts are not evil or malicious," Terry said. "They are an incredible tool to create infrastructure and build homes in Colorado."

Learn more

To find information about individual metro districts, including budget documents, director and election information, and service plans, go to the Colorado Department of Local Affairs website.

Popular in the Community

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Citations

Colorado Department of Local Affairs, special districts. Source link

Nonprofit 990 tax returns, at GuildeStar.org. Source link

Electronic Municipal Market Access. Source link

Sourcing & Methodology

The Denver Post delved into the inner workings of metropolitan districts in Colorado after hearing from several residents and some builders about their concerns regarding rising property taxes.

The Post began by researching how metro districts function and reviewing the available body of work concerning this form of quasi-government, both in the private sector as well as public.

The Post studied state and federal lawsuits and other documents and reports to locate experts and sources of information relative to metro districts and their operations.

As the scope of the issue unfolded, The Post focused on the areas that appeared to have the most concern and impact: debt and democracy. How metro districts establish their own debt and issue that debt was critically important to learning how property tax increases occur. Also, unraveling how metro district elections occur and how the election process works offered insight into a democracy that doesn't actually work as one.

Once the scope of the issue was identified, The Post spent more than eight months culling through a sampling of the more than 1,800 metro districts that exist in Colorado to see which worked and which did not. By locating residents and board members in each, The Post was able to stitch together a profile of how metro districts actually operate and what about them prompted residents to bring their concerns to the newspaper in the first

Resources include GuideStar.org for nonprofit tax information, corporate filings with the Colorado Secretary of State's office, financial filings a district makes with the Colorado Department of Local Affairs as well as the Electronic Municipal Market Access of the Municipal Securities Rulemaking Board.

Ultimately The Post reviewed nearly 10,000 pages of documents from those sources and interviewed dozens of developers, builders, residents, community leaders and officials in various offices to piece together its series, Metro Districts: Debt & Democracy.

TAGS: **COLORADO DEPARTMENT OF LOCAL AFFAIRS, COLORADO SECRETARY OF STATE'S OFFICE, CONSTRUCTION, DEVELOPMENT, HOUSING, HOUSING DEVELOPMENT, INFRASTRUCTURE, INTEREST RATES, INVESTMENT, METRO DISTRICTS: DEBT & DEMOCRACY, MORTGAGES, OAKWOOD HOMES, REAL ESTATE, TABOR, TAXES, TAXPAYER'S BILL OF RIGHTS**

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David writes investigative projects and has been at The Denver Post since 1999. He was a founding member of the investigations team before moving on to write about banking, finance, human services and consumer affairs, then returned to investigations. David has also worked at publications in New York City, St. Louis and Detroit over a 36-year career that began at the Post in 1983.

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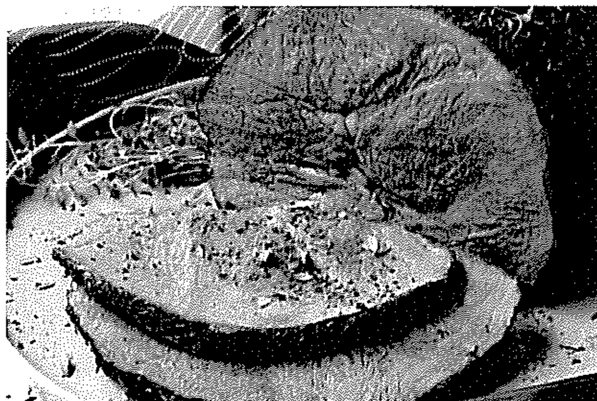

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