

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

Article V, including municipal courts that are abolished pursuant thereto and Ch. 72-403, Laws of Florida (§168.031, F. S.). You state that the City of Gainesville has elected to abolish its municipal court. Thus, the county court of Alachua County will have the jurisdiction formerly exercised by the municipal court of Gainesville with respect to traffic offenses committed on the grounds of the University of Florida. And, so far as I can find, this is the only impact of revised Article V upon the university's traffic rules and regulations.

As to the university's student traffic court established by the board of regents pursuant to statutory authority: There is nothing in revised Article V or its implementing statute, Ch. 72-404, Laws of Florida, to indicate that the legislature intended to merge student traffic courts into the new judicial system. They are nowhere mentioned in revised Article V or its implementing statute; and, in fact, these "courts" are nothing more than administrative tribunals to deal with infractions of the university's traffic rules and regulations. The penalty may be either monetary or a restriction upon the student's privilege of operating a motor vehicle on university property, or both. The monetary proceeds are used to defray the cost of collection, for student scholarship and loan purposes, or additional parking facilities on the campus. As noted above, no change was made in the applicable provisions of law, §§239.53-239.58, *supra*, in implementing revised Article V; and the operation of an intramural student traffic court to enforce the university's on-campus traffic rules and regulations is entirely consistent with the new two-tiered trial court system for the trial of violations of law or ordinances. I have the view, therefore, that revised Article V has no impact upon the right of a student traffic court to deal with infractions of the university's traffic rules and regulations.

073-133—April 23, 1973

#### CRIMES AND OFFENSES

##### INITIATING PROCEEDINGS AGAINST ALLEGED MISDEMEANANTS

*To: R.W. Weitzenfeld, Manatee County Sheriff, Bradenton*

*Prepared by: Enoch J. Whitney, Assistant Attorney General*

#### QUESTION:

What procedure must be followed to institute proceedings against a person alleged to have committed a misdemeanor outside the presence of a law enforcement officer?

#### SUMMARY:

Under Rule 3.115, CrPR, the state attorney has the duty to formulate the procedure to be followed by persons seeking to institute a criminal prosecution.

Under §20(c)(4) of revised Art. V, State Const., the jurisdiction previously exercised by justice of the peace courts is now vested in the county courts. Rule 3.120 of the new Florida Rules of Criminal Procedure, effective February 1, 1973 [see *In Re Florida Rules of Criminal Procedure*, 272 So.2d 65 (Fla. 1972)], authorizes any circuit judge or county judge to issue arrest warrants in criminal cases. (Rule 3.130(1), CrPR, requires that a summons, instead of a warrant, be issued in a misdemeanor case unless the judge has reasonable ground to believe that the defendant will not appear in response to a summons.)

However, Rule 3.115, CrPR, commands that: