

subordinates is the same whenever those subordinates are on the job, whether it be on a full- or part-time basis. In other words, the liability *vel non* of public officers, agents, and employees is affected quantitatively, but not qualitatively, by the fact that their superiors or subordinates are employed on a part-time basis.

073-131—April 20, 1973

TAXATION

REAL PROPERTY ASSESSMENT BASED ON LAND SALES CONTRACT—TO WHOM ASSESSED

To: Roland Walsingham, Washington County Tax Assessor, Chipley

Prepared by: Harold F.X. Purnell, Assistant Attorney General

QUESTIONS:

1. May the county tax assessor legally assess property by basing such assessment on a recorded agreement of purchase and sale contract?
2. If question 1 is answered in the affirmative, should the property be assessed in the name of the vendor or the vendee?

SUMMARY:

Recorded land sale contracts which reflect ownership of the property may be used by the county tax assessor in assessing real property. The property should be assessed in the name of the vendor when, under the contract, the vendee is neither in possession nor entitled to the right of possession or the contract does not impose a binding obligation of purchase.

Agreements for the purchase and sale of realty (hereinafter referred to as land sale contracts) provide, generally, that the vendor will convey legal title to the property upon the payment by the vendee of the agreed upon purchase price. The particular land sale contract which was forwarded with your opinion request provides for payment of the purchase price over an eight and one half year period with title to pass ninety days following the expiration of this payment period regardless of any prepayment. The vendee is not entitled to possession until title passes and is under no binding personal obligation to pay the purchase price.

By virtue of §193.052(2), F. S., a return for real property is not required where ownership is reflected in instruments recorded in the public records of the county. This provision would authorize the county tax assessors to utilize a recorded land sale contract in preparing the assessment roll where the contract reflects ownership of the property. In the contract which was forwarded with your opinion request, title is shown to reside in the vendor, subject to terms of the contract. Hence, your first question is answered in the affirmative.

The prevailing rule applicable to assessing real property which is the subject of an executory land sales contract is stated in 84 C.J.S. *Taxation* §98, at 213 and 214:

Land may be assessed and taxed to a person who is in possession thereof under an executory contract of sale; and under such circumstances it is not taxable to the vendor. However, in the absence of a statute providing otherwise, if the purchaser has not gone into possession under the executory contract, or if the contract of sale is

only conditional or reserves a life estate to the vendor, the vendor is properly taxable as the owner of the premises; and where the transaction does not amount to a binding contract of purchase, the prospective purchaser is not taxable with respect to the land.

This rule is recognized in Florida. See *Johnson v. McKinnon*, 34 So. 272 (Fla. 1903); *Bancroft Investment Corporation v. City of Jacksonville*, 27 So.2d 162 (Fla. 1946); and AGO 058-83.

The contract which was forwarded with your opinion request clearly provides that the vendee is not entitled to possession until all payments have been made and title to the property has been conveyed. Also, the vendee is not under a binding personal obligation to make any of the scheduled payments. Hence, for the duration of the contract period the property would be assessable to the vendor and your second question is answered accordingly.

073-132—April 20, 1973

UNIVERSITIES

UNIVERSITY TRAFFIC REGULATIONS AND COURTS—EFFECT UNDER REVISED ART. V

To: *Stephen C. O'Connell, President, University of Florida, Gainesville*

Prepared by: *Rebecca Bowles Hawkins, Assistant Attorney General*

QUESTION:

What impact, if any, does the reorganization of the judicial system of this state have upon rules and regulations promulgated by the board of regents governing traffic on the University of Florida campus and the student court established on that campus?

SUMMARY:

Except for the fact that a county court now has the jurisdiction formerly exercised by a municipal court over violations of a university's traffic rules and regulations, the reorganization of the judicial system of this state had no effect upon such rules and regulations and the university's student traffic court.

Under §239.54, F. S., the board of regents is authorized to adopt rules and regulations governing traffic on the grounds of each of the institutions of higher learning in this state; and it may also approve the establishment, at any such institution, of a campus traffic court to hear and determine violations of the campus traffic rules and regulations. Section 239.56, *id.* This section also vests in the appropriate municipal court jurisdiction to try persons charged with violations of the university's traffic rules and regulations as well as violations of municipal ordinances committed on the grounds of the university "when such charge is referred by the university to such municipal court." These and other provisions of law respecting the control of traffic on university campuses—§§239.53-239.58, *id.*—were not amended by the legislature in implementing revised Art. V, State Const.; and I find nothing in revised Article V or its implementing statute, Ch. 72-404, Laws of Florida, that is inconsistent with the continued exercise of its authority in this respect by the board of regents. It must be concluded, therefore, that the reorganization of the judicial system had no impact upon the power of the board of regents in this respect.

It should be noted, however, that under §§1 and 20(c)(4) of revised Art. V, *supra*, and §26.012, F. S. (adopted by Ch. 72-404, *supra*), the county courts are vested with the jurisdiction previously exercised by the courts abolished by revised