12-Apr-23

Metro Districts

A major financial threat to home buyers

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Metro Districts

Highlights of an AWESOME class on "How to Protect your Clients from Metro Districts" as presented by Lonnie Glessner, a senior loan officer with Draper and Kramer Mortgage Corp. [i]

Clients need to be warned about Metro Districts

- I am not a fan of living in a Metro District.
- Imagine you live in a nice neighborhood, and someone who lives on the other side of Castle Rock, decides it's time to redo all the utilities or road community infrastructure and you need to foot the bill. They can determine how much is borrowed and decide you need to pay an additional $5,000 in taxes each year. The kicker is all you can do is smile. There is almost nothing you can do about it.
- Conduct your **DUE DILIGENCE within the dates as listed within the Contract to Buy and Sell**. If you are planning on buying a property within an established metro district, you need to be aware of potential major taxation you are agreeing to before closing on a property. Buying a property could impose a major financial responsibility on present and future homeowners, and without any recourse or vote concerning future expenses. Some of the metro districts do things right, but many are in severe trouble, managing by individuals without oversight, self-serving conflicts of interest without any control, and without any approval by the homeowners.

What is a Metro District?

- A metro district is a quasi-governmental entity which controls the money needed for the infrastructure in a new community, finances this money, charges, and collects taxes from the future homeowners to pay for the public infrastructure.
- In the past developers charged higher prices for their homes to repay them for the infrastructure costs. Now, the future homeowners repay them in-essence over a couple of decade through higher taxes. This keeps home prices lower; but monthly payments rise, sometimes unexpectedly, due to higher taxes.
- **Can you afford your home after an unexpected rise in taxes in the next decade?**
- According to Bruce Rau, Oakwood Homes' president of land acquisition said, "Almost every home that is sold in the metro Denver area that's new construction falls within a metro district." Why? Since the passage of Tabor it has become impossible for a local city or county to ask current voters to pay a tax increase to fund a new development or community. **Instead the "rallying cry" has been "growth should pay for itself."**

Huge Expose'

Excellent reporting in The Denver Post by David Migoya beginning 5 Dec 2019. Do an internet search with "David Migoya" and "metro districts".

- According to the Denver Post there are nearly 1,800 metro districts in our state **without oversight from voters, without restrictions on conflicts of interest, and without checks and balances.** In fact, Colorado law allows developers to **elect themselves** to serve on a district's board of directors and then the board votes to approve millions of dollars in public financing to repay the developers for their infrastructure costs upfront.
- There is no evidence Metro Districts have led to lower home prices. This financing is paid by future homeowners by way of higher tax bills for decades to come. And these **FUTURE HOMEOWNERS HAVE NO SAY OR INPUT ON THEIR TAX BILLS**! Often each metro district's board of directors only includes 3 to 7 people who are closely associated to the developer and builders.

A staggering amount of debt

- The Denver Post says developer-controlled metro districts have authorized debt statewide of over $1 TRILLION!!! **Authorized debt is their credit card limit!!!**
- As of 2015 metro districts had already issued $19 billion of debt (our state only has $17 billion of debt), with another $1.2 trillion authorized to be issued. The Denver Post reported several metro district boards in Douglas County have each authorized over $20 billion of debt, according to filings with DOLA. Why has so much debt been authorized? Because getting voter approval later for higher taxes as required by TABOR is very difficult. So, the Board of Directors who are controlled by the developer authorized immense amounts of debt to be issued later if needed. Simply put, the Board of Directors has created the world's largest HELOC with credit limits sometimes exceeding $1 billion.

Check out these great and informative articles

- **"Colorado metro districts and developers create billions in debt, leaving homeowners with soaring tax bills"** <https://www.denverpost.com/2019/12/05/metro-districts-debt-democracy-colorado-housing-development/>
- **"Castle Rock metro districts almost $1B in debt"** <https://www.msn.com/en-us/money/news/castle-rock-metro-districts-almost-1b-in-debt/ar-AA163JQT?ocid=msedgntp&cvid=a3fc34feb99c4cdd992619d24812c47e>
- **"Special Tax Districts for Development Are a Ticking Fiscal Time Bomb"** <https://www.strongtowns.org/journal/2020/5/1/special-tax-districts-for-development-are-a-ticking-fiscal-time-bomb>
- **"Metro districts with massive debt result in high homeowner tax bills"** <https://www.coloradopolitics.com/news/metro-districts-with-massive-debt-result-in-high-homeowner-tax-bills/article_ab93f5e2-1870-11ea-ade9-43579a958cad.html >
- **"I'm Denver Post reporter David Migoya and I just finished an 8-month investigation into Colorado metro districts. Ask me anything!"** <https://www.reddit.com/r/Denver/comments/e9an8p/im_denver_post_reporter_david_migoya_and_i_just/>
- **"How to Protect Your Clients From Metro Districts"** < https://rooneyvalleynews.com/wp-content/uploads/Lonnie-Presentation.pdf>

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2 types of issued debt

Senior debt

- Typically this debt is repaid over 20-30 years by the homeowners. Normally banks will not finance debt for infrastructure such as water, sewer, sidewalks, streets, parks, etc. The Special Districts Act of the early 90's allowed Metro Districts to issue UNLIMITED DEBT as long as the investors were banks or institutions such as pension funds. These institutions hold senior level debt. This senior level debt is considered tax-free municipal bonds at rates of 5% to 7% with monthly payment required to fully pay off the debt within 20-30 years.

Junior debt

- But the developers and their family and friends own junior level debt often at rates exceeding 9%. And this debt typically requires no repayment for up to 20 or 30 years. They are also called **Cash Flow Bonds.**
- The debt accumulates massive amount of interest and unpaid debt to be repaid later and the junior bond holders have very little risk. Why? The Denver Post found "in nearly every case a one-sentence clause buried deep within hundreds of pages of bond paperwork requires a metro district to refinance the debt before the debt can be forgiven." So, let's say the debt issued by these bonds will be forgiven in 30 years, but in year 29 the junior bond holders demand their debt be refinanced and they are made whole by the district's homeowners. $10 million in debt could grow to $175 million in 30 years at 10%. And the homeowners' property tax bills would increase dramatically to pay this. Assume there are 5,000 homeowners and this $175 million in debt is refinanced at just 5%. Their interest only payment would be an additional $1,750 a year!!! To determine if the developer holds junior debt you will have to request a copy of the Bond Agreement & The Indenture of Trust Agreement from the District.

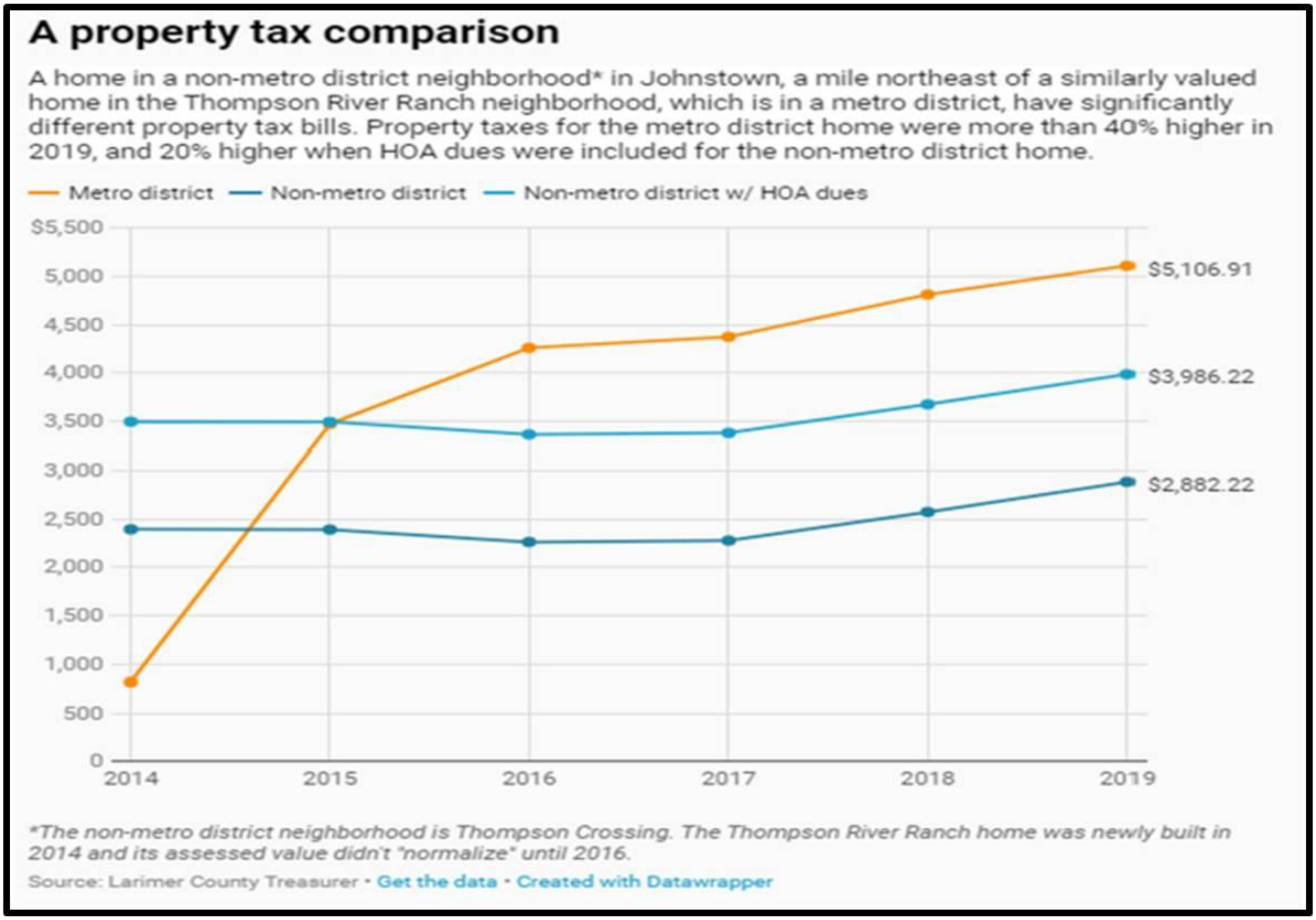
For example—Big Dry Creek Metro

- Big Dry Creek Metro in Adams County. This district issued junior bonds of $1.8 million at a 9% interest rate. But, NO payments are required for 20 years, thus in 20 years this debt now totals $10 million! And the bond documents allow for this debt to increase to as high as $22 million after 28 years. Who owns these lucrative bonds? Lennar Homes, the builder of this subdivision. Who approved these bonds? Two of the board members worked for Lennar and two more worked for the developer, TCIRATO LLC. The Denver Post found dozens of examples of this across the state including Amber Creek Metro District in Thornton where Lennar Homes is the holder of $1.7 in junior bonds at a rate of 10.7%. This debt will grow to $25.8 million in 30 years. Then, once this debt reaches its maximum amount allowed the debt is automatically refinanced and the junior bond holders get repaid then. Thus, the homeowners at this time will truly see their tax bills SOAR!!!

Metro District Board can decide to spend more of your money without your approval iii

For example—comparison of two neighborhoods in Johnstown

- Thompson River Ranch & Thompson Crossing Metro District # 4 in Johnstown
- The Board of Directors issued $24 million in bonds in 2006 to pay for the infrastructure. Who was on the Board? Why all were members of, or employees of Oakwood Homes, and WR Investments the developer. And who owns these bonds? The Metro District Acquisition Fund 1 which is owned by those close to Oakwood Homes and WR Investments.



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A successful metro district

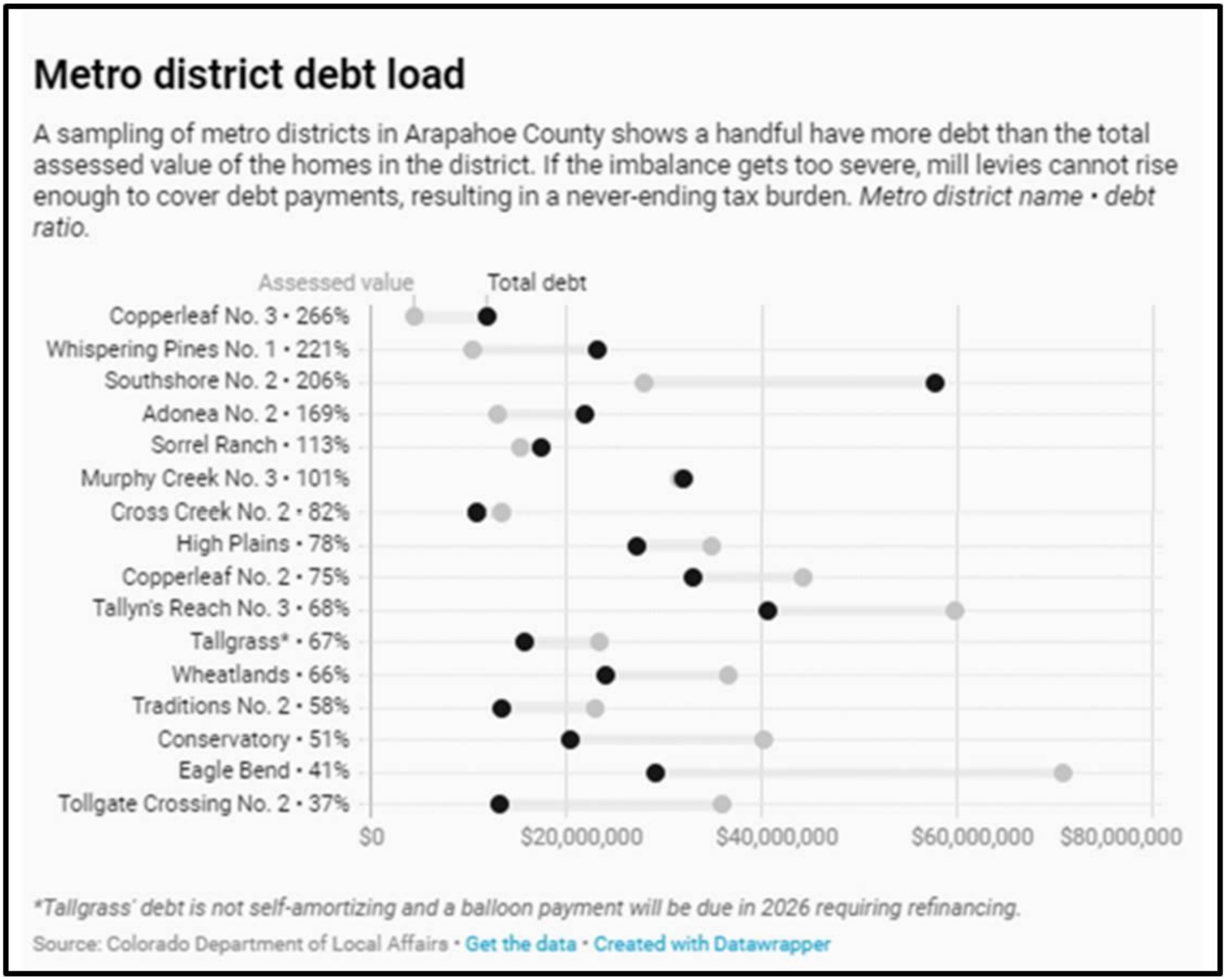
- As of 2019 the Highlands Ranch Metro Districts still owed $22.8 million in bond debt according to their budget. But, their goal is to have this debt paid off by 2021, 4 years earlier than expected. Their Mill Levy has dropped to 11.2 from 25.5 more than 20 years ago.

Residents in Meadows Metro District are drowning in debt

- In 1989 the Meadows Metro District was formed with $30.7 million in bonds issued and these bonds remain unpaid. Now this Metro District owes a staggering $118 million and growing! Currently about 6,000 homes have been built with another 4,800 expected. According to The Denver Post property taxes in the Meadows total only $4.3 million. This amount doesn't even pay half the interest owed! This is a negative-amortizing loan the federal government made illegal in the mortgage world.

2 great quotes

- Charles Wolfersberger, an accountant who helps manage several districts said, “And in many cases, that debt simply keeps growing, unknown to the homeowners who are required to pay it. It simply never stops.”
- Sue Maxwell, an attorney said, “Those people living there are obligated to pay that levy FOREVER.”



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What can the state do?

- Cities and counties should consider not approving any more Metro Districts until the state can step to more effectively monitor these special taxing districts. The state should limit for how many years the developer or builders can appoint or “elect” members to the Board of Directors. And when homeowners can control the Master District. Place “credit limits” how much debt can be authorized by a Metro District. Absolutely MUST END the issuance of any junior bonds. Publicly expose who holds each class of debt. For all existing junior bond debt have the State’s Treasurer’s Office perform an audit on how this money was used for its stated goals. And possibly force any debt owed to junior bond holders to be refinanced at much lower rates with monthly payments and convert this junior bond debt to senior bond debt which is sold to institutions and pension funds. Consider capping the interest rate paid on senior debt to a margin added to the 30 Year T-Bond.

What should builders be required to do?

- On new construction the builder should be forced to disclose their metro district tax rate since they control the Board of Directors. They should also disclose the rest of the property tax bill the new homeowner will be required to pay. Also, they should disclose for how long this debt will be paid and will the new homeowners property tax bills increase in future years because of higher mill levies. Builders should disclose how much debt has been authorized to be issued and how much debt has been issued so far (updated annually). This should include the Mill Levy needed to pay this debt in full over a maximum of 30 years. Plus, the builders should provide a real-world example for their average priced home in the metro district. For example, if their average home price is $550k they should disclose what they estimate taxes to be within 2 years and what they could be in the future if all authorized debt has been issued.

What Should DORA & the RE Commission do?

- There should be a separate property disclosure for every home sold in CO which is in a Special Metro District. And I would require this to be given to the buyers within 3-5 days of being under contract. For this disclosure to be effective here is what I believe it should contain to protect homebuyers and to help achieve long-term affordable homeownership:
    1. Should include how much in taxes are being paid to the special taxing district and for how long.
    2. Second, can the tax bill be raised and by how much and for how long?
    3. Third, it should disclose how much debt has been authorized by this metro district and how much the metro district currently owes updated once a year. Should disclose what would happen to a homeowners' tax bills if all the authorized debt is issued.
    4. Fourth, it should disclose if the metro district allows for junior bond holders, who these bond holders are, how much is owed to them, and terms of repayment to these junior bond holders. I believe the greatest danger lies with junior bond holders.
    5. I personally wouldn't want to buy a home in a metro district with junior bond holders.

8.4. Special Taxing Districts. 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. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

A tax certificate from the respective county treasurer listing any special taxing districts that effect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property's inclusion in a special taxing district as unsatisfactory to Buyer. [vi]

What should home buyers do?

- If looking to buy a brand-new home they should review the DOLA website to learn more BEFORE they write a contract and give the builder earnest money. I would instruct your buyers to do this before you take them out to look at new homes. For buyers of existing homes they can do this research either before writing a contract or after they are under contract. They should tell their Lender they are considering buying a new home or a newer home. Tax payments do IMPACT the price of the home they can afford!
- For smaller metro districts with only a few hundred homes to be built in the next 5 years the developer should be able to accurately estimate what their infrastructure costs will be and not have to authorize a huge amount of debt.
  - **Mountains Edge Metro District** in South Jeffco was for 82 homes and the district authorized a max of $4 million in debt. So far, $2.65 million of senior debt was issued and $561k of junior debt was issued in 2016. With an infrastructure cost of $39k per home.
  - Whereas a LARGE metro district being built over decades may authorize a HUGE amount of debt. i.e. **Sterling Ranch Metro District #2** authorized $410 million of debt in 2010. And they issued $27 million in junior bond debt at 7% in December 2019. A buyer here has MORE RISK.

What should homeowners do?

- Get involved and run for election on their Metro District Board. Homeowners or even residents can nominate themselves or others for the board by end the February and the elections are held in May. People who want to run for the board need to fill out a form to nominate themselves with the designation election official for their specific Metro District. This can be found on the CO Department of Local Affairs website, under the metro district name and the "contacts" tab. Currently Director spots are for 2 or 4 year terms staggered for reelection in even numbered years. But, the state is changing this to odd numbered years beginning in 2023.

To find out about potential metro districts for specific neighborhoods

- The Colorado Division of Local Affairs Monitors Special Districts - https://dola.colorado.gov/lgis/
- What Can You Learn at This Website? Click on each of these:
  - Property Tax Entity Tab
  - Budget Tab
  - Notice of Authorization GO (General Obligation) Debt
  - The Finance Tab
  - Financial Statements Tab
  - Director Information Tab **
  - The Elections Tab
  - Maps & Boundaries Tab
  - Services Plan Tab
  - Annual Report on the Service Plan
  - Contacts Tab
  - View Icon for Notice to Electors

  ** Here is an example of what was learned about each director under the director information tab:
  - **Brock Chapman** sits on the boards of **4 metro districts** and he's **President/CEO of Schuck Communities**.
  - **Joseph Paul Knopinski** sits on the boards of **4 metro districts** and he's with **Land & Districts LLC**.
  - **Jerry Richmond** sits on the boards of **4 metro districts** and he's **the EVP of Rain Tree Investment Corp**.
  - **Kurtis Williams** sits on the boards of **4 metro districts** and he's **the Principal at JR Engineering**.
  - **Kurt Wolter** sits on the boards of **2 metro districts** and he's with **Trevey Commercial RE**.

  How much do you want to bet none of these men are homeowners in Anthology?
  How much do you want to bet they were really elected by the homeowners?
  How much do you want to bet they are receiving compensation for being on these boards?

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[i] Highlights of an AWESOME class on "How to Protect your Clients from Metro Districts" as presented by Lonnie Glessner, with Draper and Kramer Mortgage Corp.
[ii] https://images.pexels.com/photos/4386367/pexels-photo-4386367.jpeg?auto=compress&cs=tinysrgb&w=1260&h=750&dpr=1
[iii] https://images.pexels.com/photos/3184306/pexels-photo-3184306.jpeg?auto=compress&cs=tinysrgb&w=600
[iv] Lonnie Glessner Class slide
[v] Lonnie Glessner Class slide
[vi] Colorado Contract to Buy and Sell.