Public Records - Home Address Exemption

Number: AGO 2014-07

Date: August 20, 2014

Subject:
Public Records - Home Address Exemption

The Honorable Pam Dubov
Pinellas County Property Appraiser
Post Office Box 1957
Clearwater, Florida 33757

RE: PUBLIC RECORDS – PROPERTY APPRAISER – EXEMPTIONS – HOME ADDRESSES – whether property appraiser must honor exemption for home address of qualifying individual who is not owner of property; whether property appraiser must redact site address if other personal identifying information is redacted. s. 119.071(4), Fla. Stat.

Dear Ms. Dubov:

As Pinellas County Property Appraiser, you have asked for my opinion on the following questions:

Pursuant to section 119.071(4)(d), Florida Statutes:

1. Must the Property Appraiser protect the "home address" of a qualifying individual that does not own the property and is not referenced on the tax roll in connection with the property?

2. Must the Property Appraiser redact a property's site address if the name of the qualifying individual and anything that could identify that person, is redacted from the records of the Property Appraiser?

In sum:

1. Section 119.071(4)(d), Florida Statutes, makes the home addresses, telephone numbers, and other personal information relating to specified officers and employees exempt from inspection and copying without regard to whether or not they own the particular real property. If the property appraiser receives a request for application of the exemption from one of the designated officers or employees, the property appraiser is required to comply with that request as it applies to all public records maintained by that office.

2. The statute states that the "home address" is exempt and must be maintained by the custodian of the information as exempt if the officer or employee makes a written request for such treatment. In light of the intent of the Legislature for adopting these provisions, that is, the privacy and safety of specified individuals, the "site address," which is the street or mailing address of the particular property, should be maintained as exempt if the property appraiser has

received a written request for such treatment from that officer.

Your letter suggests that the exemptions in section 119.071(4), Florida Statutes, are written to apply to agencies that maintain personnel or other person-based records, where addresses are maintained only in association with individual employees. Property Appraiser records, according to the information you have submitted, are structured around the location of each parcel in the County, which is maintained on the tax roll as required by sections 192.011 and 193.085, Florida Statutes. Based on the unique nature of property appraiser records, you have requested assistance in determining the applicability of the exemption from public inspection and copying set forth in section 119.071(4)(d), Florida Statutes.

Question One

Section 119.071(4)(d)3., Florida Statutes, provides that

"An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. shall maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency."

Subparagraph 2. sets forth the personnel whose home addresses, telephone numbers, and various other personal information is made exempt from inspection and copying under the statute. Included among these personnel are law enforcement personnel, firefighters, correctional officers, prosecutors, judges, code enforcement officers, human resource managers as well as certain employees of the Department of Health, Revenue, and Children and Families. The exemption protects not only these officials, but information about their spouses and children. Thus, the statute requires that an agency which has custody of this information, but is not the employer of the officer specified must maintain the exempt status of this personal information if the agency is presented with a written request for such treatment by either the person specified in subparagraph 2. or his or her employer.

It is a general rule of statutory construction that when a statute is "clear, certain, and unambiguous, the courts have only the simple and obvious duty to enforce the law according to its terms."[1] However, if a statute is susceptible of more than one meaning, legislative history may assist in determining legislative intent.[2] The courts will not ascribe to the Legislature an intent to create an absurd or harsh consequence.[3] No literal interpretation of a statute should be used that leads to an unreasonable conclusion or a purpose clearly at variance with the legislative intent.[4] In construing a statute, the act as a whole should be considered, along with the problem to be corrected, the language of the act and the state of the law already existing, and a construction should be given that comports with legislative intent.[5]

Legislative history relating to the adoption of the original exemption for law enforcement personnel suggests that the purpose of the amendment was to exempt from disclosure "certain personal information relating to law enforcement personnel and their families."[6] Comments from committee members at the meeting in which the amendment was adopted indicate that it was the product of a consensus that the personal privacy of law enforcement officers and their

families should be protected.[7]

The statute does not restrict or limit its application based on ownership of the real property which may be the "home address" of a specified individual; rather, the protection is extended based on the official title and duties assigned to that officer or employee. The statute identifies the "home address" of various officials as exempt from inspection and copying. As this office has noted previously, the legislative history for this provision clearly evinces an intent that information that would reveal the location of a specified individual's home should be treated as exempt from the Public Records Law.[8]

In sum, section 119.071(4)(d), Florida Statutes, makes the home addresses, telephone numbers, and other personal information relating to specified individuals exempt from inspection and copying without regard to whether or not they own the real property at which they reside. If the property appraiser receives a request for application of the exemption from one of the specified individuals, the property appraiser is obliged to honor that request as it applies to all records containing exempt information maintained by that office.

Question Two

You have also asked whether the property appraiser must apply the exemption to a property's "site address" if the name of the qualifying individual and anything that could identify that person is redacted from the record. Discussions with your office indicate that the "site address" is usually the mailing or street address of the particular property. You suggest that the appropriate method for protecting the "home addresses" of officers is to remove any data that would identify the property owner's name *in connection with* the address – such as owner names and mailing addresses, grantor/grantee information, OR Book/Page numbers, and permit numbers. You argue that although the "site address," may be the "home address" of the qualifying individual, it is the property's association with the person that appears to be protected under the law.

As discussed above, this office has noted previously that the legislative history for this provision clearly evinces an intent that information that would reveal the location of a specified individual's home should be treated as exempt from the Public Records Law. This office concluded in Attorney General Opinion 2004-20, that the property appraiser is precluded by section 119.07(3)(i)1. - 3., Florida Statutes (now section 119.071[4][d]2.a.[l], Florida Statutes), from making the technology available to the public that would enable a user to view a map on the Internet showing the physical location of a law enforcement officer's home, even thought the map did not contain the actual home address of the law enforcement officer's property, if the property appraiser has received a written request for application of the exemption from that officer.

Thus, a custodian who is not the employer of an individual whose personal information may be exempted from public disclosure pursuant to section 119.071(4), Florida Statutes, must maintain the exempt status of such information when requested to do so in writing by the protected person or his or her employing agency. The statute governs the protection of identifying information and does not differentiate among the documents or records in which the information may be found. The statute itself limits the exemption to "home addresses" and would appear to apply to any real property which the qualifying individual may currently utilize as a home or

residence.[9] A common definition of the word "home" includes "a house, apartment, or other shelter that is the usual residence of a person, family, or household[;][10] and "[a] place where one lives; residence."[11]

Accordingly, should the property appraiser receive a request pursuant to section 119.0701(4)(d)3., Florida Statutes, it is my opinion that the property appraiser is required to apply the exemption to all such identifying information in public records that is in or may come into his or her custody.[12] While this office recognizes the unique nature of records maintained by the Property Appraiser, the Attorney General is without authority to qualify or read into this statute an interpretation or define words in the statute in such a manner which would result in a construction that seems more equitable under circumstances presented by a particular factual situation; such construction when the language of a statute is clear would, in effect, be an act of legislation which is exclusively the prerogative of the Legislature.[13]

In sum, section 119.071(4)(d), Florida Statutes, states that the "home address" of a specified individual is exempt and must be maintained by the custodian of the information as exempt if the officer or employee makes a written request for application of the exemption. In light of the intent of the Legislature for adopting these provisions, that is, the privacy and safety of specified individuals, the "site address" for a specified individual's home, *i.e.,* the actual street or mailing address of the property of an officer or employee, should be maintained as exempt from public inspection and copying if the property appraiser has received a written request for application of the exemption from that officer.

Sincerely,

Pam Bondi
Attorney General

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[1] *Van Pelt v. Hilliard*, 78 So. 693, 694 (Fla. 1918).

[2] *Rollins v. Pizzarelli*, 761 So. 2d 294, 295 (Fla. 2000); *State v. Jefferson*, 758 So. 2d 661 (Fla. 2000).

[3] *City of St. Petersburg v. Siebold*, 48 So. 2d 291 (Fla. 1950); *Winter v. Playa del Sol, Inc.*, 353 So. 2d 598 (Fla. 4th DCA 1977).

[4] *See, e.g.,* Ops. Att'y Gen. Fla. 99-71 (1999) and 86-24 (1986).

[5] *Foley v. State ex rel. Gordon*, 50 So. 2d 179, 180 (Fla. 1951); *Dade Federal Savings and Loan Association v. Miami Title & Abstract Division of American Title Insurance Company*, 217 So. 2d 873 (Fla. 3d DCA 1969). *And see State v. Rodriquez*, 365 So. 2d 157 (Fla. 1978); *Forsythe v. Longboat Key Beach Erosion Control District*, 604 So. 2d 452 (Fla. 1992)

[6] Senate Staff Analysis of HB 1531, dated May 16, 1979.

[7] Audiotape of meeting of the Senate Governmental Operations Committee, May 15, 1979. *And see* Inf. Op. to Cindy A. Laquidara, dated July 17, 2003, which discusses the legislative history of this amendment at length.

[8] *See* Op. Att'y Gen. Fla. 04-20 (2004), which concluded that the Property Appraiser is precluded by s. 119.07(3)(i), Fla. Stat., from making the technology available to the public that would enable a user to view a map on the Internet showing the physical location of a law enforcement officer's home, even though this map does not contain the actual home address of the law enforcement officer's property, if the property appraiser has received a written request for confidentiality from that officer.

[9] *See, e.g.,* Op. Att'y Gen. Fla. 10-37 (2010).

[10] Webster's New Universal Unabridged Dictionary 2003, p. 913.

[11] The American Heritage Dictionary, office edition 1987, p. 332.

[12] *See* Op. Att'y Gen. Fla. 05-38 (2005).

[13] *Cf. Chaffee v. Miami Transfer Company, Inc.*, 288 So. 2d 209 (Fla. 1974); *and see* Ops. Att'y Gen. Fla. 06-26 (2006) and 81-10 (1981).