



## What is a Local Development Corporation (LDC)?

The Ticonderoga Revitalization Alliance (TI-ALLIANCE) is a Local Development Corporation (LDC). An LDC is a special kind of organization. Most town of significant size in the US have an LDC associated with them because of the special kinds of functions and tools for revitalization that come with this status. LDC's have many similarities with Industrial Development Agencies (IDAs), such as the Essex County IDA but we differ in a few ways.

### THE NATURE OF LDC'S

LDCs were created in New York State by the 1962 Membership Corporations Law, Article XIX. They are meant primarily to enable local governments (such as counties and towns) to play new roles in economic development.

They are primarily created by local governments to “serve a public purpose” but are organized as private, not-for-profit organizations. Under Section 1411 of the NY State Not-for-Profit Corporation Law an LDC may serve any one or more of the following purposes:

- Relieve and reduce unemployment;
- Promote and provide for additional and maximum employment;
- Maintain or improve job opportunities;
- Train individuals to improve their capabilities for jobs; and
- Lessen the burdens of government, and act in the public interest.

The original use of LDC functions and tools for “industrial and manufacturing plants” has been much expanded in practice to include projects dealing with retail, energy, telecommunications, housing, downtown development, and most other business categories. These come under the very broad categories of LDCs’ legitimate interest in “lessening the burden of government” and “acting in the public interest”.

All LDCs are by definition not-for-profit organizations. **TI-ALLIANCE’s status as a 501-c3 organization** is a special category of not-for-profits, and required a special application process. This special status as a 501-c3 charitable organization provides the important benefit of providing tax benefits for investor contributions to its charitable programs. The income of LDCs is tax-exempt as long as any profits generated are used solely by the LDC for the charitable purposes for which it was established.

*Ticonderoga Revitalization Alliance is a not-for-profit, local development corporation whose mission is to restore economic prosperity in the Ticonderoga region by serving as a catalyst for innovative ideas and resources, and for public-private partnerships and investment opportunities.*

**Ticonderoga Revitalization Alliance, PO Box 247, Ticonderoga, NY 12883**  
**www.ticonderoga-alliance.org P: 518-543-6782 C: 415-385-4544 donna@ticonderoga-alliance.org**

By law LDCs can carry out a variety of **functions** that are important for promoting economic development. These functions include being allowed to:

- Construct, acquire, rehabilitate and improve industrial or manufacturing plants;
- Assist financially in such construction, acquisition, improvement or rehabilitation;
- Acquire real estate or personal property;
- Sell, lease, mortgage, or otherwise dispose of any industrial and manufacturing plants, or any of its real estate or personal property;
- Foster and encourage the location or expansion of industrial or manufacturing plants in its area;
- Provide loans and grants;
- Disseminate information and provide advice and technical assistance; and
- Facilitate public-private partnerships.

LDCs also have a number of important **financial assistance tools** they can utilize. These include to:

- Provide mortgage recording tax exemptions;
- Provide sales and use tax exemptions; and
- Borrow money and issue tax-exempt bonds, notes and other public obligations.

In terms of issuing bonds and notes, it should be noted that TI-ALLIANCE originally put out notes to a number of private lenders who essentially were contributing to the start-up of TI-ALLIANCE. All of these notes have now been “forgiven” as they were contingent on TI-ALLIANCE obtaining its 501-c3 status.

As public entities of their municipalities, LDC’s have requirements for **transparency**. As such, you can find all our official documents such as annual reports, audits, minutes to our Board Meetings, our policies, board members and other documentation at our web site.

A number of “**safeguards**” are meant to regulate LDCs, including that:

- LDCs are not allowed to operate for the benefit of their members or Board of Directors;
- All income and earnings of an LDC are to be used for corporate purposes; and
- No part of its income or earnings should profit any individual, corporation or private interest.

### **TI-ALLIANCE as an LDC**

TI-ALLIANCE was created to serve as an economic development arm for the town of Ticonderoga. However, unlike most LDCs, it was not created primarily on the initiative of a government authority, nor to help implement a specific project of concern to the government. Rather, it was created primarily on the initiative of some citizens, with the intention of carrying

out multiple projects. Part of the rationale for the TI-ALLIANCE was to have such an entity that was somewhat independent of the politics of the Town.

However, there is a strong legal link with the Town. This includes that the Supervisor nominates for Town Board approval all TI-ALLIANCE Board members, and sits as an ex-officio member of the TI-ALLIANCE Board, and that the Town Council formally approved the TI-ALLIANCE's creation, including recording this in the Council's formal minutes.

In practice, while the formal approval of the Town is not legally required for the TI-ALLIANCE to carry out its various functions and tools (and indeed such flexibility and agility was part of the rationale for the creation of the LDC mechanism in the first place) it is clear that working closely with the Supervisor, and in contact with Town Council members, should be a standard TI-ALLIANCE practice.

In terms of ways that the TI-ALLIANCE might generate funds for its own operations (as opposed to those strictly for project implementation) some examples might include:

- Performing functions such as property management and receiving fees for it (which would require clarification if this would have to have a clear link to the purposes for which it was founded);
- Structuring a bond issue so that it included a modest percentage of income to TI-ALLIANCE, above the costs of handling the bond itself;
- Receiving some funds to manage a grant or loan program that it was implementing; and
- Receiving funds provided/donated by private individuals or businesses for TI-ALLIANCE's core operations.

## **COMPARISONS BETWEEN LDC'S AND IDA'S**

For TI-ALLIANCE, the closest comparator regarding its functions and tools is not groups such as PRIDE or the Chamber of Commerce, but rather is the Essex County Industrial Development Agency (ECIDA). As reviewed below, LDCs and IDAs have many tools in common, and it may be the case that the major distinction between them is not so much in what tools they have, but rather how they use them, and operate overall.

IDA's exist as public benefit corporations, and are creations of government, while LDCs are established as charitable corporations, created with the explicit intention of having fewer restrictions and being more flexible than government entities are.

IDAs and LDCs essentially share the same functions listed in the first part of this paper, such as acquiring, using, and disposing of property. TI-ALLIANCE as an LDC has the explicit ability to

**Ticonderoga Revitalization Alliance, PO Box 247, Ticonderoga, NY 12883**

acquire property from government authorities, including condemned properties, without the requirements of public bidding or having to meet the full current market value of the property. It is not clear if IDAs also have this power.

TI-ALLIANCE has the option, as an LDC, to become the owner of project property, and lease it back to the company concerned, with the option for the company to buy it back once the bonds have been repaid. This would be done to provide the advantages of an LDC, e.g., regarding exemption from sales tax on purchase of project equipment. Such ownership is essentially an accounting device, and would not made the LDC financially liable in case of the bankruptcy or liquidation of the project. Indeed, the LDC's legally-mandated status as a "bankruptcy remote entity", with its related liability protection, was meant by the drafters of the legislation creating LDCs, to be one of its assets, and appears to be an asset that IDAs do not have.

In terms of the financial assistance tools noted in the first section, both LDCs and IDAs can provide exemption of a mortgage recording tax, and exemption of sales and use taxes, can issue tax-exempt bonds, and issue loans and grants. One distinction is that IDAs, but not LDCs, can also provide an abatement of ad valorem real property taxes, and allow the use of the related payment-in-lieu-of-taxes (PILOT) mechanism.

If there is not a major difference in the functions and tools of an LDC versus an IDA, but LDCs are said to be more "nimble" than IDAs as a group, and sometimes able to move faster. In general, IDAs will not have much interest in projects of a total value of around \$3 million or less, and instead prefer to focus on larger projects, with greater impact and greater amounts of funding for IDA core expenses.

## **CONCLUDING REMARKS**

The functions and tools that come with TI-ALLIANCE's status as an LDC are strong and useful. Most provide ways to take project-related actions in ways that are faster and often more flexibility than regular government procedures, and many offer substantial financial benefits to businesses and corporations that TI-ALLIANCE might wish to work with.

Many of these functions and tools are held in common with IDAs, including the Essex County IDA. The main differences appear to be that IDAs can offer abatement from real property taxes which LDCs cannot, and LDCs offer stronger liability protection, and perhaps more ease in acquiring property from a government authority.

LDCs may have some benefits versus IDAs in terms of being more flexible, more nimble, and faster in their operations, and in being interested in dealing with smaller projects, i.e., those smaller than around \$3 million in total cost.

In general TI-ALLIANCE focuses on certain small and medium sized projects, especially in terms of ones for which it would take a leading role (as opposed to ones for which it would support other entities who would take the lead). It is likely that much of the division of labor in practice

on specific projects will depend on the level of interest of the relevant actors in the specific project, and their capacity at the moment to take on significant additional roles.