

the corporation, *Haines City v. Certain Lands, Etc.*, 178 So. 143 (Fla. 1937) and *Southern Utilities Co. v. City of Palatka*, 99 So. 236 (Fla. 1923). If doubt exists whether a statute authorizes a municipality to exercise a power, then the statute is to be construed against the exercise of the power by the municipality. *City of Clearwater v. Caldwell*, 75 So.2d 765 (Fla. 1954) and *City of Daytona Beach v. Dygert*, 1 So.2d 170 (Fla. 1941). Also see *Edgerton v. International Company*, 89 So.2d 488 (Fla. 1956). These rules apply with equal force and effect to all statutory entities, including special districts.

I therefore conclude that the Old Dixie Fire Control Tax District No. 2 has no power to borrow money to purchase land.

073-375—October 8, 1973

### MUNICIPALITIES

#### POWER TO GRANT EXCLUSIVE FRANCHISE FOR CATV SYSTEM

To: M. A. Braswell, City Attorney, Venice

Prepared by: Jan Dunn, Assistant Attorney General

#### QUESTION:

May a municipality grant an exclusive franchise to a public utility corporation to erect, maintain, and operate a community antenna television (CATV) cable transmission and distribution system?

#### SUMMARY:

Under Ch. 73-129, Laws of Florida, effective October 1, 1973, a municipality may grant an exclusive franchise to a public utility corporation to erect, maintain and operate a community antenna television (CATV) cable transmission and distribution system.

According to *Colen v. Sunhaven Homes, Inc.*, 98 So.2d 501 (Fla. 1957):

It is also well settled that a county or municipality has no power to grant an exclusive franchise to a public service corporation to use the streets, unless, "the power" not only to grant a franchise but also to grant an exclusive franchise has been delegated to it by the Legislature

*Accord:* *City of Pinellas Park v. Cross-State Utilities Co.*, 205 So.2d 704 (2 D.C.A. Fla., 1968). A similar problem was dealt with in AGO 073-267 which concerned the Municipal Home Rule Powers Act and the ability of municipalities to enact rent control ordinances. The opinion states that:

The *Fleetwood* court then expressly ruled a municipality has no power to enact a rent control ordinance, absent a legislative enactment authorizing the exercise of such power by a municipality.

The opinion held that under Ch. 73-129, Laws of Florida, the municipality could enact a rent-control ordinance (under emergency conditions). The reasoning was essentially as follows and is applicable to the present question. The Municipal Home Rule Powers Act, Ch. 73-129, effective October 1, 1973, was enacted for the purpose of granting complete home rule powers to municipalities. Article VIII §2(b), State Const., in part provides:

Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any

power for municipal purposes except as otherwise provided by law. . . .

Chapter 73-129, Laws of Florida, defines "municipal purposes" as used in the Constitution, to mean "any activity or power which may be exercised by the state or its political subdivisions." Section 166.021(1) and (2), F. S. The legislature also recognized that the grant of power set forth in Art. VIII, §2(b), State Const., embraced the power to enact any legislation concerning any subject upon which the state legislature could act unless expressly forbidden by the Constitution, general law, county charter, or by special law. Any limitation of power contained in any municipal charter was nullified and repealed. Section 166.021(3) and (4), F. S.

Since, therefore, the state has the power to authorize an exclusive franchise, since a municipality under Ch. 73-129 has the power to enact any legislation concerning any matter upon which the state legislature may act, and since granting exclusive franchises is not prohibited by the Constitution, general law, or county charters, it must follow that a municipality, as of October 1, 1973, has the power to grant an exclusive franchise to a corporation to operate a CATV system.

073-376—October 8, 1973

#### PUBLIC FUNDS

##### FURNISHING UNIFORMS FOR COUNTY COURT PERSONNEL

To: John P. Shannon, Charlotte County Court Judge, Punta Gorda

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

#### QUESTION:

May the county judge expend budgeted funds for the purchase or rental of uniforms which are required by the court to be worn by county court personnel during working hours?

#### SUMMARY:

County funds properly budgeted and approved may be spent by the county court judge in purchasing or renting uniforms required to be worn by county court personnel during working hours on official court business.

You state that your budget for the 1973-1974 fiscal year includes funds for the purchase or lease of uniforms to be used by court personnel during working hours on official court business and that the board of county commissioners has approved your budget. In these circumstances, your question should be answered in the affirmative.

A somewhat similar question was answered in AGO 073-371. It was there ruled that county funds may be used to pay for uniforms for night watchmen at the county courthouse, in accordance with the general rule that when the type of work requires special clothing or when the dignity of a public function is enhanced it is proper for a public body to expend public funds on uniforms for its employees. Cited in support of this general rule were AGO's 062-18 (uniforms for deputy sheriffs), 065-101 (protective uniforms for mosquito sprayers), and 068-90 (athletic uniforms for school coaching staff). Similarly, uniforms would serve to identify the bailiff and other court employees as well as enhance the dignity of the courtroom.