

Community Redevelopment Agency

Number: INFORMAL

Date: February 12, 2009

Subject:
Community Redevelopment Agency

The Honorable Mary Lancaster
Palmetto City Commissioner
711 13th Street West
Palmetto, Florida 34221

Dear Commissioner Lancaster:

The Office of Attorney General Bill McCollum has received your letter requesting the opinion of this office regarding the community redevelopment agency created by the city pursuant to Part III, Chapter 163, Florida Statutes, the Community Redevelopment Act of 1969. The act provides a means for counties and municipalities to eliminate and prevent the development or spread of slums and urban blight, to encourage needed community rehabilitation, and to provide for redevelopment of these areas.

Initially, I would note that the authority of the Attorney General to issue opinions is prescribed by statute and is limited to public officials on questions relating to their own official duties. As set forth in this office's statement concerning Attorney General Opinions, a copy of which is enclosed, "[q]uestions relating to the powers and duties of a public board or commission (or other collegial public body) should be requested by a majority of the members of that body." In addition, this office requires that requests be accompanied by a memorandum of law prepared by the agency attorney. In the absence of a request from a majority of the members of the city commission, this office must decline to issue a formal opinion on the issues raised in your letter. It should be noted, however, that this office must presume the validity of any duly enacted ordinance or resolution. As discussed in this office's statement, *supra*, "[i]n order not to intrude upon the constitutional prerogative of the judicial branch, opinions generally are not rendered on questions pending before the courts or on questions requiring a determination of the constitutionality of an existing statute or ordinance."

Informally, and in an effort to be of assistance, however, I would note that while section 163.356(2), Florida Statutes, generally provides for the governing body of the municipality or county to appoint a board of commissioners to serve as the governing body of the community redevelopment agency (CRA), section 163.357(1)(a), Florida Statutes, provides:

"As an alternative to the appointment of not fewer than five or more than seven members of the agency, *the governing body may*, at the time of the adoption of a resolution under s. 163.355, or *at any time thereafter by adoption of a resolution, declare itself to be an agency*, in which case all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and

liabilities imposed or incurred." (e.s.)

"Governing body" is defined to mean "the council, commission, or other legislative body charged with governing the county or municipality." [1]

Thus, section 163.357(1)(a), Florida Statutes, recognizes that the governing body of a municipality, by resolution adopted either at the time of the creation of a CRA or any time thereafter, may designate itself to be the CRA. [2] At such time, the statute provides that "all the rights, powers, duties, privileges, and immunities vested by this part in an agency will be vested in the governing body of the county or municipality, subject to all responsibilities and liabilities imposed or incurred."

Clearly, meetings of the board of commissioners of the CRA are subject to the open meetings laws. There would not appear to be a violation of the Government in the Sunshine Law by the city commission serving as the head of the CRA provided that the requirements of the Sunshine Law are met. I am enclosing a copy of a section of the 2008 Government in the Sunshine Law Manual which generally discusses board members attending meetings of another public board. [3]

Questions regarding whether a conflict of interest for an attorney serving as the attorney for the city commission and as the attorney for the CRA when such entities have expressed differing views should be addressed to The Florida Bar. The Florida Constitution provides that the Florida Supreme Court shall have exclusive jurisdiction to regulate the discipline of persons admitted to practice law in this state. [4] The Court has designated The Florida Bar as the agency responsible for reviewing issues. You may contact the Bar by mail at 651 East Jefferson Street, Tallahassee, Florida 32399-2300; telephone (850) 561-5839 or may visit the Bar's website at: <http://www.floridabar.org/>.

You state that you wish this office's Civil Rights Office to also review this matter. I am forwarding a copy of your letter to that office. You may contact Ms. Danille Carroll, who is the Director of the Civil Rights Office, at: Office of Attorney General, State of Florida, The Capitol PL-01, Tallahassee, Florida 32399-1050; telephone: 850-414-3300; email: danille.carroll@myfloridalegal.com.

I hope that the above informal information may be of assistance. Thank you for contacting the Attorney General's Office.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tsh

Enclosures: Statement of Policy Regarding Attorney General Opinions
2008 Government in Sunshine Manual, pp. 37-38

[1] Section 163.340(3), Fla. Stat.

[2] See *generally* section 166.041, Florida Statutes, setting forth procedures for the adoption of ordinances and resolutions. This office has no information regarding any charter provisions the city may have regarding the adoption of resolutions.

[3] An abridged edition of the manual is available online at: <http://myfloridalegal.com/sun.nsf/manual>. The Attorney General Opinions referenced therein may be accessed online at: <http://myfloridalegal.com/opinions>.

[4] See Art. V, s. 15, Fla. Const.