

Oct 26, 1992

Honorable Murray Bronson
Osceola County Tax Collector
Post Office Box 422105
Kissimmee, Florida 34742

RE: Application to Establish Adverse Possession
Sections 95.18, 197.1221, 197.432(10), and 197.443, F.S.

Attention Ms. Karen Deitemeyer

Dear Mr. Bronson:

This is in response to Ms. Deitemeyer's March 2, 1992, letter concerning Mr. XXX's claim of adverse possession on property in Osceola County.

Ms. Deitemeyer's letter states that Mr. XXX filed a claim of adverse possession on property in Osceola County in 1987 and then subsequently withdrew that same claim in 1992. She relates that ad valorem taxes were not paid on the subject property for several of the tax years following the filing of the adverse possession claim, consequently tax sale certificates were issued against the property for those taxes. She expresses concern that the certificate holders may not receive their investment back since the claim for adverse possession has been withdrawn from the tax roll and the property continues to be assessed to an ownership other than Mr. XXX's.

The documentation provided indicates that the subject property may have been double assessed for a period consistent with that of the adverse possession claim. If this is correct, I suggest that you request the property appraiser furnish you with a certificate of correction for the affected tax years and then apply for cancellation of the tax certificates. Section 197.443, Florida Statutes provides that the tax collector shall forward a certificate of error to the Department of Revenue and

enter in the list of certificates sold a memorandum of error where a tax certificate is void because the taxes on a parcel have been paid. In my opinion this would be the situation where a parcel has had taxes paid on it and the same parcel has a claim of adverse possession on it which forms the basis of a tax bill which has not been paid and for which a tax certificate has been sold. This appears to be the situation you describe.

Upon cancellation of the tax certificates the certificate holders must be reimbursed for the face amount of the certificates plus the 8 percent simple interest as provided in section 197.432(10), Florida Statutes.

If you have any questions concerning this matter, please do not hesitate to call me at (904) 488-0712.

Sincerely,

Stephen J. Keller
Deputy General Counsel

SJK/sk