

073-261—July 17, 1973

SPECIAL DISTRICTS

AUTHORITY TO ISSUE BONDS SECURED BY PLEDGE
OF AD VALOREM TAXES

To: *Walter D. Percy, Secretary, Lake Worth Downtown Development Authority,
Lake Worth*

Prepared by: *Stephen E. Mitchell, Assistant Attorney General*

QUESTIONS:

1. Does the Lake Worth Downtown Development Authority have the authority to borrow money secured by a pledge of tax revenue for a period covering several years?
2. Does the authority have the power to purchase land by giving a mortgage on the property to be amortized over several years?
3. If the answers to the above questions are negative, is it possible to revise the special act which created the authority so that it may borrow in this manner?

SUMMARY:

The Lake Worth Downtown Development Authority does not have either the power to borrow money to be repaid over several years and secured by a pledge of ad valorem tax revenues or the power to give a mortgage on property purchased by it. The enabling act, Ch. 72-592, Laws of Florida, could be amended to include these powers; however, provision would also have to be made for approval by the electors of the district for any bonds secured by a pledge of the taxing power or any obligation of any nature secured by a lien on real property.

Your first question is answered in the negative.

A special district has the authority to issue bonds secured by a pledge of tax revenue *only* when this authority is granted to the district, either expressly or implicitly, by the legislature. *State v. City of Pompano*, 188 So. 610 (Fla. 1938); *State v. Broward County*, 126 So. 491 (Fla. 1930). It is evident from reading Ch. 72-592, Laws of Florida, the special act creating the Lake Worth Downtown Development Authority, that there is no express power to issue bonds, or borrow money in any other manner, secured by a pledge of ad valorem tax revenue.

This power cannot be implied from the act because the language specifically limits any borrowing to short term and forbids any pledge of ad valorem tax revenue.

Section 7. POWERS OF THE AUTHORITY—In the performance of the functions vested in or assigned to the Authority it is hereby granted the following powers:

* * * * *

(m) To borrow money on its unsecured notes, for a period not exceeding nine months

* * * * *

Section 11. PROVISIONS GOVERNING ISSUANCE OF CERTIFICATES—Issuance of revenue certificates by the Authority shall be governed by the following general provisions:

(a) Revenue certificates for purposes hereof are limited to

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obligations that are secured *solely* by pledge of revenues produced by the facility or facilities for the benefit of which the certificates are issued and the sale proceeds used, that *do not constitute a general debt of the Authority, that are not secured directly or indirectly, in whole or in part, by pledge of taxing powers, and that do not constitute a lien or encumbrance, legal or equitable, on any real property of the Authority or on any of its personal property other than the revenues pledged to secure payment of the certificates.* (Emphasis supplied.)

Your second question is answered in the negative.

Florida case law generally regards a mortgage on the physical properties to be financed as partial or complete security for an obligation issued by a public body as the functional equivalent of a bond requiring approval by the electorate as mandated by Art. VII, §12(a), State Const. *Boykin v. Town of River Junction*, 164 So. 558 (Fla. 1935); AGO 073-164; *cf. State v. Putnam Co. Develop. Auth.*, 249 So.2d 6 (Fla. 1971). In certain instances, under the Florida Industrial Financing Act, when the lessee of publicly owned property is a private individual or commercial organization, a mortgage securing revenue bonds is constitutionally permissible. *Id.* at p. 12. However, the instant project is not one being financed under Art. VII, §10(c), State Const. as implemented by the Florida Industrial Financing Act, and §11(a) of Ch. 72-592, *supra*, specifically inhibits the encumbering of any real property of the authority.

Your third question is answered in the affirmative.

It appears that the powers you are seeking are within the authority of the legislature to grant, and thus it is possible for Ch. 72-592, *supra*, to be revised accordingly, recognizing, of course, the aforementioned requirement that any bonds secured by a pledge of the taxing power and any obligation of any nature secured by a lien on real property must be approved by the electors of the district. Article VII, §12, State Const.; AGO 073-164.

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COURTS

JUVENILE HEARINGS—WHERE HELD

To: *Oliver J. Keller, Jr., Director, Division of Youth Services, Department of Health and Rehabilitative Services, Tallahassee*

Prepared by: *Jan Dunn, Assistant Attorney General*

QUESTION:

Are there any constitutional reasons why a juvenile hearing—detentional, adjudicational, or dispositional—could not be held at a youth center located at a place other than the county seat?

SUMMARY:

There are no constitutional reasons why a circuit court cannot hold juvenile hearings—detentional, adjudicational, or dispositional—at any place within its territorial jurisdiction as may be designated by the chief judge of the circuit.

Revised Art. V, §7, State Const., in pertinent part provides that “[a] circuit . . . court may hold civil and criminal trials and hearings in any place within the territorial jurisdiction of the court as designated by the chief judge.” The Constitution gives the circuit courts exclusive original jurisdiction over