

Feb 25, 1993

Richard Ward, Chief Deputy
Office of Palm Beach County Tax Collector
Post Office Box L
West Palm Beach, Florida 33402

Re: Governmental Exemption; Florida Housing Finance Agency,
Foreclosed Property
Florida Statutes 196.199, 196.011, Chapter 420

Dear Mr. Ward:

Your letter of December 9, 1992, addressed to Mr. Grissett, concerning the memorandum from Edna Imbler, Financial Administrator of the Florida Housing Finance Agency, regarding the exemption of agency property foreclosed upon by a financial institution as trustee for the agency, has been forwarded to this office for response.

The issues presented appear to be: whether various properties acquired by financial institutions as Trustee of the Florida Housing Finance Agency upon foreclosures arising from borrower default are exempt from ad valorem taxation; and, if such properties are exempt, the necessity for the agency to make an annual application for such exemptions.

Section 196.199(1)(b), Florida Statutes, provides that "all property of this state which is used for governmental purposes shall be exempt from ad valorem taxation except as otherwise provided by law". Section 420.504(1), F.S., provides that "there is created within the Department of Community Affairs a state agency and instrumentality... to be known as the Florida Housing Finance Agency". Section 420.513(1), Florida Statutes, provides that "the property of the agency, the transactions and operations thereof, and the income therefrom shall be exempt from taxation by the state and its political subdivisions". It is expressly provided that the exemption does not apply to any

tax imposed by chapter 220 of the Florida Statutes.

The Florida Housing Finance Agency Act in section 420.503(14) of the Florida Statutes defines "Real Property" to mean all lands and every estate, interest, and right, legal or equitable therein, including terms of years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens. Accordingly, it appears that property held by a trustee and properly identified as Florida Housing Finance Agency property should be treated as property "owned" by a governmental agency, with the beneficial interest of the agency being sufficient to support any exemption granted to property to which the agency holds legal title.

There is, in my opinion, an express legislative intent to exempt all property of the Florida Housing Finance Agency from ad valorem taxation and a legislative declaration that the beneficial interest of the agency in property held by a trustee constitutes "real property" of the agency which is sufficient to enable the property appraiser to exempt properly identified property.

In AGO 71-15, the Attorney General concluded that section 196.011, Florida Statutes, does not require the filing of an annual application for a tax exemption on behalf of a housing authority otherwise entitled to the exemption.

This response constitutes technical advice which may be determinative with respect to the Department only under the facts and circumstances described in the request for advice. The response is predicated upon those facts and the specific situation summarized herein. Subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which this advice is based may subject similar future transactions to different treatment than expressed in this response.

I hope the information will be helpful to you in dealing with housing agency property. If I may be of further service, please contact me at (904) 488-9483.

Sincerely,

Barney Finberg
Technical Assistant

BF/hc