

Geologic Hazard Abatement Districts

Introduction

A Geological Hazard Abatement District (GHAD) is a special district formed to prevent, mitigate, abate, or control a geologic hazard or a structural hazard partly or wholly caused by a geologic hazard.¹ GHADs function as political subdivisions of the State of California and can encompass both private and public lands in hazardous areas.²

GHADs are established in one of two ways: through a petition signed by owners of at least ten percent of the real property in the district, or through a majority vote in the local legislative body.³ A petition for a GHAD must include a “plan of control,” a detailed hazard assessment plan, prepared by a certified California engineering geologist, that explains how the proposed district and its constituents will tackle the hazardous problem they face.⁴

Once established, GHADs are independent government entities controlled by an elected board of five land-owning directors. They are then empowered to acquire, construct, operate, manage, or maintain improvements on the lands within their district. Perhaps most significantly, GHADs can levy and collect assessments for the associated costs of projects enacted pursuant to the purpose of the GHAD.⁵ These assessments attach as liens on a property and are collected simultaneously and in the same manner as general property taxes.⁶

For coastal adaptation hazard purposes, GHADs have been formed in areas facing increased rates of bluff erosion, beach loss, or storm surge. As sea levels rise, GHADs may be suitable where a citizen coalition or local government agrees on the need for a self-funded and mostly

autonomous adaptation program, tailored to its particular needs and goals.

Tradeoffs

In certain situations, GHADs can benefit both private landowners and local governments. For example, a local government can establish a GHAD in order to ensure that private property owners internalize the costs of maintaining existing development in a hazard-prone area.⁷ Relatedly, private landowners can combine their resources and utilize a GHAD to divide the costs of vulnerability assessments, project engineering costs, and any necessary or voluntary mitigation efforts.⁸ Under these scenarios, the utility of a GHAD is enhanced by the cooperation of neighboring landowners and local governments securing funding together.⁹ Existing GHADs can also act swiftly and effectively to address hazards as they happen, with authority and resources already in place, in ways local governments might not.¹⁰ GHADs also enjoy a degree of immunity from liability for tortious claims.¹¹

GHADs do, however, raise equitable and democratic concerns based on how they are organized. First, the voting authorities utilized during the establishment of a GHAD are premised upon assessed property value instead of mere membership.¹² This distribution gives homeowners with higher value homes more voting sway than their neighbors, regardless of other relevant factors, such as relative risks from coastal hazards.¹³ Second, those

1 CAL. PUB. RES. CODE § 26525.

2 CAL. PUB. RES. CODE §§ 26530-70.

3 CAL. PUB. RES. CODE §§ 26550-60.

4 CAL. PUB. RES. CODE §§ 26509, 26553.

5 CAL. PUB. RES. CODE § 26650.

6 CECILY TALBERT BARCLAY & MATTHEW S. GRAY, CALIFORNIA LAND USE & PLANNING LAW 369 (35th ed. 2016).

7 *Id.* at 367.

8 CALIFORNIA TAX DATA, CALIFORNIA PROPERTY TAX INFORMATION: WHAT IS A GEOLOGIC HAZARD ABATEMENT DISTRICT?, available at <https://www.californiataxdata.com/pdf/GeoHazard.pdf>.

9 For a detailed list of financing opportunities for GHADs, see CALIFORNIA ASSOCIATION OF GHADS, GEOLOGICAL HAZARD ABATEMENT DISTRICT OVERVIEW, available at <http://ghad.org/ghad-resources/99-geologic-hazard-abatement-districts-ghads-overview.html>.

10 BARCLAY & GRAY, *supra* note 6, at 369.

11 *Id.*

12 CAL. PUB. RES. CODE § 26564; See also Gary Taylor, *Neptune Avenue on Edge*, 12 CALIFORNIA COAST & OCEAN 18, 21 (Spring 1996), available at http://scc.ca.gov/webmaster/coast_ocean_archives/1201.pdf.

13 *Id.*

seeking to establish a GHAD only need signatures from homeowners representing 10% or more of the assessed land value within the proposed GHAD to recommend it to the local legislative body for adoption; however, the local legislative body will deny the petition if 50% of the landowners oppose it. Consequently, a small portion of citizens can form a GHAD in an area where many of the homeowners do not approve of its formation.¹⁴

There are other disadvantages to GHADs. They cannot be easily dissolved after they are formed.¹⁵ The fact that they can be sued might also increase their operating costs.¹⁶ Finally, while they can help protect physical property, they cannot mitigate other losses caused by hazards, such as emotional distress or reduced property values.¹⁷

Legal Considerations

GHADs are statutorily authorized by the 1979 Beverly Act.¹⁸ This act sets out the purpose, power, procedures, voting and election rules, development projects, and financial components of GHADs. As independent political subdivisions of the state, GHADs possess many of the same legal authorities as local government agencies. These include: the power to tax, bond, and borrow money from lenders, certain legal immunities from the California Environmental Quality Act¹⁹ and Local Agency Formation Commissions, the ability to sue and be sued in a court action,²⁰ and eminent domain.²¹ The capacity to

levy taxes against landowners within the GHAD provides the district with the revenue needed to maintain project cost and establish reserve funds for large-scale hazard repairs.²² GHADs impose these taxes in proportion to the special benefits they will provide to each landowner. This tax and spend structure also allows GHADs to respond to hazardous events such as landslides as single events affecting the entirety of the area.

Examples

There are currently thirty-five GHADs organized in California. Most of these are concentrated in the San Francisco bay area and coastal Los Angeles County.²³ The Broad Beach GHAD is one Los Angeles County example comprised of 123 homeowners in the Broad Beach area of Malibu, California. This GHAD was formed to restore the protective and aesthetic nature of Broad Beach and has the goal of privately self-funding the deposition and creation of a 65–75-foot-wide beach renourishment and 40–60-foot-wide dune system.²⁴ Santa Cruz County also manages a GHAD in its jurisdiction.²⁵

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14 *Id.*

15 *Geological Hazard Abatement Districts Report*, SANTA CRUZ COUNTY, <http://www.co.santa-cruz.ca.us/grandjury/GJ2003/Content/6-2GHad.htm> (last visited Sept. 21, 2017).

16 *Id.*

17 *Id.*

18 CAL. PUB. RES. CODE §§ 26500 *et seq.*

19 CAL. PUB. RES. CODE § 26601; See Daniel J. Curtin, Jr. & Shawn J. Zovod, *Geologic Hazard Abatement Districts: California's Experience with Hazard Mitigation through Special Purpose Districts*, 55 LAND USE LAW & ZONING DIGEST 3 (2003).

20 CAL. PUB. RES. CODE § 26576. See, e.g., Emily Sawicki, *Broad Beach Residents Sued Over Beach Restoration Project*, THE MALIBU TIMES, Apr. 7, 2016, http://www.malibutimes.com/news/article_f4da9d1c-fc24-11e5-a769-3300ec937d2f.html.

21 CAL. PUB. RES. CODE § 26576.

22 CAL. PUB. RES. CODE § 26650.

23 CALIFORNIA GHADs, <http://ghad.org/wp-content/uploads/2017/08/California-GHADs-Map.pdf>.

24 *About the Project*, BROAD BEACH GHAD, <http://www.bbghad.com/about-the-project/> (last visited Sept. 21, 2017).

25 *Geological Hazard Abatement Districts Report*, *supra* note 15.



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