Aliens, acquiring property in Florida

Number: INFORMAL

Date: May 11, 2011

The Honorable Yasushi Sato
Deputy Consul-General
Consulate General of Japan
80 Southwest 8th Street, Suite 3200
Miami, Florida 33130

Dear Deputy Consul-General Sato:

Thank you for considering the Attorney General's Office as a source for assistance in determining whether there are legal restrictions upon alien persons or corporations acquiring and using real and personal property in Florida. Regrettably, this office is unable to prepare a detailed response to each of your questions. In order to be of assistance, however, the following general observations are made.

Article I, section 2 of the Florida Constitution provides that "the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law." Florida statutory law, which makes no distinction between real and personal property, provides that "[a]liens shall have the same rights of inheritance as citizens."[1] If a foreign corporation owns real property in this state, it "shall have and continuously maintain in this state a registered office and a registered agent and shall file with the Department of State notice of the registered office and registered agent as provided in ss. 607.0501 and 607.0502."[2]

I would also note that Florida Law imposes an estate tax upon the transfer of real property situated in this state and tangible personal property having an actual situs in this state and upon intangible personal property physically present within this state of every person who at the time of death was not a resident of the United States.[3]

The remainder of your questions involve a vast array of land use restrictions that may apply, regardless of the ownership of real property by a citizen or alien. It is beyond the statutory authority of this office to render legal opinions on such matters in this instance.[4] You may access a searchable database for the Florida Statutes on the Internet at the Florida Legislature's website: www.leg.state.fl.us.

I trust that these informal comments and referral will be helpful to you. Please feel free to contact this office should you have further questions.

Sincerely,

Lagran Saunders
Assistant Attorney General

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[1] Section 732.1101, Fla. Stat.

[2] Section 607.0505(1)(a), Fla. Stat.

[3] Section 198.04, Fla. Stat.

[4] Section 16.01, Fla. Stat., limits the authority of this office to render legal opinions to public officials on questions of law relating to their own official duties and powers under state law.