Economic Development Agency, airport authority

Number: AGO 2012-36

Date: November 16, 2012

Subject:
Economic Development Agency, airport authority

Mr. Douglas N. Burnett
General Counsel
St. Augustine - St. Johns County
Airport Authority
509 Anastasia Boulevard
St. Augustine, Florida 32080

RE: ECONOMIC DEVELOPMENT AGENCIES – AIRPORT AUTHORITIES – COUNTIES – MUNICIPALITIES – PUBLIC RECORDS – whether aviation authority is an economic development agency. s. 288.075, Fla. Stat.

Dear Mr. Burnett:

On behalf of the St. Augustine - St. Johns County Airport Authority, you ask the following questions:

1. Is the St. Augustine – St. Johns County Airport Authority an "economic development agency" as defined in section 288.075, Florida Statutes?

2. If not, is the airport authority's development activity protected from public disclosure?

In sum:

The St. Augustine – St. Johns County Airport Authority is not an "economic development agency" as defined in section 288.075, Florida Statutes, and, therefore, may not avail itself of the confidentiality provisions provided within the statute.

You indicate that the St. Augustine – St. Johns County Airport Authority (authority) is an independent special taxing district. The authority's charter is codified in Chapter 2002-347, Laws of Florida. Pursuant to section 3(5) of the act, the authority is, among other things, empowered to engage in the "promotion of aeronautical development." You question, therefore, whether the authority is an economic development agency (EDA) which may avail itself of the confidentiality provisions in section 288.075, Florida Statutes.

Section 288.075(1)(a), Florida Statutes, defines "[e]conomic development agency" to mean:

"1. The Department of Economic Opportunity;
2. Any industrial development authority created in accordance with part III of chapter 159 or by

special law;
3. Space Florida created in part II of chapter 331;
4. The public economic development agency of a county or municipality or, if the county or municipality does not have a public economic development agency, the county or municipal officers or employees assigned the duty to promote the general business interests or industrial interests of that county or municipality or the responsibilities related thereto;
5. Any research and development authority created in accordance with part V of chapter 159; or
6. Any private agency, person, partnership, corporation, or business entity when authorized by the state, a municipality, or a county to promote the general business interests or industrial interests of the state or that municipality or county."

This office has been advised that St. Johns County has established an economic development agency.[1] By the terms of paragraph 4 in subsection (1)(a) of the statute, the authority would not be in a position to be designated as the county's economic development agency.

Section 288.075, Florida Statutes, makes certain records of a private corporation, partnership, or person held by an EDA confidential and exempt from section 119.07(1), Florida Statutes, and Article I, section 24(a), Florida Constitution.[2] Pursuant to section 288.075(2)(a), Florida Statutes,

"If a private corporation, partnership, or person requests in writing before an economic incentive agreement is signed that an economic development agency maintain the confidentiality of information concerning plans, intentions, or interests of such private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state, the information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed, whichever occurs first."[3]

The Legislature's designation of those entities which are considered economic development agencies for purposes of section 288.075, Florida Statutes, precludes any other entities from falling under the definition.[4] Where a statute enumerates the things on which it is to operate, it is ordinarily to be construed as excluding from its operation all things not expressly mentioned therein.[5] Moreover, exemptions from the public records requirements of Chapter 119, Florida Statutes, are to be strictly construed in light of the public purpose for adoption of the statute, *i.e.,* to open public records to the state's citizens to discover the actions of their government.[6]

While you posit that the governing authorities of St. Johns County or the City of St. Augustine would be authorized to designate the authority as an economic development authority, section 288.075(1)(a)6., Florida Statutes, the provision upon which you base your position, relates to "private" agencies which may be authorized by the state, county, or municipality to carry out economic development activities. It does not appear, nor have you asserted, that the authority is a private agency. Moreover, there is no indication in the authority's enabling legislation that the authority has been given the power to promote the general business interests or industrial interests of the county or the municipality.

Accordingly, it is my opinion that the St. Augustine – St. Johns County Airport Authority does not fall within the definition of an "economic development agency" as defined in section 288.075,

Florida Statutes, and, therefore, may not utilize the confidentiality provisions set forth therein.

Sincerely,

Pam Bondi
Attorney General

PB/tals

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[1] Ordinance No. 2011-39, St. Johns County Code of Ordinances, amending Ordinance No. 2006-99, St. Johns County Code of Ordinances, recognizing the establishment of the St. John County Economic Development Agency, as defined in s. 288.075, Fla. Stat.

[2] *See* s. 288.075(2), (3), (4), (5), and (6), Fla. Stat., making confidential and exempt the following: plans, intentions, and interests; trade secrets; proprietary confidential business information; identification, account, and registration numbers; and information regarding the administration of an economic incentive program.

[3] *And see* s. 288.075(2)(a)2., Fla. Stat., providing that an economic development agency may extend the period of confidentiality for up to an additional 12 months upon written request and upon a finding by the economic development agency that the private corporation, partnership, or person is still actively considering locating, relocating, or expanding its business activities in this state. The request for an extension, however, must be received prior to the expiration of any confidentiality originally provided under this section.

[4] *See* Op. Att'y Gen. Fla. 95-52 (1995) (community redevelopment district not within the entities enumerated in s. 288.075, Fla. Stat., as an economic development agency).

[5] *Ideal Farms Drainage District v. Certain Lands*, 19 So. 2d 234 (Fla. 1944); *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341 (Fla. 1952); *Thayer v. State, 335 So. 2d 815* (Fla. 1976).

[6] *See Henderson v. State*, 745 So. 2d 319, 324 (Fla. 1999); *Christy v. Palm Beach County Sheriff's Office*, 698 So. 2d 1365, 1366 (Fla. 4th DCA 1997); citing *City of Riviera Beach v. Barfield*, 642 So. 2d 1135, 1136, (Fla. 4th DCA 1994), *review denied*, 651 So. 2d 1192 (Fla. 1995).