CITY OF MIAMI
CITY ATTORNEY'S OFFICE
MEMORANDUM

TO:	Commissioner Arthur E. Teele, Jr.
FROM:	Alejandro Vilarello, City Attorney
DATE:	March 26, 2003
RE:	**Request for Legal Opinion: (MIA-03-004)** **City of Miami Acquisition of Property: Little Haiti Park**

You have requested a legal opinion on substantially the following questions:

> **I.** WHAT ARE THE LEGAL REQUIREMENTS/STANDARDS THAT THE CITY OF MIAMI MUST FOLLOW IN ORDER TO ACQUIRE REAL PROPERTY SPECIFICALLY WITH REGARD TO THE ACQUISITION OF PROPERTY, VIA VOLUNTARY SALE BY THE PROPERTY OWNERS, FOR THE PROPOSED LITTLE HAITI PARK AND GENERALLY WITH REGARD TO LAND ACQUISITION FOR OTHER CITY PROJECTS?
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> **II.** WHAT IS THE CITY'S OBLIGATION TO PAY RELOCATION EXPENSES IN THE EVENT THAT THE CITY ACQUIRES PROPERTY, VIA VOLUNTARY SALE BY THE PROPERTY OWNERS, FOR THE PROPOSED LITTLE HAITI PARK AND GENERALLY WITH REGARD TO LAND ACQUISITION USING PROCEEDS FROM THE CITY OF MIAMI LIMITED AD VALOREM TAX BONDS, SERIES 2002?
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> **III.** ARE THERE SPECIAL REQUIREMENTS/LAWS REGARDING THE ACQUISITION OR SALE OF "TRAILER PARKS"? AND IF SO, WHAT ARE THE RULES ASSOCIATED WITH THE ACQUISITION OR SALE OF TRAILER PARKS?

The answers to your questions are provided below:

I. Articles VII and VIII of the Florida Constitution impose the following requirements: (a) the acquisition must constitute a valid municipal purpose; (b) the City may not expend public funds for or participate in a project that is not of some substantial benefit to the public, and (c) the City may not grant a mortgage in connection with the acquisition.

The City is required to comply with the provisions of Section 166.045 of the Florida Statutes that establish a procedure relating to a municipality's acquisition of real property, appraisal requirements in connection therewith and certain exemptions from the Florida Public Records Law.[1]

In the acquisition of real estate for the proposed Little Haiti Park or otherwise, the City is also required to comply with all applicable provisions of the City Code and other legislation.

When an acquisition of real property is financed by Federal, State or local funds that contain conditions and/or restrictions related to the use of the funds, the acquisition of the property is subject to compliance with those conditions/restrictions.

II. *There is no general obligation to pay relocation expenses or provide other* relocation assistance in the event that the City acquires property via voluntary sale by the property owners using proceeds from the City of Miami Limited Ad Valorem Tax Bonds, Series 2002 (the "Series 2002 Bonds"). No such obligation has been imposed by Florida law nor by the City of Miami Charter, Code or legislation. Nor is a requirement to pay relocation expenses or to provide other relocation assistance imposed by the Series 2002 Bonds. (The relocation requirements imposed by the Florida Statutes in connection with the acquisition or sale of mobile home parks are discussed in section III below.)

When an acquisition of real property is financed by Federal, State or local funds that contain conditions and/or restrictions related to the use of the funds, the acquisition of the property is subject to compliance with those conditions/restrictions.

III. Florida law contains special requirements regarding the acquisition or sale of "trailer parks". Referred to as "mobile home parks", the Florida Statutes establish a procedure requiring notice and, in certain circumstances, the granting of a first right of refusal, to the mobile home park homeowners' association. It also provides for relocation payments to mobile home owners required to move due to a change in the use of the land comprising a mobile home park.

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[1] The provisions of Section 421.55 of the Florida Statutes, requiring relocation assistance to persons displaced as a result of the acquisition of real property for use in a public project or program in which Federal aid funds are used, are of questionable applicability to acquisitions by the City. In any event, they are limited to displaced individuals, partnerships, corporations or associations that are conducting a business or farm operation that is required to move as a result *of the acquisition of the real property for public purposes. The provisions of Section 332.02 of* the Florida Statutes, relating to a municipality's acquisition of real property for airport purposes, are not relevant to this inquiry.

DISCUSSION

I. Acquisition of Real Property Via Voluntary Sale by the Property Owners.

The City's acquisition of real property via voluntary sale by the property owners is subject to requirements imposed by Florida law, the City Charter, Code and other legislation and any applicable conditions and restrictions imposed by the funding source financing the acquisition.

A. Florida Law.

The Florida Constitution imposes the following three requirements:

First, projects to be financed by municipalities, including the acquisition of real property, must constitute a valid municipal purpose. This requirement stems from the grant of authority provided in Article VIII, Section 2(b) of the Florida Constitution, which provides that municipalities have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

Second, Article VII, Section 10 of the Florida Constitution prohibits municipal corporations from giving, lending or using their taxing power or credit to aid any corporation, association, partnership or person. This section of the Florida Constitution has been deemed to protect public funds and resources from being exploited in assisting or promoting private ventures when the public would be only incidentally benefited. *Bannon v. Port of Palm Beach District,* 246 So.2d 737 (Fla. 1971). Thus a municipality may not expend public funds for or participate in a project that is not of some substantial benefit to the public, even where there is no proposed exercise of eminent domain power and no public indebtedness. *State v. Miami Beach Redevelopment Agency,* 392 So.2d 875 (Fla. 1980).

Third, local governments with ad valorem taxing powers may not secure debt obligations with a mortgage on public property. *See, Nohrr v. Brevard County Educational Facilities Authority*, 247 So.2d 304 (Fla. 1971); *Wilson v. Palm Beach County Housing Authority*, 503 So.2d 893 (Fla. 1982). Op. Atty. Gen. 98-71, November 20, 1998.

The Florida Statutes also contain several provisions applicable to this inquiry, as follows:

First, a municipality's acquisition of real property is authorized by the Florida Municipal Home Rule Powers Act (Fla. Stat. §166.011 *et seq.* (2002)). In recognition and implementation of Article VIII, Section 2(b) of the Florida Constitution, the Municipal Home Rule Powers Act provides that municipalities have the governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal

services and that municipalities may exercise any power for municipal purpose except when expressly prohibited by law. Fla. Stat. §166.021 (2002).

Section 166.045 establishes a procedure by which written documents relating to the purchase of real property by a municipality may be exempted from public disclosure under the Florida Public Records Law. That procedure contains specific requirements relating to the acquisition process. For municipalities having a charter provision or ordinance establishing procedures for the acquisition of real property, compliance with the provisions of Section 166.045 is optional. For municipalities not having a charter provision or ordinance establishing procedures for the acquisition of real property, compliance with the provisions of Section 166.045 is required. Op. Atty. Gen. 90-53, July 13, 1990.

Section 166.045 of the Florida Statutes provides that in any case in which a municipality seeks to purchase any real property for a municipal purpose, every appraisal, offer or counter-offer must be in writing. Such documents are not available for public disclosure or inspection and are exempt from the Florida Public Records Law until an option contract is executed or, if no option contract is executed, until 30 days before a purchase contract is considered for approval by the governing body of the municipality. (If the purchase contract is not submitted to the governing body for approval, the exemption from the Florida Public Records Law expires 30 days after the termination of negotiations). The municipality is required to maintain complete and accurate records of every appraisal, offer and counter-offer.

A municipality is required to obtain at least one appraisal by an approved appraiser for each purchase in the amount of $500,000.00 or less. For purchases in excess of $500,000.00, the municipality is required to obtain at least two appraisals by approved appraisers. If the agreed purchase price exceeds the average appraised price of the two appraisals, the municipality is required to approve the purchase by an extraordinary vote of its governing body. The governing body may, by ordinary vote, exempt a purchase in an amount of $100,000.00 or less from the requirement for an appraisal.

City Commission legislation relating to the acquisition of real property is discussed below in section I. B. of this memorandum.

Second, the Florida Statutes provides for relocation assistance to persons displaced as a result of the acquisition of real property for use in a public project or program in which Federal aid funds are used. Fla. Stat. §421.55 (2002). That provision of the Florida Statues is of limited applicability, and is discussed more fully below in section II of this memorandum relating to the City's obligation to pay relocation expenses in connection with the acquisition of real property.

Third, Florida law contains an explicit statutory provision relating to a municipality's acquisition of real property for airport purposes. Fla. Stat. §332.02 (2002). Those statutory provisions are not relevant to this inquiry.

B. City of Miami Requirements.

The acquisition of real property for the proposed Little Haiti Park and for other municipal purposes is authorized by the City Charter and City legislation. The Charter authorizes the City to acquire real property by purchase, gift, devise, condemnation or otherwise for any City purpose. Charter of the City of Miami, Section 3(f). The development of the Little Haiti Park was identified as a priority by the City of Miami City Commission in Ordinance No. 12177, adopted January 10, 2002.

In the acquisition of real estate for the proposed Little Haiti Park or otherwise, the City is required to comply with all applicable provisions of the City Code and other legislation. Of specific import to the acquisition of real property are the following:

First, the City Code requirements relative to historic preservation (Chapter 23 of the City Code) impact acquisitions of real property in those instances in which the City's acquisition contemplates new construction, alteration, relocation or demolition within a designated historic site or historic district, or any ground disturbing activity within a designated archeological site or archeological zone or within an archeological conservation area. Chapter 23 of the City Code is clear in providing that the provisions of that chapter apply equally to plans, projects or work executed or assisted by or on behalf of the City.

Second, the City Commission has imposed requirements relating to land acquisition in Resolution Nos. 01-1044, enacted September 25, 2001 by extraordinary vote of the Commission, and 02-678, enacted June 13, 2002. By these enactments, the City Commission approved and confirmed the City Manager's land acquisition policy for homeownership and comprehensive revitalization projects in the community revitalization districts. That policy, as amended, authorizes the City Manager to offer a purchase price not to exceed 15% above the average of two appraisals of real properties to be acquired. It is my recommendation that these enactments of the City Commission be revisited in conjunction with this review of the City's land acquisition requirements.

I have recently been informed that the United States Department of Housing and Urban Development ("HUD") has advised the Department of Community Development that it is of the view that HUD regulations and policies relating to tenant relocation assistance and real property acquisition cap the purchase price for real property acquired in a voluntary sale with HUD funding at the average of two appraisals obtained for the property.

That requirement is not explicitly stated in the applicable written HUD regulations, policies or procedures. 49 C.F.R. 24.101; HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition § 5-1a(1) (April, 1997). My office is in the process of confirming HUD's interpretation in this regard; I will update you on this issue once we have a definitive response from HUD.

C. Conditions/Restrictions Imposed by the Funding Source.

When an acquisition of real property is financed by Federal, State or local funds that contain conditions and/or restrictions related to the use of those funds, the acquisition of the property is subject to compliance with such conditions and/or restrictions.

For example, as noted above in section I. B. of this memorandum, if HUD requirements relating to the acquisition of real property with HUD funding (49 C.F.R. 24.101) limit the purchase price for real property acquired in a voluntary sale at the average of two appraisals obtained for the property, the City's acquisition of such a property would be conditioned upon compliance with that restriction.

II. Obligation to Provide Relocation Assistance.

There is no general obligation to pay relocation expenses or provide other relocation assistance in the event that the City acquires property via voluntary sale by the property owners using proceeds from the Series 2002 Bonds. No such obligation has been imposed by Florida law nor by the City of Miami Charter, Code or legislation. Nor is a requirement to pay relocation expenses or to provide other relocation assistance imposed by the Series 2002 Bonds.

The relocation requirements imposed by the Florida Statutes in connection with the acquisition or sale of mobile home parks are discussed in detail in section III of this memorandum.

The Florida Statutes contain a provision explicitly providing for relocation assistance, in accordance with the Federal Uniform Relocation Act Amendments of 1987, to persons displaced as a result of the acquisition of real property for use in a public project or program in which Federal aid funds are used. Fla. Stat. §421.55 (2002). However, that provision of the Florida Statues is of limited applicability, as discussed below.

Section 421.55 of the Florida Statutes empowers the State of Florida and its departments, agencies and political subdivisions to make relocation payments to or for displaced persons in connection with public projects or programs in which federal funds are used. Significantly, the term "displaced person" is limited to mean an individual, partnership, corporation or association that is conducting a business or farm operation that is required to move as a result of the acquisition of the real property for public purposes.

The limited scope of Section 421.55 diminishes its applicability to the present inquiry. Additionally, even if the circumstances of a City of Miami acquisition were to involve a federally financed acquisition of real property resulting in the cessation of a business or farm operation, an

issue would be raised as to whether the authorization to pay relocation payments contained in the statute applies to the City of Miami.[2]

With regard to whether there are any applicable relocation requirements imposed by case law, we note the court's holding in *Ward v Downtown Development Authority,* 786 F.2d 1526 (1986), to the effect that a residential tenancy, no matter the duration, is a compensable property interest under Florida law. However, in the Ward case, the tenants' entitlement to remain free from displacement by the Ft. Lauderdale Downtown Development Authority ("DDA") renewal project and to compensation for their interests was based upon the DDA's failure to comply with specific conditions and procedures set forth in the legislative grant of its authority. As discussed above, there is no such relocation condition or procedure imposed by the Constitutional and legislative grants of authority pursuant to which the City plans to acquire real property using proceeds from the Series 2002 Bonds.

Finally, although the acquisition of real property financed by Federal, State or local funds is beyond the scope of your inquiry, as noted above, when an acquisition of real property is financed by Federal, State or local funds that contain conditions and/or restrictions related to the use of the funds, the acquisition of the property is subject to compliance with those conditions/restrictions.

For example, Federal relocation requirements are imposed by: (1) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601 *et seq.*, the "URA"), and (2) Section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d), "Section 104(d)"). They each provide for relocation assistance in the form of advisory services, replacement housing assistance and/or moving and related expenses for persons who have been displaced as a direct result of HUD funded projects.

The URA relocation requirements apply to any HUD provided grant, loan or contribution, and to certain HUD loan guarantee programs. The programs covered by the URA include, but are not limited to, the HOME Investment Partnerships Program ("HOME"), the Community Development Block Grants Program ("CDBG"), the Housing Opportunities for Persons with

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[2] By its explicit terms, the statute's authorization extends to the State of Florida and any department, agency or political subdivision thereof. Fla. Stat. §421.55(2)(a) (2002). While Section 1.01 of the Florida Statutes defines the term "political subdivision" to include counties, cities, towns, villages, special tax school districts, etc., this rule of construction applies only to the extent that the "context will permit". Municipal corporations have not uniformly been held to be included within the meaning of the term "political subdivisions" as used throughout the Florida Statutes; rather, a determination is made for each specific statutory context as to whether the term "political subdivision" is intended to include municipalities. Please note that we are not aware of any authority holding that municipalities were intended by the Florida legislature to be included within the coverage of the term "political subdivision" for the purposes of Section 421.55.

Aids Program, the Emergency Shelter Grants Program ("ESG"), Section 108 Loan Guarantees, etc.

Under the URA, a person who is an owner occupant of a property and who moves as the result of a voluntary arms length acquisition or as a result of the voluntary rehabilitation or demolition of real property is not considered "displaced" and not entitled to assistance under the URA. In order for such a purchase to be considered "voluntary" within the meaning of the URA, the purchaser must agree in writing not to use its power of eminent domain. 49 C.F.R. 24.101; HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition § 5-1a(1) (April, 1997). However, the displacement of a tenant of that property as a direct result of any such acquisition, rehabilitation or demolition is entitled to relocation assistance under the provisions of the URA. 49 C.F.R. 24.2; HUD Handbook 1378: Tenant Assistance Relocation and Real Property Acquisition § 1-8c(6)(April, 1997).

Section 104(d) requirements focus on the loss of low/moderate income housing in the community through demolition or conversion. It provides relocation assistance for displaced low/moderate income families and requires one for one replacement of low/moderate income dwelling units which are demolished or converted to other use. These requirements may be triggered whenever CDBG or HOME funds are used for a project. Any displaced person who qualifies for Section 104(d) assistance is also covered by the URA.

In addition, HUD regulations governing the specific HUD source of funds financing the acquisition (HOME funds, CDBG funds, etc.) may mandate the minimization of displacement and the payment of relocation assistance as a result of a project assisted with those federal funds. The requirements of 24 C.F.R. 92.353 with regard to HOME funds, 24 C.F.R. 570.606 with regard to CDBG funds, and 24 C.F.R.576.59 with regard to ESG funds are typical of this type of relocation requirement.

III. Trailer Parks.

Florida law contains special requirements regarding the acquisition or sale of "trailer parks". Referred to as "mobile home parks", the Florida Statutes establish a procedure requiring notice and, in certain circumstances, the granting of a first right of refusal, to the mobile home park homeowners' association.

The Florida Mobile Home Act (Fla. Stat. §723.001 *et seq.* (2002)). applies to any residential tenancy in which a mobile home is placed upon a rented or leased lot in a mobile home park in which 10 or more lots are offered for rent or lease. It does not apply in those cases in which both a mobile home and a mobile home lot are rented or leased by the mobile home resident or in which a rental space is offered for occupancy by recreational vehicle type units, which are primarily designed as temporary living quarters for recreational camping or travel use. When both a mobile home and lot are rented, and when fewer than 10 lots are available for rent or lease, the applicable provisions of the Florida Residential Landlord and Tenant Act apply (Fla. Stat. §83.001 *et seq.*). Fla. Stat. §723.002 (2002).

Section 723.071(1) of the Florida Statutes applies when a mobile home park owner issues a solicitation for sale of the park to the general public. It requires a park owner offering the park for sale to the general public to notify the officers of the homeowners' association of the offer, stating the price and the terms and conditions of the sale. It grants to the mobile home owners, through their association, the right to purchase the park, provided the home owners meet the price and terms and conditions of the mobile home park owner by executing a contract with the park owner within 45 days from the date of mailing of the notice to the homeowners' association.

If a mobile home park owner has not issued a solicitation for sale of the park, but receives a bona fide offer to purchase the park that he or she intends to consider or to counter-offer, the park owner is required to notify the officers of the homeowners' association of receipt of the offer and disclose the price and material terms and conditions upon which the park owner would consider selling the park. The park owner is also required to consider any offer made by the mobile home owners provided they have complied with certain statutory requirements relating to the organization and operation of the homeowners' association. Fla. Stat. §723.071(2) (2002).

Notwithstanding the requirements noted above, the park owner is under no obligation to sell to the mobile home owners or to interrupt negotiations with third parties for the sale of the park, and is free at any time to execute a contract for the sale of the park to a party or parties other than the home owners or the association. Excepted from these requirements are sales or transfers by gift, devise, or operation of law, transfers to a corporate affiliate, etc.

While the Florida Statutes allow a park owner to evict a mobile home owner in anticipation of the change in use of the land comprising the mobile home park, from mobile home lot rentals to some other use, all affected park tenants must be given at least six months notice of the projected change of use and their need to secure other accommodations. The park owner is prohibited from giving a notice of increase in lot rental amount within 90 days before giving notice of a change in use. Fla. Stat. §723.061(1)(d) (2002).

Effective July 1, 2001, the Florida Legislature created the Florida Mobile Home Relocation Corporation. It is administered by a board of directors appointed by the Florida Secretary of Business and Professional Regulation from nominees submitted by non-profit associations representing mobile home owners and the Florida manufactured housing industry. The Florida Mobile Home Relocation Corporation is charged with administering the Florida Mobile Home Trust Fund, which is to be used to reimburse mobile home owners for moving expenses incurred as a result of a change in the use of the land comprising the mobile home park on which they are located. Fla. Stat. §723.06115 (2002).

If a mobile home owner is required to move due to a change in the use of the land comprising a mobile home park, the mobile home owner is entitled to payment from the Florida Mobile Home Relocation Corporation of the lesser of:

a) The amount of actual moving expenses for relocating the mobile home to a new location within a 50 mile radius of the vacated park (including the cost of taking down, moving and setting up the mobile home in the new location), or

b) The amount of $5,000.00 for a single section mobile home or $10,000.00 for a multi section mobile home.

A mobile home owner is not entitled to compensation in the event that:

1) The park owner moves the mobile home owner to another space in the mobile home park or to another mobile home park a the park owner's expense;

2) A mobile home owner has notified the park owner or manager of his intention to vacate the premises before notice of the change in use has been given; or

3) A mobile home owner abandons the mobile home.

Upon application for payment, completion of the relocation and approval of the relocation by the mobile home owner, the Florida Mobile Home Relocation Corporation will issue a voucher for the relocation and also issue an invoice for payment to the park owner. Fla. Stat. §723.0612 (2002).

Section 723.06116 of the Florida Statutes requires a mobile home park owner to make payment to the Florida Mobile Home Relocation Corporation for deposit in the Florida Mobile Home Relocation Trust Fund in the event a mobile home park owner is required to move due to a change in use of the land comprising a mobile home park. Payment to the Florida Mobile Home Relocation Corporation is in the amount of $2,000.00 for each single-section mobile home and $2,500.00 for each multi-section mobile home for which a mobile home owner has made application for payment of moving expenses.

In lieu of collecting payment from the Florida Mobile Home Relocation Corporation, a mobile home owner may abandon the mobile home and the mobile home park and collect an amount equal to one-fourth of the maximum allowable moving expenses from the Florida Mobile Home Relocation Corporation as long as the mobile home owner delivers to the park owner the current title to the mobile home and valid releases of all liens shown on the title. If a mobile home owner chooses this option, the park owner is required to make payment to the Florida Mobile Home Relocation Corporation in an amount equal to one-fourth of the maximum allowable moving expenses. Fla. Stat. §723.0612 (2002).

Please note that Section 723.0612 of the Florida Statutes allowing for payments from the Florida Mobile Home Relocation Corporation do not apply to any preceding in eminent domain under Chapter 73 or 74 of the Florida Statutes.

Finally, please also note that the Florida Statutes provide that no agency of municipal government may approve any application for rezoning, or take any other official action which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners. Fla. Stat. §723.083 (2002).

CONCLUSION

I. The City's acquisition of real property via voluntary sale by the property owners is subject to requirements imposed by Florida law, the City Charter, Code and other legislation and any applicable conditions and restrictions imposed by the funding source financing the acquisition.

The Florida Constitution imposes the following requirements: (a) the acquisition must constitute a valid municipal purpose; (b) the City may not expend public funds for or participate in a project that is not of some substantial benefit to the public, even where there is no proposed exercise of eminent domain power and no public indebtedness, and (c) the City may not grant a mortgage in connection with the acquisition.

The City is required to comply with the provisions of Section 166.045 of the Florida Statutes that establish a procedure relating to a municipality's acquisition of real property, appraisal requirements in connection therewith and certain exemptions from the Florida Public Records Law.[3]

In the acquisition of real estate for the proposed Little Haiti Park or otherwise, the City is also required to comply with all applicable provisions of the City Code and other legislation. Those include, but are not limited to, the City Code requirements relative to historic preservation and the requirements relating to land acquisition imposed by City Commission Resolution Nos. 01-1044 and 02-678.

Finally, when an acquisition of real property is financed by Federal, State or local funds that contain conditions and/or restrictions related to the use of those funds, the acquisition of the property is subject to compliance with such conditions and/or restrictions.

II. There is no a general obligation to pay relocation expenses or provide other relocation assistance in the event that the City acquires property via voluntary sale by the property owners using proceeds from the Series 2002 Bonds. No such obligation has been imposed by Florida law nor by the City of Miami Charter, Code or legislation. Nor is a requirement to pay relocation expenses or to provide other relocation assistance imposed by the Series 2002 Bonds. (The relocation requirements imposed by the Florida Statutes in connection

[3] The provisions of Section 421.55 of the Florida Statutes, requiring relocation assistance to persons displaced as a result of the acquisition of real property for use in a public project or program in which Federal aid funds are used, are of questionable applicability to acquisitions by the City. In any event, they are limited to displaced individuals, partnerships, corporations or associations that are conducting a business or farm operation that is required to move as a result of the acquisition of the real property for public purposes. The provisions of Section 332.02 of the Florida Statutes, relating to a municipality's acquisition of real property for airport purposes, are not relevant to this inquiry.

with the acquisition or sale of mobile home parks are discussed in section III of this memorandum.)

When an acquisition of real property is financed by Federal, State or local funds that contain conditions and/or restrictions related to the use of the funds, the acquisition of the property is subject to compliance with those conditions/restrictions.

III. Florida law contains special requirements regarding the acquisition or sale of "trailer parks". Referred to as "mobile home parks", the Florida Statutes establish a procedure requiring notice and, in certain circumstances, the granting of a first right of refusal, to the mobile home park homeowners' association.

Generally, this procedure requires a park owner offering the park for sale to the general public to notify the officers of the homeowners' association of the offer, stating the price and the terms and conditions of the sale. It grants to the mobile home owners, through their association, the right to purchase the park, provided the home owners meet the price and terms and conditions of the mobile home park owner by executing a contract with the park owner within 45 days from the date of mailing of the notice to the homeowners' association. It also mandates notice to the homeowners' association in the event a mobile home park owner has not issued a solicitation for sale of the park, but receives a bona fide offer to purchase the park that he or she intends to consider or to counter-offer.

While the Florida Statutes allow a park owner to evict a mobile home owner in anticipation of the change in use of the land comprising the mobile home park, from mobile home lot rentals to some other use, all affected park tenants must be given at least six months notice of the projected change of use and their need to secure other accommodations. The park owner is prohibited from giving a notice of increase in lot rental amount within 90 days before giving notice of a change in use.

If a mobile home owner is required to move due to a change in the use of the land comprising a mobile home park, the mobile home owner is entitled to payment from the Florida Mobile Home Relocation Corporation from the Florida Mobile Home Relocation Trust Fund, which is funded from payments made by mobile home park owners requiring mobile home owners to move due to a change in use of the land comprising the park.

AV/IT:eh:kdw

c: Mayor and Members of the City Commission
Joe Arriola, City Manager
Priscilla Thompson, City Clerk