

Property Appraiser, investigating complaint

Number: INFORMAL

Date: April 01, 2003

The Honorable Donald D. Brown
Representative, District 5
Post Office Box 1548
Defuniak Springs, Florida 32435

RE: PROPERTY APPRAISER–TAXATION–ASSESSMENT–HOMESTEAD
EXEMPTION–GOVERNOR–DEPARTMENT OF LAW ENFORCEMENT–complaint about official
actions of property appraiser. s. 943.03, Fla. Stat.; Ch. 193, Fla. Stat.

Dear Representative Brown:

You have asked for my assistance regarding a constituent complaint about a property appraiser in your district. You ask which state office has authority to investigate and discipline a property appraiser and which state agency has enforcement authority over Chapter 193, Florida Statutes. You are unclear of your duty as a member of the Legislature to address these matters.

In Florida, the property appraiser is an independently elected constitutional officer. Article VIII, section 1(d), Florida Constitution, provides:

"There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, *a property appraiser*, a supervisor of elections, and a clerk of the circuit court[.]" (e.s.)

Thus, the property appraiser is elected by and answerable to the voters of the county in which he or she is elected.

County officers who are guilty of malfeasance, misfeasance, or incompetence may be suspended from office by the Governor.[1] Article IV, section 7(a), Florida Constitution, states that the Governor may suspend "any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony, and may fill the office by appointment for the period of suspension."[2] Upon specific direction by the Governor, the Florida Department of Law Enforcement investigates charges of misconduct made against public officials in connection with their official duties.[3]

You also ask about the enforcement of Chapter 193, Florida Statutes. This chapter sets forth the duties and responsibilities of the property appraisers in making assessments of property. Section 193.085, Florida Statutes, requires the Department of Revenue to assist property appraisers in ensuring that all real property is listed and valued on the real property assessment roll. The department is also charged with promulgating administrative rules to facilitate this process.[4] Thus, the department has a limited role in the activities of the property appraiser's office but is not charged with supervision of the property appraisers.

Finally, there are several approaches an individual taxpayer may take to challenge the actions of

the local property appraiser. An aggrieved taxpayer may challenge his or her own property assessment by petitioning the value adjustment board under the provisions of Part I, Chapter 194, Florida Statutes. An affected taxpayer may bring a mandamus action in circuit court requesting that the court direct an officer to perform a particular act specified by the court and involving the officer's public, official, or ministerial duty.[5] A aggrieved taxpayer may wish to consult a private attorney who can advise him or her whether there is a strong basis on which to proceed with either of these actions.

Thank you for sharing your concerns with this office. Please do not hesitate to contact us in the future if we can be of assistance to you. While we cannot generally answer constituent inquiries, we are always available to assist legislators in accomplishing their legislative duties.

Sincerely,

Charlie Crist
Attorney General

CC/tgh

[1] Article IV, s. 7(a), Fla. Const.

[2] Generally, "misfeasance" is defined to be the improper performance of some act which a person may lawfully do (Black's Law Dictionary 1151 (rev. 4th ed. 1968); "malfeasance" is the commission of an act which is positively unlawful (*Id.* at 1109); and "nonfeasance" is the nonperformance of some act which ought to be performed (*Black's* at 1208).

[3] See section 943.03(2), Fla. Stat.

[4] See s. 193.085(2), Fla. Stat. *And see*, Rule 12D-5, F.A.C., relating to the valuation of agricultural and outdoor recreational or park lands; Rule 12D-6, F.A.C., providing for the assessment of mobile homes; and Rule 12D-15, F.A.C., providing guidelines and standard assessment procedures and standard measures of value.

[5] See Article V, section 5(b), Fla. Const.