

Municipal bonds

Number: INFORMAL

Date: June 16, 2000

The Honorable Walter "Skip" Campbell
Senator, District 33
10094 McNab Road
Tamarac, Florida 33321

Dear Senator Campbell:

You ask whether a municipal facility funded by a municipal bond approved by the voters for the construction of a city "senior and community center" must be called the "City of Tamarac Senior and Community Center."

While this office has not been presented with the precise language placed on the ballot for approval of the municipal bond, the following informal advisory comments are offered in an effort to be of assistance.

The courts of this state and this office have recognized the fundamental principle that funds raised by taxation for one purpose cannot be converted to another without legislative authority.[1] For example, in Attorney General Opinion 86-39 this office stated that excess funds from a tax levy to finance the acquisition and construction of a sports complex could not be used for any other project. In Attorney General Opinion 00-06, this office concluded that revenues from the local government infrastructure surtax must be expended on projects falling within the general description on the ballot.

Thus, the municipal bond monies must be used for the construction of a senior and community center.[2] While a name for the facility that includes the word "senior" would more readily reflect the true nature of the facility, I cannot say that the inclusion of that term is required when the municipal bond referendum merely approved the construction of a senior and community center, *provided* that the facility does, in fact, provide senior services. You state that there is no intention to change the intended programming of the facility which will be used for activities that serve or appeal primarily to senior citizens as well as providing programming that appeals to and serves the community at large.

I trust that the above comments may be of assistance.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] See, e.g., *Supreme Forest Woodmen Circle v. Hobe Sound Co.*, 189 So. 249 (Fla. 1939); Op. Att'y Gen. Fla. 77-26 (1977). Cf. *Dickinson v. Stone*, 251 So. 2d 268 (Fla. 1971). And see *Oven v. Ausley*, 143 So. 588, 589-590 (Fla. 1932), stating:

"When an enforced contribution is exacted from the people by the power of taxation, it is for a specific public purpose, and the fund so raised is a trust fund in the hands of the legal custodians of it. There may exist circumstances in which the fund may be diverted to some other lawful purpose than that for which it was raised. Appropriation of public moneys for certain public purposes involves the power of taxation, and when the money is taken from a fund created by the levy of a tax and applied to some other purpose it is equivalent to the levy of a tax for such purpose. The limitation upon the rate of taxation is for the protection of taxpayers and to secure economy in the expenditure of public moneys."

[2] And see Ops. Att'y Gen. Fla. 86-39 (1986) and 82-54 (1982) and 77-26 (1977). See also 85 C.J.S. *Taxation* s. 1057(b), p. 646 (taxes levied and collected for particular purposes, cannot ordinarily be legally utilized for, or diverted to, any other purpose). And see Att'y Gen. Fla. 67-41 (1967) (concluding that funds derived from the issuance of certain school bonds could not be diverted to other purposes, and citing *Miami Bank and Trust Co. v. Board of Public Instruction for Broward County*, 80 So. 307 (Fla. 1918), for the proposition that funds raised for a particular school purpose may not be diverted to any other purpose until the purpose for which such funds were raised has been accomplished), and Op. Att'y Gen. Fla. 49-129, March 24, 1949, Biennial Report of the Attorney General, 1949-1950, p. 292 (concluding that funds derived from the issuance of school bonds could only be used to build the original project for which the bonds were issued, or to redeem the bonds).