

Understanding IDAs

A law firm specialization that has become more complex

By **KRISTEN D'ANDREA**

A growing area of legal practice involves the handling of matters related to industrial development agencies, or IDAs. More complex than average business financing, IDA transactions require the expertise of attorneys who understand the various rules and regulations.

The creation of IDAs goes back to 1969, when legislation was enacted to facilitate economic development in specific localities across New York and delineate their powers and status as public benefit corporations. Long Island currently maintains several IDAs – one in each county, as well as several towns, including Hempstead, Islip, Brookhaven, Babylon and Riverhead.

“The IDAs exist to try to keep businesses on Long Island and to enhance the growth potential for businesses,” according to Michael Sahn, managing partner at Sahn Ward Coschignano & Baker in Uniondale.

IDAs offer key benefits to companies looking to grow and expand, such as relief from mortgage recording tax; sales tax exemption on construction material and eligible equipment; and PILOT [payments-in-lieu-of-taxes] agreements, which provide significant savings on real property taxes for businesses occupying IDA-owned properties, Sahn said.

Often, businesses are required to negotiate agreements regarding tax credits and reduction in property taxes with the IDA or local government, said Michael Zapon, managing attorney of Davidoff Hatcher & Citron's Garden City office.

“There's a lot involved,” he said, adding businesses should seek the help of counsel

that has done this type of work before. “You can't treat it as you would getting a mortgage on your house.”

For instance, PILOT agreements enable companies to freeze the existing taxes charged for their property at a certain level for a determined number of years, Sahn said.

“Since taxes are such a big component of operating costs, it allows companies to plan their investment future by having a fixed cost they can factor in,” he said. “If a business knows its overhead for a fixed time, it might be more comfortable making larger investment decisions.”

Still, having the help of attorneys who understand how the transaction works and can negotiate the terms within a certain range can be beneficial, Sahn said.

“For the most part, IDA counsel will work with a company to craft an agreement that makes sense given its plans for growth and adding employment,” he said.

Uniondale's Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana maintains an IDA benefits and government development incentives practice for handling these unique issues. Partner Daniel Deegan, who heads up the IDA practice area, previously worked as an attorney for various IDAs.

“We represented the IDAs; we know what they're looking for, and now we represent private applicants,” he said.

Knowing what the IDAs are looking for and how to position an applicant's request in the best possible light is key to maximizing potential benefits, Deegan said. Understanding how an agency functions; what's necessary in making an application;

the research needed to present the company's case to the IDA; and presenting the facts so the IDA understands the merit to providing benefits are crucial factors when dealing with IDAs, agreed Sahn.

Over the last two years, Sahn and his partners have handled approximately seven or eight IDA transactions.

“It is a growing area, and when a client comes in with a new project, such as constructing a new hotel or the expansion of a warehouse or research facility, one of the first things we talk about is the potential to get IDA benefits,” he said.

For instance, IDAs can offer commercial real estate projects substantial benefits that are often overlooked by the real estate and business communities, Deegan said. While the financial assistance a company may receive from an IDA is property- and project-specific, it is in a company's best interest to seek assistance from the “handful of firms [on Long Island] with real experience and expertise in representing IDA applicants,” Deegan said.

Over the last five years, IDAs on Long Island have become more aggressive in response to the economic downturn, Deegan said. Additionally, the cost of doing business on Long Island is high compared to other regions of the country, he said.

“Companies on Long Island have to compete against companies in other regions,” Deegan said. “It's necessary to level the playing field between Long Island companies and their out-of-state competitors.”

Sahn agreed.

“In today's climate, it's very important for companies to have a sense of stability,” he said. “The IDA benefits provide that.”