

The courts have recognized that public policy may require restrictions on the right to inspect public records. See *Patterson v. Tribune Co.*, 146 So.2d 623 (Fla. App. 1962).

* * * *

While certain records of the Fire Marshal may be analogous to investigative police reports, the Florida courts have not extended the public policy exception to the Fire Marshal's records.

In the absence of statutory privilege, and in light of a general policy favoring public inspection of government records, we conclude the district court erred. . . .

Similarly, the court in *Maxwell v. Pine Gas Corp.*, 195 So.2d 602, 603 (4 D.C.A. Fla., 1967), refusing to infer an exception to Ch. 119, *supra*, for tangible personal property tax returns, pointed out:

All state, county and municipal records are open for personal inspection of any citizen. F.S.A. §119.01. Such records are not the personal property of a public officer. *Bell v. Kendrick*, 1889, 25 Fla. 778, 6 So. 868. The Legislature has seen fit to make records of intangible personal property tax returns confidential. F.S.A. §199.101. There is no similar statutory privilege for tangible personal property tax returns.

The legislature has seen fit to create a number of express statutory exceptions to Ch. 119, *supra*; additionally, AGO 072-168 sets out certain common law exceptions such as investigative police reports and records made in connection with official police investigations. However, the records under consideration do not fall within §231.29(3), F. S., or any other exception, and, consequently, no exception can be inferred. *See State ex rel. Cummer v. Pace*, 159 So. 679 (Fla. 1935).

Based on the foregoing, it is my opinion that the personnel files of civil service employees (which files include employment applications, confidential inquiries made of employers, references, etc.) may not be maintained under two separate headings—the first to include general qualifications and employment histories which would be open to the public, and the second to contain investigative reports and similar data which would not be available for general inspection. Further, under such circumstances and by virtue of the aforementioned change in the statutory law, AGO 050-510 is no longer applicable to the state or any of its political subdivisions or to municipalities; and the same no longer controls or governs in the area of personnel files. To the extent that any part of AGO 050-510 is inconsistent with the instant opinion, said AGO 050-510 is hereby superseded.

073-52—March 12, 1973

PUBLIC OFFICERS ·

**VACANCY IN OFFICE FOR NONFULFILLMENT OF
RESIDENCY REQUIREMENT**

*To: J. Steven Gribble, Attorney, Charlotte County Development Authority, Port
Charlotte*

Prepared by: Henry George White, Assistant Attorney General

QUESTION:

Must the members of the Charlotte County Development Authority, with the exception of the at-large member, reside in the districts from which they were appointed or elected?

SUMMARY:

With the exception of the one at-large member, each member of the Charlotte County Development Authority must reside within the district from which he was appointed or elected. When any such member ceases to reside in the district from which he shall have been elected or appointed his office is deemed to be vacant pursuant to §114.01(4), F. S.

Your question is answered in the affirmative for the reasons that follow.

The Charlotte County Development Commission was created by Ch. 65-1357, Laws of Florida, as amended by Ch. 70-628, Laws of Florida*, Section 4, Ch. 65-1357, states:

Membership, appointment, term of office. The Charlotte county development commission shall be composed of eleven (11) members. The five (5) members of the Charlotte county board of county commissioners and the remaining six (6) members of the development commission appointed or elected according to the provisions of Chapter 63-1207, Laws of Florida 1963, shall constitute the membership of the Charlotte county development commission, and members of the development commission shall be elected hereafter in the manner provided by said chapter 63-1207, Laws of Florida 1963.

The answer to your question requires an examination of the language of §2, Ch. 63-1207, Laws of Florida, which reads in pertinent part as follows:

The Board of County Commissioners of Charlotte County shall appoint one (1) member *from each County Commissioner's District*, said members to serve until the expiration of the term of office of the County Commissioner from the District wherein the member is appointed. The remaining member shall be appointed by the Board of County Commissioners *without regard to any residence in any particular district*. . . . (Emphasis supplied.)

This section further provides that the at-large member of the authority shall be elected for a two-year term commencing with the general election of November, 1964, while the remaining noncounty commissioner members shall be elected for four-year terms upon the expiration of their respective appointive terms.

Although §2 of Ch. 63-1207, Laws of Florida, does not explicitly require that the non at-large members of the authority reside in the districts from which appointed and which they represent, this requirement is nevertheless implicit in the terms of the statute. In the first place, it must be observed that the county commissioners, who fill five of the positions on the authority, must reside in the district from which they were elected. Article VIII, §1(e), State Const. Secondly, it will be noted that §2 of Ch. 63-1207 provides that five members of the authority shall initially be appointed, with one such member being *from each of the five county commission districts*. The fact that the appointive terms and subsequent elective terms of these members of the authority were tied to the terms of office of the county commissioners from the respective districts is indicative of a legislative intent to have representation on the authority continue on a district basis with the members residing within their respective districts. Finally, it is important to note that the remaining member of the authority was to be initially appointed and thereafter elected *without regard to residence in any particular district*. The express waiver of district residence requirements for the at-large member implies the intention to impose such a requirement on the other members of the authority. Any

*Which changed the name to Charlotte County Development Authority—Ed.

other interpretation of this language would render meaningless the waiver of district residence requirements for the at-large member of the authority. It is a time-honored rule that statutes should be construed so as to give meaning, to the extent possible, to all of the language employed by the legislature. *Arvida Corp. v. City of Sarasota*, 213 So.2d 756 (2 D.C.A. Fla., 1968).

For the foregoing reasons it is my opinion that each member of the Charlotte County Development Authority, with the exception of the single at-large member, must reside in the district from which he was appointed or elected. When a member ceases to reside in the district from which he shall have been elected or appointed, his office becomes vacant pursuant to the provisions of §114.01(4), F. S. Vacancies which occur on the Charlotte County Development Authority should be filled in accordance with the provisions of §5, Ch. 65-1357, Laws of Florida.

073-53—March 12, 1973

STATE BUILDINGS

APPLICABILITY OF SOUTH FLORIDA BUILDING CODE; DETERMINATION OF COMPLIANCE WITH CODE

*To: Chester Blakemore, Executive Director, Department of General Services,
Tallahassee*

Prepared by: Henry George White, Assistant Attorney General

QUESTIONS:

1. Do the provisions of Ch. 71-575, Laws of Florida, as amended by Ch. 72-482, Laws of Florida, apply to state buildings constructed in Broward County under the auspices of the Division of Building Construction and Maintenance of the Department of General Services?

2. Do the provisions of the special acts require that compliance with the South Florida Building Code be determined by Broward County officials or engineers, as well as by state officials or engineers, for state buildings being constructed in Broward County?

SUMMARY:

The provisions of Ch. 71-575, Laws of Florida, as amended by Ch. 72-482, Laws of Florida, require that all construction, alterations, additions, or repairs which are undertaken with respect to state buildings located in Broward County be in compliance with the provisions of the South Florida Building Code. However, the authority to determine whether such state buildings are in compliance with the code rests with the state Division of Building Construction and Maintenance in the absence of a clear legislative delegation of that authority to local governmental officials.

In AGO 071-233 I ruled on a question substantially the same as the first question you pose. That opinion discussed the long-standing general rule that state property is exempt from regulation by municipal authorities unless the state has waived the right to regulate its own property. *See* 13 Am. Jur. 2d *Buildings* §7; and 47 Am. Jur. *State* §56. The same rule was applied in AGO's 062-41 and 071-75 with respect to county regulation of state property. The issue in AGO 071-233 was whether the language of Ch. 71-575, Laws of Florida, providing that "[t]he South Florida Building Code, Dade County 1970 edition, as amended . . . shall apply to all municipalities and unincorporated areas of Broward County" was a clear legislative declaration that state-owned buildings be subject to the requirements of