Property Taxes

Number: INFORMAL

Date: November 26, 2014

Ms. Monica M. Freeland
Attorney for The Honorable Angela Gray
Jefferson County Property Appraiser
Post Office Box 15579
Tallahassee, Florida 32317

Dear Ms. Freeland:

On behalf of Jefferson County Property Appraiser, you have asked two questions.

The first involves an interpretation of Chapter 95, Florida Statutes, relating to the ability of the tax collector to collect property taxes after five years when no warrant has been obtained. Regrettably, this is a question which may not be addressed by this office in a formal opinion absent a request from the tax collector. This office may comment on the actions or authority only at the request of the official or entity whose activities or powers are in question. Should the tax collector wish to have this office address the issue you have raised, we would require a written request on official letterhead.

Your second question involves the property appraiser's discretion to make alterations to amounts when there has been no error of commission or omission pursuant to section 197.122, Florida Statutes. Section 197.122(1), Florida Statutes, makes all taxes imposed pursuant to the Florida Constitution and state laws "a first lien, superior to all other liens, on any property against which the taxes have been assessed and shall continue in full force from January 1 of the year the taxes were levied until discharged by payment or until barred under chapter 95." (e.s.) In pertinent part, the subsection provides that "[a]n act of omission or commission on the part of a property appraiser . . . does not defeat the payment of taxes, interest, fees, and costs due and may be corrected at any time . . . in the same manner as provided by law for performing acts in the first place. Amounts so corrected shall be deemed to be valid ab initio and do not affect the collection of the tax." (e.s.)

Thus, the plain language of the statute recognizes that the collection of taxes may be barred under Chapter 95, Florida Statutes, and that an act of omission or commission may be corrected at any time, but that such correction does not affect the collection of the tax. As noted in your memorandum, statutes should be read in harmony where possible[1] and here such is possible in that the correction of an amount which has been determined by the property appraiser, i.e., just valuation of property as required by section 4, Article VII, Florida Constitution,[2] would not affect the ability of the tax collector to collect the tax. Moreover, the correction of a material mistake of fact by the property appraiser pursuant to section 197.122(3), Florida Statutes, would not appear to compromise or alter the ability to collect the tax by the tax collector.

I trust that these informal comments will be helpful in addressing the issues you have raised.

Sincerely,

Lagran Saunders
Assistant Attorney General

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[1] *See generally T.R. v. State*, 677 So. 2d 270 (Fla. 1996) (whenever possible courts must give effect to all statutory provisions and construe related statutory provisions in harmony with one another); *R.F.R. v. State*, 558 So. 2d 1084 (Fla. 1st DCA 1990) (laws applying to same general field are presumed to be harmonious).

[2] *See* s. 193.011, Fla. Stat., prescribing factors to be considered by the Property Appraiser in deriving just valuation.