Zoning -- Comprehensive Plan

Number: INFORMAL

Date: January 25, 2016

Mr. Frank Biden
School Property Development, LLC
4500 PGA Boulevard, Suite 303A
Palm Beach Gardens, Florida 33418

Dear Mr. Biden:

Thank you for considering the Florida Attorney General's Office as a source for assistance regarding recent actions by the City of Sunrise. According to information you have forwarded to this office, the city recently passed an ordinance "that would prohibit public K through 12th grade schools from being located in residential, commercial and industrial areas where the City's Comprehensive Plan and Future Land Use Map currently permit public schools to be sited." You have asked this office to comment on the validity of such an ordinance and whether the Sunrise Comprehensive Plan can be changed by ordinance without review by state agencies. You also assert that these actions constitute amendments to the City's Comprehensive Plan. Attorney General Bondi has asked me to respond to your letter.

After reviewing the information you have provided, it does not appear that this is a matter upon which this office may comment. The Florida Attorney General is statutorily limited to providing legal opinions to governmental agencies and officers on questions relating to their official duties. See section 16.01(3), Florida Statutes. Thus, this office is not authorized to provide legal advice or opinions to private individuals or entitles.

In addition, I must advise you that this office will not comment on the actions of a local governmental agency such as the City of Sunrise in the absence of a request from that agency. I am enclosing a copy of the Statement of Policy Concerning Attorney General Opinions for your consideration. Duly enacted local legislation must be presumed, by the courts and this office, to be valid in the absence of a judicial determination otherwise.

In an effort to be of some assistance to you, I am enclosing several previously issued Florida Attorney General Opinions which discuss amendments to comprehensive plans and the process for amendment by local governments. I note that section 163.3184, Florida Statutes, prescribes the exclusive method for amending comprehensive plans that have been found to be in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act, Part II, Chapter163, Florida Statutes.[1] That statute contains a mediation and expeditious resolution provision for addressing the provisions of such an amendment. I am also including a copy of Attorney General Opinion 89-51 which discusses the relationship between zoning ordinances and land development regulations.

I trust that the material I am enclosing will be helpful to you.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

GH/tsh

Enclosures: AGOs 89-51, 95-32
Inf. Op. to Smith dated Oct. 17, 2007

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[1] *See* s. 163.3184(3)(a), Fla. Stat., providing that "[t]he process for amending a comprehensive plan described in this subsection shall apply to all amendments except as provided in paragraphs (2)(b) [small scale development amendments] and (c) [plan amendments in areas of critical state concern] and shall be applicable statewide."