



## STATE OF FLORIDA

**JAMES UTHMEIER**  
**ATTORNEY GENERAL**

March 4, 2026

Kate Latorre, County Attorney  
Seminole County  
1101 East 1st Street  
Sanford, Florida 32771

Dear Ms. Latorre:

I am in receipt of your legal memorandum challenging my office's legal opinion that the Rural Boundaries in Seminole and Orange Counties could very well constitute a regulatory taking under the Federal and Florida Constitutions and also likely violate the Bert J. Harris, Jr., Private Property Rights Protection Act ("BHA").<sup>1</sup> Not only is this memo wrong at every turn, it also attacks the Office of the Attorney General and a sitting State Senator. Given the statewide importance of the issue, I write to respond to the errors in your analysis.

You begin your memo by accusing State Senator Jonathan Martin of improperly requesting, and my office of improperly providing, an opinion on the legality of Rural Boundaries. First, you argue that Senator Martin couldn't have asked the question in the first instance because he has no "official duties" in Seminole or Orange Counties since he only represents Lee County and that county is not even considering a Rural Boundary. No provision in section 16.01(3), however, requires a member of the Legislature—who may legislate on matters of statewide concern affecting *every* county—to be the elected representative in the precise constituency from which a legal question arises. Section 16.01(3) only requires that a question relates to the requestor's "official duties."<sup>2</sup>

Furthermore, a State Senator's "official duties" include considering, researching, drafting, proposing, debating, and voting on legislation and resolutions that address statewide issues.<sup>3</sup> Thus, if a question of law relates to any of those duties, then it is that Senator's right to ask my office that question. Indeed, that is exactly what happened here. Senator Martin was considering and researching potential legislation on Rural Boundaries and asked my office a question of law; my office issued a legal

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<sup>1</sup> See Op. Att'y Gen. Fla. (Nov. 25, 2025).

<sup>2</sup> § 16.01(3), Fla. Stat.

<sup>3</sup> Art. III, § 1, 7, Fla. Const. (vesting all "legislative power of the state" in the Florida Senate and House of Representatives and outlining the passage of bills).

opinion on his question, and now, Senator Martin's legislation *related to this topic* is pending in the Legislature.<sup>4</sup>

Next, you claim that “the AG’s own opinions have concluded that the AG cannot declare a statute unconstitutional.” But nothing in section 16.01(3) limits the Attorney General’s authority to opine on the constitutionality of a statute or local ordinance.<sup>5</sup> Indeed, I take and am bound by an oath to uphold the federal and state constitutions, which necessarily colors my analysis of statutes, rules, and ordinances. Plus, a quick search through my recent opinions dealing with the constitutionality of state laws would disabuse you of the notion that the opinion power is so limited.

Finally, you claim that my office’s conclusion on the regulatory takings issue was improper because my office is not authorized to issue opinions on federal law. But Florida has a Takings Clause that is “coextensive” with the federal Takings Clause and it is therefore necessary and proper to analyze cases decided under the federal Takings Clause in order to determine whether an action violates Florida’s Takings Clause.<sup>6</sup> And in any event, you fail to cite any such restriction in section 16.01(3)—because it doesn’t exist.<sup>7</sup>

Your procedural attacks perhaps provide the best explanation for why your memo was marked “internal.”

As to the merits of the underlying issue, your “legal analysis” on whether Rural Boundaries violate the Takings Clause and the BHA is incorrect. You argue that Seminole’s Rural Boundary does not actually prohibit development. Yet you concede that any development in the Rural Boundary area must be consistent with “future land use and zoning designations” and “if a property owner would like to change future land use and zoning designations, a vote by the County Commissioners would be required.” Additionally, you concede in your memo that Seminole County requires a supermajority vote of the County Commissioners to remove property from the Rural Boundary designation. In other words, the Rural Boundary *does* prohibit development of properties that are subject to the Rural Boundary designations. Thus, nothing in your memo undermines the analysis in my office’s opinion.

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<sup>4</sup> See *Legislative Action*, (Feb. 24, 2026) [flsenate.gov/Session/Bill/2026/208/Amendment/712734/PDF](https://flsenate.gov/Session/Bill/2026/208/Amendment/712734/PDF). You also argue that Senator Martin’s request was improper because public officials seeking an Attorney General Opinion must first certify that they have sought an opinion on the issue from their own general counsel—in this case, the general counsel for the Florida Senate. The policy you rely on for this claim, however, was revoked because no such legal requirement exists in section 16.01(3). Section 16.01(3) plainly grants a State Senator the unconditional right to ask the Florida Attorney General a question of law. See § 16.01(3), Fla. Stat.

<sup>5</sup> § 16.01(3), Fla. Stat. (granting my office the power to “give an official opinion and legal advice in writing *on any question of law* relating to the official duties of the requesting officer”) (emphasis added); see also, e.g., Op. Att’y Gen. Fla. 2026-02 (2026) (declaring statutes that require race-based state action unconstitutional).

<sup>6</sup> See, e.g., *St. Johns River Water Mgmt. Dist. v. Koontz*, 77 So. 3d 1220, 1222 (Fla. 2011) (“This Court has previously interpreted the takings clause of the Fifth Amendment and the takings clause of the Florida Constitution coextensively.”), *rev’d on other grounds*, 570 U.S. 595 (2013).

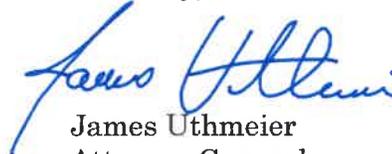
<sup>7</sup> See § 16.01(3), Fla. Stat. (permitting “*any question of law* relating to the official duties of the requesting officer”) (emphasis added).

You then argue that even if the Rural Boundary does exactly what it obviously does, the four-year statute of limitations has expired for all takings claims because the Rural Boundary was established in 1991. But it is well-established that statutes of limitation are personal to each landowner, and for a regulatory as-applied takings claim, the statute of limitations begins to run at the time the County makes a final determination about the allowable use of a specific property—not when the Rural Boundary restriction took effect.<sup>8</sup> In this context, that could happen when a landowner decides to develop his property in a manner that violates the County’s Rural Boundary restrictions. At that time, the property owner would then be on notice that he may have a claim for a taking.<sup>9</sup>

Lastly, your argument that the Rural Boundary is not a taking because no one has challenged it over the last 35 years it has been in place is a non sequitur. The mere absence of a lawsuit obviously does not mean that a claim does not exist or that the actions of the County in establishing the Rural Boundary were proper. A landowner may simply not want to bear the expense of filing a lawsuit against the County or may be unaware that he has a legal claim.

In sum, despite your attacks on my office and the Senator, nothing in your memo causes my office any doubt as to the conclusions in the November 25, 2025, opinion. Accordingly, I reaffirm my opinion—the property restrictions within the Rural Boundaries in Seminole and Orange Counties could very well constitute a regulatory taking under the Federal and Florida Constitutions and also likely violate the BHA.<sup>10</sup>

Sincerely,



James Uthmeier  
Attorney General

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<sup>8</sup> *Hussey v. Collier Cnty.*, 158 So. 3d 661, 666 (Fla. 2d DCA 2014) (“The statute of limitations for [an inverse condemnation claim] begins running when the landowner’s claim is ripe for judicial review, i.e. when the governmental entity has made a final decision about the permissible use of the property.”); *Shands v. City of Marathon*, 999 So. 2d 718, 725 (Fla. 3d DCA 2008) (“An as-applied takings claim challenging the application of a land use ordinance is not ripe until the plaintiff has obtained a final decision regarding the application of the regulations to the plaintiff’s property.”).

<sup>9</sup> Relatedly, because the opinion at issue was conditioned on the facts that are individual to each parcel of land that is subject to the Rural Boundary, or in other words, as applied to the individual properties subject to the Rural Boundary, your comments about the facial constitutionality of the Rural Boundary are irrelevant. See Op. Att’y Gen. Fla. (Nov. 25, 2025) (“The following conclusions depend upon the specific facts regarding the properties subject to the rural land use designations.”).

<sup>10</sup> I will remind you that “[t]he official opinions of the Attorney General, the chief law officer of the state, are guides for state executive and administrative officers in performing their official duties until superseded by judicial decision.” *State v. Fam. Bank of Hallandale*, 623 So. 2d 474, 478 (Fla. 1993) (citing *State ex rel. Atlantic Coast Line R. Co. v. State Bd. of Equalizers*, 94 So. 681 (Fla. 1922)). Whether opinions are signed by the Attorney General or by a member of his staff so delegated, they carry the same effect. And whether an opinion is “formal” (signed by the Attorney General) or “informal” (signed by his delegee) is an internal distinction used by this office to determine future publication of AG Opinions—nothing more.