

County redevelopment agency's governing body

Number: INFORMAL

Date: March 27, 1996

The Honorable J. Keith Arnold
Representative, District 73
Post Office Box 2860
Fort Myers, Florida 33902-2860

Dear Representative Arnold:

You ask whether a county redevelopment agency which is organized as a department of the county administrative staff and is supervised by the county's administration complies with sections 163.357(1)(b) and 163.367(3), Florida Statutes.

The Community Redevelopment Act of 1969, Part III, Chapter 163, Florida Statutes, was enacted to enable counties and municipalities to eliminate and prevent the development and spread of slums and urban blight and to encourage community redevelopment.[1] A county, upon a finding of necessity as set forth in section 163.355, Florida Statutes, and a further finding that there is a need for a community redevelopment agency to function within the local government, is authorized to create a public body corporate and politic to be known as a "community redevelopment agency." [2]

Section 163.356(2), Florida Statutes, provides that when the governing body of a county has adopted a resolution declaring the need for a community redevelopment agency, it shall, by ordinance, appoint a board of commissioners as the governing body of the community redevelopment agency. The board of commissioners shall consist of not fewer than five or more than seven commissioners.[3]

As an alternative to the appointment of a separate board of commissioners, section 163.357(1)(a), Florida Statutes, authorizes the governing body of the county to serve as the governing body of the community redevelopment district. If the governing body consists of five members, it may appoint two additional persons to serve as members of the community redevelopment agency.[4]

This office has previously stated that a municipality in establishing a community redevelopment agency pursuant to Part III, Chapter 163, Florida Statutes, does not have the authority to alter the composition of the board of commissioners from that prescribed by statute.[5] This office is not aware of any amendments or subsequent decisions which would alter that conclusion. While section 163.357(1)(b), Florida Statutes, authorizes the county's governing body to declare itself to be an agency that already exists, the statute still contemplates that the governing body of the county would be the head of that agency.

Thus, Part III, Chapter 163, Florida Statutes, contemplates that the governing body of a community redevelopment agency established thereunder either be the governing body of the

county or municipality creating the agency or a board of commissioners appointed by the governing body of the county or municipality.

Section 163.367(3), Florida Statutes, provides that no commissioner or other officer of the community redevelopment agency exercising powers under Part III of Chapter 163 "shall hold any other public office under the county or municipality other than his or her commissionership or office with respect to such community redevelopment agency" Section 163.340(20), Florida Statutes, defines "public office" to mean:

"an officer who is in charge of any department or branch of government of the county or municipality relating to health, fire, building regulations, or other activities concerning dwellings in the county or municipality."

This office has stated that section 163.367(3) would not appear to generally prohibit the appointment of county employees to the board of commissioners of the community redevelopment agency.[6] However, in light of the definition of "public office" contained in section 163.340(20), Florida Statutes, quoted above, those officers in charge of county departments relating to health, fire, building regulations, or other activities concerning dwellings in the county would be precluded from serving on the board of commissioners of the community redevelopment agency.

I trust that the above informal comments may be of assistance.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

Enclosures

[1] Section 163.335, Fla. Stat. (1995), setting forth legislative findings and declarations of necessity.

[2] Section 163.356(1), Fla. Stat. (1995).

[3] Section 163.356(2), Fla. Stat. (1995).

[4] See s. 163.357(1)(c), Fla. Stat. (1995).

[5] Attorney General Opinion 84-74, a copy of which is enclosed. *And see First National Bank of Key West v. Filer*, 145 So. 204, 207 (Fla. 1933) (the authority of public officers to proceed in a particular way and only upon specific conditions as to such matters implies a duty not to proceed in any manner than that which is authorized by the law); *Alsop v. Pierce*, 19 So. 2d 799 (Fla.

1944).

[6] See Op. Att'y Gen. Fla. 96-11 (1996), a copy of which is enclosed.