

Hospital district, community redevelopment payments

Number: INFORMAL

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Ms. Leslie A. Blau
Attorney for North Lake County
Hospital Board of Trustees
2705 West Fairbanks Avenue
Winter Park, Florida 32789

Dear Ms. Blau:

You have asked whether the North Lake County Hospital District's ability to receive donations, gifts, or grants precludes the district from being exempt from contributing to a community redevelopment trust fund as provided in section 163.387(2)(c), Florida Statutes. You state that two cities within the district have requested contributions to their trust funds, but you feel that the district is exempt from making appropriations to such funds.

Regrettably, the question you have asked necessarily involves comment upon the authority of a redevelopment authority to collect a portion of your ad valorem tax receipts. Absent an attendant request from such authority, this office may not comment directly on the matter. To be of some assistance, however, I offer the following observations.

Section 163.387(2), Florida Statutes, generally provides that each taxing authority within the geographical boundary of a community redevelopment area must make an appropriation to the redevelopment trust fund. The statute specifically exempts from its operation "[a] special district *the sole available source of revenue of which is ad valorem taxes* at the time an ordinance is adopted under this section."^[1] (e.s.) There is no contention that the district is not a special district, but its authority to accept gifts, grants, and donations raises the question of whether ad valorem taxation is the sole source of revenue for the district.

Prior to 1993, the language in section 163.387(2)(a), Florida Statutes, reflected that "[n]o taxing authority is exempt from the provisions of this section."^[2] However, the definition for a "taxing authority" contained in section 163.340, Florida Statutes, prior to its amendment in 1993, specifically excluded from its operation a special district whose only source of revenue is ad valorem taxes at the time an ordinance is adopted.^[3] The changes in 1993, therefore, moved the language in section 163.340(2), Florida Statutes, to section 163.387(2)(c)2., Florida Statutes, and maintained the general law exemption from paying into the redevelopment trust fund for special districts whose sole source of revenue is ad valorem taxes.

Interestingly, a review of the legislative history of the 1993 amendments indicates that during the process of refining the bill, several versions would have removed all exemptions for special districts and would allow local governing bodies the discretion to exempt a special district. Near the end of the legislative process, however, the bill's history indicates that certain newly created special districts that would have been exempt under the existing law would lose their exemption

and would be required to apply to the local government which created the community redevelopment agency for exemption.[4] The exemption from contribution to the redevelopment trust fund for special districts whose sole source of revenue is from ad valorem taxes was ultimately maintained.

You indicate that the district has not accepted any donations, gifts, or grants such that, arguably, this untapped source of funding has not triggered application of the statute. The lack of acceptance of a donation or gift, however, would not appear dispositive, since the statute is phrased in terms of an "available" source of income, not one that is currently being used. To read the statute otherwise would lead to the result that a special district with the authority to sell revenue bonds, but that had not chosen to do so, could claim the exemption due to its inaction.

The question of whether the ability to accept such funds provides a source of revenue other than ad valorem taxes has not been addressed by any appellate court of this state. The situation you have raised is unlike that examined in Attorney General Opinion 92-13, wherein the statute governing special districts authorized the investment of surplus revenues in interest-bearing accounts and, therefore, the receipt of such interest was considered proceeds from ad valorem taxes. It does not appear that the receipt of a donation, gift or grant could be tied to the ad valorem tax receipts of the district such that the same conclusion reached in Attorney General Opinion 92-13 would be applicable.

As was done in Attorney General Opinion 92-13, however, a review of other statutes pertinent to special districts may offer some support for your position. For example, section 189.404(3), Florida Statutes, in prescribing the minimum requirements for the creation of an independent special district states that the charter for such a district must address:

"(b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements.

* * *

(i) If a district has authority to issue bonds, the procedures and requirements for issuing bonds.

* * *

(k) The methods for financing the district."

This section clearly recognizes several methods of generating revenues for special districts, but does not specify the receipt of donations, gifts, or grants as such a method. By comparison, section 236.24(1), Florida Statutes, provides that the district school fund shall consist of "funds derived from the district school levy; state appropriations; appropriations by county commissioners; local, state, and federal school food service funds; any and all other sources for school purposes; national forest trust funds and other federal sources; and gifts and other sources."

Whether the ability to accept gifts operates as an additional source of revenues for the district is not a clearly defined issue and ultimately for a binding decision must be resolved by a court of competent jurisdiction. Thus, the district may wish to seek a declaratory judgment regarding its status under section 163.387, Florida Statutes.

I trust you will understand that the inability of this office to become more directly involved in this matter at this time results from the absence of the local governing bodies joining in your request.

Sincerely,

Lagran Saunders
Assistant Attorney General

ALS/tgk

[1] Section 163.387(2)(c)2., Fla. Stat.

[2] See s. 163.387(2)(a), Fla. Stat. (1991).

[3] See s. 163.340(2), Fla. Stat. (1991).

[4] See House of Representatives Bill Analysis, HB 1969, February 25, 1993.