

BUILDING YOUR BUSINESS IN BEL AIRE USING KANSAS GENERAL IMPROVEMENTS AND ASSESSMENTS



OVERVIEW

The General Improvement and Assessment Law of Kansas authorizes Bel Aire to make or cause to be made municipal works or improvements which confer a special benefit upon property within a definable area of the city. Bel Aire, desiring to make such improvements, may create improvement districts within the city.

PROJECT SPECIFICS

Bel Aire is authorized to do any of the following:

- Acquire (1) property or interest in property when necessary for any of the purposes authorized by the Act and (2) any improvement authorized to be constructed under the Act (i.e. a City can acquire existing improvements which were authorized pursuant to the Act);
- To open, widen and extend streets and otherwise to improve paving and other surfacing, gutters, curbs, sidewalks, crosswalks, driveway entrances and structures, drainage works incidental thereto, and service connections from sewer, water, gas and other utility mains, conduits or pipes necessarily lying within curb lines;
- To improve main and lateral storm water drains and sanitary sewer systems and appurtenances thereto;
- To improve street lights and street lighting systems;
- To improve waterworks systems owned by the city and water distribution systems owned and operated by a water district established pursuant to K.S.A. 19-3501 et seq., and amendments thereto;
- To improve parks, playgrounds and recreational facilities;
- To improve any street or other facility by landscaping, planting of trees, shrubs and other perennial plants;
- To improve dikes, levees and other flood control works, gates, lift stations, bridges and streets appurtenant thereto;
- To improve vehicle and pedestrian bridges, overpasses and tunnels;
- To improve retaining walls and area walls on public ways or land abutting thereon;
- To improve property for off-street parking facilities including construction and equipment of buildings thereon for such purpose; and
- Asbestos control projects and lead control projects.

PROCESS FOR CREATING IMPROVEMENT DISTRICTS

The city council may authorize an improvement and create the related improvement district in one of three ways.

1. Under the first method, Bel Aire may initiate proceedings by:
 - a. Adopting a resolution ordering a public hearing on the advisability of the improvement



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- b. Holding the public hearing after publishing notice of such hearing (must be published twice, the publications must be at least one week apart, and at least three days must elapse between the second publication and public hearing); and
 - c. Adopting, after the conclusion of the public hearing, a resolution authorizing such improvement district.
2. The second (most commonly-used) method requires Bel Aire to obtain a petition signed by:
- a. A majority of the resident owners of record of property liable for assessment under the petition
 - b. The resident owners of record of a majority of the area liable for assessment under the petition, or
 - c. The owners of record, whether resident or not, of a majority of the area liable for assessment under the petition.
 - d. This method allows Bel Aire to authorize an improvement district without the notice and hearing or right to protest the improvement required under the first method.
3. The third method states any municipality, persons, or entities may file a petition requesting the improvements and improvement district so long as the petition is signed by the owner(s) of 100% of the property to be included within the improvement district and which states the improvement district does not include all properties which may benefit from proposed improvements. This method also allows Bel Aire to authorize an improvement district without the notice and hearing required under the first method and to assess an area that may not include all properties that benefit from the proposed improvements.

ADDITIONAL INFORMATION

The Act also provides for the extension of certain improvements to property which benefit from such improvements, but which were not included in the original improvement district. If the improvements are water, stormwater, sanitary sewer or arterial street improvements *and* such improvements were initiated by the petition, the owners of the property wishing to be served by the improvements may petition Bel Aire for such service, at which time Bel Aire may require the owners to pay a benefit fee. The amount of the benefit fee cannot exceed the amount of the assessment, including interest, which would have been levied if the property had been included in the original improvement district. Bel Aire may:

- a) Make the benefit fee due and payable at the time the property begins being served by the water, stormwater, or sanitary sewer improvements,
- b) Make the benefit fee due and payable at the conclusion of construction of the arterial street improvements, or
- c) Otherwise provide for the payment of the benefit fee over a period of time.

The improvements are to be paid for through the levy and collection of special assessments upon the property within the improvement district. The property subject to assessment must be responsible for paying at least 5% of the cost of an improvement through special assessments. If, after completion of the improvements, such assessments are not paid in full, bonds of the city



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must be issues, the proceeds of which will be used to finance such improvement costs, unpaid assessments, and fund any necessary reserves. Such bonds must be issued, registered, sold, delivered and retired in accordance with the general bond law. Bel Aire may issue general obligation bonds or special obligation bonds. The term of both types of bonds may not exceed 22 years.

Because the Act authorizes Bel Aire to issue general obligation bonds to finance an improvement, K.S.A. 10-123 allows the use of short-term general obligation temporary notes to provide construction financing prior to the issuance of long-term general obligation bonds. In addition, the Act itself allows the use of special obligation temporary notes of Bel Aire to provide interim financing for the improvements prior to the issuance of long-term special obligation bonds. K.S.A. 12-6a14. Both of these types of short-term temporary notes are typically repaid at the issuance of the respective long-term bonds. Both the general and special obligation temporary notes may be sold at public or negotiated sale, and the term of such notes may not exceed four years.

Once improvements are complete and final costs known, Bel Aire will undertake assessment proceedings to establish an assessment roll and provide an opportunity for affected property owners to pay the applicable assessment in full. K.S.A. 12-6a09, 12-6a10. Thereafter, permanent general or special obligation bonds of Bel Aire will be issued and any temporary financing will be retired. Special assessments paid over time will be collected by Bel Aire and applied to pay the debt service on the general or special obligation bonds.

As an alternative to waiting until final costs of the improvements are known to start the assessment proceedings, Bel Aire may determine, prior to the start of construction of the improvements, the maximum amount of the assessments to be levied against the properties within the improvement district. K.S.A. 12-6a09(c). The maximum assessment amount is to be based on an approved estimate of the total cost of the improvements. Based on this determination, Bel Aire will prepare an assessment roll and provide an opportunity for affected property owners to pay the applicable assessment in full. Thereafter, general or special obligation bonds of Bel Aire will be issued to retire any temporary financing and to permanently finance the improvements. If, at the completion of the improvements, the final costs thereof are less than the maximum assessment amount levied under this alternative, Bel Aire shall adjust the assessments to reflect the actual final costs of the completed improvements.

For more information please review: K.S.A. 12-6a01 et seq. or contact Kevin M. Cowan of Gilmore Bell.

