

Internet Reservations and the Tourist Development Tax

by Rosemary Perfit

The case of *Orange County v. Expedia, Inc., Orbitz, LLC and Orbitz, Inc.*, 985 So.2d 622 (Fla 5th DCA 2008) should be of interest to all counties imposing the Tourist Development Tax (TDT) authorized by Section 125.0104, Florida Statutes. This case involves an issue that has been raised throughout the United States concerning internet travel companies and the payment of “bed taxes.” The issue is whether the internet companies should be collecting the tax on the full amount charged

the internet customer for a room (the retail price) or on the amount negotiated between the internet company and the lodging establishment for the room (the wholesale price). Currently, internet companies are only collecting the tax on the rate they negotiate with the hotels. They contend no tourist development tax is due on the difference between the wholesale and retail rates.

In Florida, counties may levy a tourist development tax on the “privilege of renting, leasing, or letting for

consideration any living quarters or accommodations in any hotel, motel ... for a term of six (6) months or less.” Section 125.0104(3)(a). The tourist development tax “shall be in addition to any other tax imposed pursuant to Chapter 212 and in addition to all other taxes and fees and the consideration for the rental or lease.” Section 125.0104(3)(e). The tourist development tax statute provides for the tax to be remitted to the Department of Revenue unless the county levying the tax adopts an

See “Internet Reservations” page 12

Chair’s Report

by Grant W. Alley

Dear Colleagues:

It has truly been an honor to serve as the chair for the City, County Local Government Law Section of the Florida Bar. I have enjoyed the support of so many of you throughout the year on various issues that are important to local government. Our Section continues to provide legal education and certification for lawyers in the United States of America to maintain the highest standard of excellence regarding local government.

Board certification in city, county

local government law is a recognized distinction of excellence for any lawyer practicing in the legal field and ensures the public, as well as the governing body that the attorney before them has achieved the recognition as an expert by their peers. The Executive Council of the City, County Local Government Law Section of the Florida Bar annually provides a Law Certification Review Course the day before the annual Section seminar, which is being held this year in Orlando at the Ritz Carlton Grande Lakes

continued, next page

INSIDE:

CCLG Certification Review Course 2009 Brochure.....	3
Caselaw Update	5
CLE Audio/Video List.....	7
32nd Annual Local Government Law in Florida & Public Finance in Florida Brochure	8
Calendar of Events	12

CHAIR'S REPORT

from page 1

Resort May 6, 2009. In addition to the board certification review course, the Section is sponsoring a Public Finance in Florida seminar at the same date and location. By coupling the Certification and Finance seminars with the Annual seminar, attorneys practicing in this field will be able to concentrate their CLE credit hours and obtain critical updates to the law in this field. Herb Thiele and Sandy MacLennan have provided valuable and effortless work in ensuring these seminars are available to us.

I want to express appreciation to the Executive Council; specifically, David Acton, Paul Bangel, James Bennett, Jewel Cole, Michele Liberman, Kenneth A. Tinkler, Dana Crosby, Vivien J. Monaco, Virginia S. Delegal, Cynthia Everett, Hans Ottinot, Sr., David Tucker, and Rob Teitler

for their work this year. In addition, and on behalf of the Law Section, I extend my gratitude to our off-going members for their past involvement and extend a warm welcome to our new members.

The City, County Local Government Law Section of the Florida Bar has undertaken a new and exciting responsibility, which is critical to attorneys, elected officials and public officials in our state. Our Section is providing an ethics seminar to attorneys and elected officials annually. Our Section's first ethics seminar was held in Tallahassee on February 5 and included the state's foremost experts in ethics laws and Government in the Sunshine Law. Additionally, Philip Claypool, Julia Cobb Costas, Virlindia Doss and Chris Anderson from the Florida Commission on Ethics must be thanked for their tireless efforts in their presentations at this seminar. We are very pleased that they have also agreed to speak at next year's seminar. Barbara Petersen, President, First Amendment Foundation and Patricia Gleason of the Attorney General's Office must

also be thanked for their critical role in this seminar. This ethics seminar is truly a diamond in the rough and you will be very pleased once you have an opportunity to attend and participate. Next year's seminar will be in Tallahassee at Florida State Stadium and you will be able to register with the Florida Bar and obtain CLE credit hours once the program is developed.

I would like to express my gratitude to our Section administrator, Ricky Libbert, for all of the work that she does for all of us. Her efforts have been untiring and she has always gone the extra mile to ensure that everybody's needs are met. It is a credit to the Florida Bar to employ an individual such as Ms. Libbert. It has truly been an honor to work with Ms. Libbert and to serve as a Section chair and her continued involvement is necessary for the Section to serve the public.

In conclusion, please join me by making a commitment to get involved and support Jim Bennett and Vivien Monaco, next year's chair and secretary-treasurer, respectively.



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www.FloridaBar.org**

This newsletter is prepared and published by the City, County and Local Government Law Section of The Florida Bar.

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Ethics Questions?
Call
The Florida Bar's
ETHICS HOTLINE:
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The Florida Bar Continuing Legal Education Committee and the City, County and Local Government Law Section present

City, County and Local Government Law Certification Review Course 2009

COURSE CLASSIFICATION: ADVANCED LEVEL

One Location: May 7, 2009

**Ritz Carlton Grande Lakes Resort • 4012 Central Florida Parkway
Orlando, FL 32837 • 407/206-2400**

Course No. 0699R

8:10 a.m. – 8:30 a.m. **Late Registration**

8:30 a.m. – 8:35 a.m.

Welcome

*Grant W. Alley, City Attorney, Fort Myers
Chair; City, County and Local Government Law Section*

8:35 a.m. – 9:05 a.m.

Public Finance

Grace E. Dunlap, Bryant, Miller & Olive, P.A., Tampa

9:05 a.m. – 9:35 a.m.

Conflicts of Interest/Financial Disclosure (Ethics under Part III, Chapter 112, Florida Statutes)

*C. Christopher "Chris" Anderson, III, Commission on Ethics,
Tallahassee*

9:35 a.m. – 10:15 a.m.

Ethics

David R. Ristoff, Williams Ristoff & Proper PLC, New Port Richey

10:15 a.m. – 10:30 a.m. **Break**

10:30 a.m. – 11:30 a.m.

Public Sector Employment Liability

Erin G. Jackson, Thompson, Sizemore, Gonzalez, Tampa

11:30 a.m. – 12:15 p.m.

Eminent Domain

Mary J. Dorman, Dorman & Gutman, Tampa

12:15 p.m. – 1:30 p.m. **Lunch** (included in registration)

1:30 p.m. – 2:15 p.m.

Sunshine Law and Public Records Law

*Patricia R. Gleason, Director of Cabinet Affairs and Special
Counsel, Tallahassee*

2:15 p.m. – 3:00 p.m.

Home Rule and Exercise of Police Powers

Robert L. Nabors, Nabors, Giblin & Nickerson, P.A., Tallahassee

3:00 p.m. – 3:15 p.m. **Break**

3:15 p.m. – 3:45 p.m.

Procurements

*Susan Churuti, Bryant, Miller & Olive, P.A., Tampa
Frederick J. Springer, Bryant, Miller, Olive, P.A., Tallahassee*

3:45 p.m. – 5:00 p.m.

Land Use/Zoning and Practice & Procedures Before Local Government Legislative and Quasi-Judicial Bodies

*Mark Barnebey, Kirk Pinkerton, Bradenton
Herbert W.A. Thiele, County Attorney, Leon County, Tallahassee*

6:00 p.m. – 7:00 p.m.

Reception - All section members, seminar attendees, and guests are welcome (included in registration)

COURSE BOOKS: COURSE BOOKS WILL BE MAILED TO ALL REGISTRANTS PRIOR TO THE REVIEW COURSE BUT NOT AFTER April 3, 2009. IF YOU REGISTER AFTER April 3, 2009 YOU WILL RECEIVE THE COURSE BOOK ON-SITE ONLY. Bring your book with you or you will be required to purchase the book on-site if you desire a copy during the review course. A limited number of books will be available on-site.

Those who have applied to take the certification exam may find this course a useful tool in preparing for the exam. It is developed and conducted without any involvement or endorsement by the BLSE and/or Certification committees. Those who have developed the program, however, have significant experience in their field and have tried to include topics the exam may cover. Candidates for certification who take this course should not assume that the course material will cover all topics on the examination.

**CITY, COUNTY AND LOCAL GOVERNMENT
LAW SECTION**

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CLE CREDITS

CLER PROGRAM

(Max. Credit: 8.0 hours)

General: 8.0 hours

Ethics: 1.5 hours

CERTIFICATION PROGRAM

(Max. Credit: 8.0 hours)

City, County & Local Government: 8.0 hours


Seminar credit may be applied to satisfy CLER / Certification requirements in the amounts specified above, not to exceed the maximum credit. See the CLE link at www.floridabar.org for more information.

Prior to your CLER reporting date (located on the mailing label of your Florida Bar News or available in your CLE record on-line) you will be sent a Reporting Affidavit if you have not completed your required hours (must be returned by your CLER reporting date).

HOW TO REGISTER

 **ON-LINE:**
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Completed form w/check

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Form w/credit card info.

REFUND POLICY: Requests for refund or credit toward the purchase of the audio CD or course books for this program **must be in writing and post-marked** no later than two business days following the course presentation. Registration fees are non-transferrable, unless transferred to a colleague registering at the same price paid. A \$25 service fee applies to refund requests. Registrants who do not notify The Florida Bar by 5:00 p.m., April 27, 2009 that they will be unable to attend the seminar, will have an additional \$75 retained. Persons attending under the policy of fee waivers will be required to pay \$75.

HOTEL RESERVATIONS: A block of rooms has been reserved at the Ritz Carlton Grande Lakes Resort, at the rate of \$189 single/double occupancy. To make reservations, call the Ritz Carlton Grande Lakes Resort directly at (407) 206-2400. Reservations must be made by 04/15/09 to assure the group rate and availability. After that date, the group rate will be granted on a "space available" basis.

PARKING INFORMATION: Valet parking at The Ritz Carlton Grande Lakes will be \$17.00 day/\$9.00 overnight. Self parking is also available next door at the J.W. Marriott Grand Lakes Resort at \$12.00.

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Register me for the "City, County and Local Government Law Certification Review Course 2009" Seminar

ONE LOCATION: (282) RITZ CARLTON GRANDE LAKES RESORT, ORLANDO, FL (MAY 7, 2009)

TO REGISTER OR ORDER AUDIO CD OR COURSE BOOKS, BY MAIL, SEND THIS FORM TO: The Florida Bar, CLE Programs, 651 E. Jefferson Street, Tallahassee, FL 32399-2300 with a check in the appropriate amount payable to The Florida Bar or credit card information filled in below. If you have questions, call 850/561-5831. ON-SITE REGISTRATION, ADD \$25.00. **On-site registration is by check only.**

Name _____ Florida Bar # _____

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City/State/Zip _____ Phone # _____

RDL: Course No. 0699R

REGISTRATION FEE (CHECK ONE):

- Member of the City, County and Local Government Law Section: \$245
- Non-section member: \$270
- Full-time law college faculty or full-time law student: \$135
- Persons attending under the policy of fee waivers: \$75
Includes Supreme Court, DCA, Circuit and County Judges, Magistrates, Judges of Compensation Claims, Administrative Law Judges, and full-time legal aid attorneys if directly related to their client practice. (We reserve the right to verify employment.) Fee Waivers are only applicable for in-person attendees.

METHOD OF PAYMENT (CHECK ONE):

- Check enclosed made payable to The Florida Bar
- Credit Card (Advance registration only. Fax to 850/561-5816.)
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Check here if you require special attention or services. Please attach a general description of your needs. We will contact you for further coordination.

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Private taping of this program is not permitted. **Delivery time is 4 to 6 weeks after 05/07/09. TO ORDER AUDIO CD OR COURSE BOOKS**, fill out the order form above, including a street address for delivery. **Please add sales tax to the price of tapes or books. Tax exempt entities must pay the non-section member price.**

Please include sales tax unless ordering party is tax-exempt or a nonresident of Florida. If this order is to be purchased by a tax-exempt organization, the course book/audio CD must be mailed to that organization and not to a person. Include tax-exempt number beside organization's name on the order form.

COURSE BOOK ONLY
Cost \$35 plus tax
(Certification/CLER credit is not awarded for the purchase of the course book only.)

TOTAL \$ _____

AUDIO CD
(includes course book)
\$170 plus tax (section member)
\$195 plus tax (non-section member)

TOTAL \$ _____

Caselaw Update

by Mary Helen Farris, Managing Attorney, Hillsborough County

***Houck v. AIG Claims Services, Inc.*, 30 Fla. L. Weekly D 387 (February 24, 2009)**

Appellee employer had working for it the decedent, who was a property manager. Another property manager in another city requested training from decedent. The employer approved the training and was to commence on a Monday morning. Decedent traveled to that city on Saturday to meet a female friend so that they could engage in purely leisure activities before the training began. The friend was not able to pick her up, so the other property manager picked decedent up on Saturday and drove her to an employer-owned condominium where decedent planned to stay. Decedent and the employee then went to a restaurant for dinner, went window shopping, and then headed to a nightclub. As decedent attempted to cross the street to the nightclub, she was struck by a car and fatally injured. The estate representative filed a claim for death benefits and funeral expenses, but the Judge of Compensation Claims denied it. The appellate court found that decedent was not a traveling employee pursuant to § 440.092(4), Fla. Stat. (2002) because she was not in the course and scope of her employment at the time of the fatal accident, but was engaged in the purely personal activity of going to a nightclub.

The appellate court affirmed the decision of the Judge of Compensation Claims.

***Kirkland v. City of Lakeland*, 34 Fla. L. Weekly D 284 (February 4, 2009)**

Edna L. Kirkland and other members of the Kirkland family who own land south of Waring Road in Polk County challenge the trial court's orders allowing the City of Lakeland (the City) to take portions of their land by eminent domain to create a right-of-way that will allow for the extension of Waring Road from Old Medulla Road to West Pipkin Road. This eminent domain proceeding, requesting a taking for a road right-of-way, is unusual only because the City is taking land in Polk County that is entirely outside and not even contiguous to the City's boundaries. We conclude under the circumstances of this case that the City had the power to take this land by eminent domain and that it presented

sufficient evidence of a public purpose and a reasonable necessity to support the order of taking. Accordingly, we affirm the trial court's orders of taking.

In an eminent domain proceeding, "[t]he burden is on the condemning authority to establish a public purpose and reasonable necessity for the taking." *Bycol, Inc. v. Downtown Dev. Auth. of City of Fort Lauderdale*, 315 So. 2d 451, 455 (Fla. 1975) (citing *Canal Auth. v. Miller*, 243 So. 2d 131 (Fla. 1970); *Ball v. City of Tallahassee*, 281 So. 2d 333 (Fla. 1973), *receded from on other grounds by City of Jacksonville v. Griffin*, 346 So. 2d 988 (Fla. 1977); *City of Lakeland v. Bunch*, 293 So. 2d 66 (Fla. 1974)). We determine that the evidence presented at trial was sufficient to meet the City's burden to establish a public purpose and a reasonable necessity. We are not convinced in light of the interlocal agreement that the City was required to establish a public purpose that was exclusively or even primarily a municipal purpose of the City, as contrasted to a public purpose benefitting both the City and Polk County.

Finally, the Kirklands argue that section 335.0415, Florida Statutes (2007), which addresses the jurisdiction of the state, county, and municipal governments over public roads, is applicable to this case and prevents the City from taking land for a road that the Kirklands maintain must be under the jurisdiction of Polk County after it is completed. We reject the argument that Section 335.0415 regulates a county or municipality's powers of eminent domain. Whatever its effect may be on governmental jurisdiction over the extension of Waring Road after it has been constructed and completed is not a matter that prevents the entry of the order of taking that has been appealed in this case.

***Wallace v. Dean*, 34 Fla. L. Weekly S 52, (January 29, 2009)**

The daughter's complaint asserted that her mother's death was caused by two sheriff deputies negligently responding to a 911 call made to them by her mother's neighbor. The decedent was found by the deputies lying on the floor in the living room, completely unresponsive. The deputies insisted that she was sleeping. The next day, she was taken to the hospital where she died a few days later.

The trial court, and the Fifth District, dismissed the complaint for failure to state a cause of action. Primarily, the lower courts concurred that the sheriff did not owe the daughter's decedent a common-law duty of care and that, by responding to the 911 call and conducting a safety check, the sheriff's deputies were performing a quasi-legislative discretionary function for which the sheriff enjoyed sovereign immunity. The court determined that the lower courts misconstrued Florida law with regard to the undertaker's doctrine. The court held that the sheriff owed the decedent a common-law duty of care and that sovereign immunity did not bar the daughter's claim since the alleged actions of the deputies were undertaken within the scope of their employment and were clearly operational in nature.

The court quashed the Fifth District Court decision, approved and reaffirmed certain decisions the court listed in footnote 2 of its opinion. The court held that the daughter's second amended complaint stated a valid negligence-based wrongful-death cause of action, which was not barred by the doctrine of sovereign immunity. The court remanded the case to the trial court for further proceedings.

***Miami-Dade v. Valdes*, 34 Fla. L. Weekly D 194 (January 21, 2009)**

In an excellent opinion by Judge Venzer, the appellate division determined that the County's refusal to relax the single-family residential zoning on the respondent's property notwithstanding that it was effectively surrounded by a busy thoroughfare, commercial property, and a group home, resulted in the continuance of an impermissible instance of "reverse spot zoning."

Dissent: The circuit court's job was simple-to determine whether the Board's decision was supported by the evidence. Rather than performing this review, the circuit court panel failed to address whether there was competent substantial evidence in the record to support the Board's findings, reweighed the evidence, ignored binding statutory authority which requires that the **group home** in question be treated as a single family residence with a non-commercial residential use, and reached its own conclusions. This was a clear departure from the law [*14] requiring that

continued...

CASELAW UPDATE

from page 5

the instant petition be granted and the opinion under review be quashed. For the above stated reasons, I respectfully dissent from the contrary opinion reached by my learned colleagues.

***McDougall v. Culver*, 34 Fla. L. Weekly D173 (January 16, 2009)**

The investigation was based on memoranda generated by the IA officials that were circulated up the chain of command eventually reaching senior officers (SOs) in the sheriff's office. The memoranda were then given to the sheriff, who made the final decision on any disciplinary action and concluded the investigations by giving written notice to the deputies. The memoranda were not made public until the IA investigations were concluded. The trial court ruled that the circulation of the memoranda from the SOs to the sheriff constituted a "meeting" under the Sunshine Law, and that the failure to make the memoranda public during the IA investigations was a violation of the Sunshine Law. The appellate court disagreed. The memoranda did not constitute a meeting of a "board" or "commission," and therefore, there was no Sunshine Law violation. While the SOs provided recommendations, the sheriff alone made the final decision regarding the appropriate disciplinary action. The SOs did not deliberate with the sheriff nor did they have decision-making authority. Further, because the memoranda were related to an IA investigation, they were confidential under § 112.533(2)(a), Fla. Stat. (2008).

The appellate court reversed the final judgment, which rendered the deputies' cross-appeal moot.

***Miami-Dade v. Prof'l Law Enforcement Ass'n*, 34 Fla. L. Weekly D 156 (January 14, 2009).**

Miami-Dade County appeals a circuit court order granting a petition for mandamus filed by the Professional Law Enforcement Association. The order requires the aviation unit of the County Police Department to allow the Association to inspect and copy the pilots' personal flight logs as "public records" within the meaning of section 119.011(11), Florida Statutes (2008).

We affirm the order insofar as it relates to personal flight log entries for flights which occurred during the time the Police Department pilots have been

assigned by the County to the aviation unit, but we clarify that the order does not extend to entries for flights before or after such assignment. Although the order found that "[t]he personal flight logs are a matter of public record," the Association's original request was limited, and properly so, to the dates the aviation unit officers were assigned to the unit.

The original flight logs are maintained by, and are the personal property of, the individual pilots. The logs record a pilot's lifetime of training and "aeronautical experience" necessary to meet certification, rating, and experience requirements imposed by the Federal Aviation Administration. See 14 C.F.R. § 61.51 (2008). Entries typically would include a pilot's first solo flight, any military ratings and flights, personal recreational flights, and trainer time, in addition to any County Police Department aviation unit flights.

Information logged by a pilot in his or her personal flight log while employed by the County aviation unit becomes relevant because the unit's written operating procedures require each pilot to "maintain personal flight logs" as part of the pilot's administrative duties. The officers are thus paid by the County to make these logbook entries, and the entries are made "in connection with the transaction of official business" of the aviation unit. The entries are readily distinguishable from the purely personal e-mails at issue in *State v. City of Clearwater*, 863 So. 2d 149 (Fla. 2003).

***Petit-Dos v. School Board of Broward County*, 34 Fla. L. Weekly D 108 (January 7, 2009)**

The driver of the truck was fleeing police when his truck struck the student, who was deaf. The student first argued that the truck driver should have been excluded from the verdict form because he committed an intentional tort. The court held that the truck driver's conduct was not substantially certain to result in injury to the student and thus did not meet the definition of an intentional tort. There was no evidence, for example, that the truck driver sped by the bus despite seeing children crossing the street. Next, under § 90.701, Fla. Stat., the school bus driver should have been allowed to offer her opinion on whether she took responsibility for the accident because she likely could not otherwise readily and accurately testify to what she perceived, and her opinion did not require special knowledge or experience. Furthermore, the bus driver was still employed in that capacity, and her deposition statements

on whether she took responsibility for the accident met the definition of an admission against her employer under § 90.803(18)(d), Fla. Stat. The errors were harmless, however, because the testimony did not go to the issue of the amount of the school board's negligence.

The court affirmed the judgment.

***Collins v. Monroe County*, 34 Fla. L. Weekly D 64, (December 31, 2008)**

PROCEDURAL POSTURE: Plaintiff landowners sought review of a final order of the Circuit Court for Monroe County (Florida), which granted summary judgment defendants, a county and the State, in an inverse condemnation case. The trial court found that there was a facial taking of the properties in question and, as such, each landowner's cause of action was barred by the four-year statute of limitations under § 95.11(3)(p), Fla. Stat. (2007).

The landowners, in 1997, had filed beneficial use determination (BUD) petitions under Monroe County, Fla., Code, Sec. 9.5-161 pursuant to the county's 2010 comprehensive plan. The county board of commissioners reviewed the BUD recommendations that the properties were rendered unbuildable under the plan and that each landowner had been deprived of all economic use of his property and approved recommendations that the county purchase the properties. In 2004, the landowners filed the instant inverse condemnation action. The court reversed and remanded. A facial taking had not occurred because not every landowner had been completely deprived of any economically beneficial use or value of the land as some had received post-BUD building permits or had even sold their property. Instead, the landowners' claims were properly brought as as-applied challenges to the application of the county land use regulations. The claims were ripe for judicial review as Monroe County, Fla., Code, Sec. 9.5-173 provided that a BUD resolution by the board was a final decision; the resolutions were rendered in 2002, so the action was filed well within the four-year limitations period under § 95.11(3)(p).

The court reversed the trial court's order and remanded for consideration of those factors necessary to evaluate an as-applied taking specific to each of the landowners. The trial court was to determine in each case, inter alia, what, if any, reduction in beneficial use had been sustained by the application of the county's land use regulations.

The Florida Bar CLE Audio/Video List

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KEY TO ABBREVIATIONS - CERTIFICATION CREDIT HOURS

AD = Admiralty and Maritime	ED = Elder Law
AG = State & Federal Government & Admin. Practice	EP = Wills, Trusts, & Estates
AP = Appellate Practice	FL = Marital & Family Law
AT = Antitrust & Trust Regulation	HL = Health Law
AV = Aviation	IL = International Law
BL = Business Litigation	IP = Intellectual Property
CA = Criminal Appeal	IM = Immigration & Nationality
CC = City, County, Local Government	LE = Labor & Employment
CL = Construction Law	RE = Real Estate
CR = Criminal Trial	TX = Tax
CT = Civil Trial	WC = Workers' Compensation

PLEASE ALLOW FOUR WEEKS FOR DELIVERY.

Revised 12/18/2008

Course No.	COURSE TITLE	CREDITS HOURS			Approval Period	COSTS	
		General	E = Ethics P = Professionalism S = Substance Abuse MIA = Mental Illness Awareness	Certification		CD	Video or DVD
FORMAT AVAILABLE							
CD = AUDIO CD V = VIDEOTAPE (VHS) DVD = VIDEO ON DVD							
CITY, COUNTY & LOCAL GOVERNMENT LAW SECTION							
0555	Strategies for Smart Growth & Development CD Only	7.0	1.0 E	AG = 7.0 CC = 7.0 CL = 7.0 RE = 5.5	11/30/2007- 05/30/2009	S = \$125.00 N = \$150.00	Not Available
0618	City, County & Local Government Law Certification Review Course 2008 CD Only	8.0	1.0 E	CC = 8.0	05/08/2008- 11/08/2009	S = \$210.00 N = \$235.00	Not Available
0619	31st Annual Local Government Law in Florida CD Only	10.5	1.0 E	AG = 10.5 CC = 10.5	05/09/2008- 11/09/2009	S = \$310.00 N = \$335.00	Not Available
0678	34th Annual Public Employment Labor Relations Forum CD Only	13.5	1.0 E	AG = 10.0 CC = 10.0 ED = 1.0 LE = 10.0	10/16/2008- 04/16/2010	S = \$320.00 N = \$345.00	Not Available
0813	Sunshine Law, Public Records, and Ethics Seminar CD Only	7.5	4.0 E	CC = 7.5	02/06/2009- 08/06/2010	S = \$215.00 N = \$240.00	Not Available

To order the above, go to www.floridabar.org and click on CLE.



The Florida Bar Continuing Legal Education Committee
and the City, County and Local Government Law Section present

32nd Annual Local Government Law in Florida

Course Classification: Intermediate Level (0700R)

and

Public Finance in Florida

Course Classification: Intermediate Level (0761R)

Register for Both and Save!

Two Seminars

One Location

May 7-9, 2009

Ritz Carlton Grande Lakes Resort

Orlando, FL

407/206-2400

**Course No. 0700R
0761R**

Schedule of Events

Thursday, May 7, 2009

5:00 p.m. – 6:30 p.m.

**Meeting of Executive Council
City, County and Local Government Law Section**
(All Section members welcome)

7:30 p.m. – 9:30 p.m.

Past Chairs' Circle Dinner
(Executive Committee and Past Chairs of the Section)

Public Finance in Florida (0761R)

Thursday, May 7, 2009

8:00 a.m. – 8:50 a.m.

Late Registration and Continental Breakfast

8:50 a.m. – 9:00 a.m.

Welcome and Opening Remarks

*Alexandra M. MacLennan, Squire, Sanders & Dempsey
L.L.P., Program Co-Chair, Tampa*

9:00 a.m. – 9:45 a.m.

EMMA: The New Age of Continuing Disclosure

- A tour through the Municipal Securities Rulemaking
Board's Continuing Disclosure Portal

*Ernesto Lanza, General Counsel, Municipal Securities
Rulemaking Board, Alexandria, VA*

9:45 a.m. – 10:15 a.m.

**Federal Tax Update: Top 10 Things You Need To
Know After the Deal Closes**

*Robert J. Eidnier, Squire, Sanders & Dempsey L.L.P.,
Cleveland, OH*

10:15 a.m. – 10:30 a.m. **Break**

10:30 a.m. – 11:15 a.m.

**The Elephant in the Living Room: SEC Proposed
Municipal Securities Disclosure Reform**

Brian J. Fender, GrayRobinson, P.A., Tampa

11:15 a.m. – 12:00 noon

Honest Services, Pay to Play and Other Ethical Issues

*Mark T. Mustian, Nabors, Giblin & Nickerson, P.A.,
Tallahassee*

John R. Stokes, Nabors, Giblin & Nickerson, P.A., Tampa

12:00 noon – 1:30 p.m.

Lunch (included in registration)

1:30 p.m. – 2:45 p.m.

**The Worst that Could Happen: The Economy's Effect
on Municipal Finance**

- A Look Back at the Credit Crisis of 2008 (and 2009)

David Moore, Public Financial Management, Inc., Orlando

- Local Governments as Debtors and Creditors

Amy Lowen, Greenberg Traurig, P.A., Orlando

2:45 p.m. – 3:00 p.m. **Break**

3:00 p.m. – 3:45 p.m.

**Disclosure Policies and Procedures: A Practical
Approach for Florida Local Governments**

Michael Wiener, Holland & Knight, Lakeland

Mitchell E. Herr, Holland & Knight, L.L.P., Miami

3:45 p.m. – 4:15 p.m.

**The Federal Economic Stimulus Package: The Public
Finance Provisions**

*Robert J. Eidnier, Squire Sanders & Dempsey, L.L.P.,
Cleveland, Ohio*

4:15 p.m. – 5:00 p.m.

Legislative and Case Law Update

Ginger Delegal, Florida Association of Counties, Tallahassee

5:30 p.m. – 7:30 p.m.

Reception (included in registration)

(All section members, seminar attendees and guests
welcome)

32nd Annual Local Government Law in Florida (0700R)

Friday, May 8, 2009

8:15 a.m. – 8:45 a.m.

Late Registration and Continental Breakfast

8:45 a.m. – 9:00 a.m.

Opening Remarks

*Grant Alley, Chair, City, County and Local Government
Law Section*

*Jim Bennett, Program Chair, City County, Local
Government Law Section*

9:00 a.m. – 10:15 a.m.

**Panel Discussion: How are Governmental Attorney
Offices Dealing with Budget Issues?**

Speakers - TBA

10:15 a.m. – 11:00 a.m.

**Who's the Client? What's the Party? I Don't Know
the Appellant (Conflicts of Government Lawyers)**

Marion Radson, City Attorney Gainesville

11:00 a.m. – 11:15 a.m. **Break**

11:15 a.m. – 12:00 noon

Municipalization of Electric Utilities

David Tucker, Nabors Giblin & Nickerson, Tallahassee

12:00 noon – 1:30 p.m.

Luncheon (included in registration fee)

Annual Meeting

1:30 p.m. – 2:30 p.m.

Strand v. Escambia County, Florida

Randall W. Hanna, Bryant, Miller and Olive, Tallahassee

*Richard J. Miller, Edwards Angell Palmer & Dodge LLP,
West Palm Beach*

*Mark-David Adams, Edwards Angell Palmer & Dodge
LLP, West Palm Beach*

(continued, next page)

32nd Annual Local Government Law in Florida (0700R) *(continued from previous page)*

2:30 p.m. – 3:15 p.m.

Utilization of Florida's Governmental Conflict Resolution Act and Land Use and Environmental Dispute Resolution Act

Sandra Upchurch, Upchurch Watson White & Max, Daytona Beach
Jon Mills, Mediation Counsel, Upchurch Watson White & Max, Daytona Beach

3:15 p.m. – 3:30 p.m. **Break**

3:30 p.m. – 4:15 p.m.

Annexation: Chapter 171, Part II implementation

Gary K. Oldehoff, Lewis, Stroud & Deutsch, PL, Boca Raton
Robert K. Robinson, Nelson, Hesse, LLP, Sarasota

4:15 p.m. – 5:00 p.m.

Inclusionary Housing Ordinances

J. Michael Marshall, Siemon & Larson, Boca Raton

5:30 p.m. – 7:30 p.m.

Reception (included in registration)

(All section members, seminar attendees and guests welcome)

Saturday, May 9, 2009

8:15 a.m. – 9:00 a.m.

Continental Breakfast

9:00 a.m. – 9:45 a.m.

Zoning and Land Use Law Update

Al Galbraith, City of St. Petersburg

9:45 a.m. – 10:30 a.m.

A Local Government Attorney's Guide to Successfully Regulating First Amendment Land Uses

Susan Trevarthen, Weiss Serota Helfman Pastoriza Cole & Boniske, PL, Ft. Lauderdale

10:30 a.m. – 10:45 a.m. **Break**

10:45 a.m. – 11:15 a.m.

Legislative Update

Kraig Conn, Legislative Counsel, Florida League of Cities, Tallahassee

Virginia "Ginger" Delegal, General Counsel, Florida Association of Counties, Tallahassee

11:15 a.m. – 12:00 noon

Hot Topics: Panel Discussion of Late Breaking Issues *Speakers - TBA*

CLE CREDITS

Public Finance in Florida (0761R)

General: 7.5 hours

Ethics: 1 hour

CERTIFICATION PROGRAM

(Max. Credit: 7.5 hours)

Business Litigation: 5.5 Hours

City, County & Local Government: 7.5 hours

Tax Law: 1 hour

State & Federal Gov't & Administrative Practice: 3.5 hours

32nd Annual Local Government Law in Florida (0700R)

General: 10.5 hours

Ethics: 1.0 hour

CERTIFICATION PROGRAM

(Max. Credit: 10.5 hours)

City, County & Local Government: 10.5 hours

Construction Law: 10.5 hours

Real Estate Law: 10.5 hours

Seminar credit may be applied to satisfy CLER / Certification requirements in the amounts specified above, not to exceed the maximum credit. See the CLE link at www.floridabar.org for more information.

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Refund Policy

Requests for refund or credit toward the purchase of the Audio CD or course books for this program **must be in writing and postmarked** no later than two business days following the course presentation. Registration fees are non-transferrable, unless transferred to a colleague registering at the same price paid. A \$25 service fee applies to refund requests. Registrants who do not notify The Florida Bar by 5:00 p.m., May 1, 2009 that they will be unable to attend the seminar, will have an additional \$75 retained. Persons attending under the policy of fee waivers will be required to pay \$75.

Hotel Reservations

A block of rooms has been reserved at the Ritz Carlton Grande Lakes Resort, at the rate of \$189 single/double occupancy. To make reservations, call the Ritz Carlton Grande Lakes Resort directly at (407) 206-2400. Reservations must be made by 4/15/09 to assure the group rate and availability. After that date, the group rate will be granted on a "space available" basis.


Parking Information: Valet parking at The Ritz Carlton Grande Lakes will be \$17.00 day/\$9.00 overnight. Self parking is also available next door at the J.W. Marriott Grande Lakes at \$12.00.

Registration

HOW TO REGISTER

 **ON-LINE:**
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 **MAIL:**
Completed form w/check

 **FAX: 850/561-5816**
Form w/credit card info.

Register me for "2009 Public Finance" and/or "32nd Annual Local Government Law in Florida" ONE LOCATION: (282), RITZ CARLTON GRANDE LAKES RESORT, ORLANDO (MAY 7-9, 2009)

TO REGISTER OR ORDER AUDIO CD OR COURSE BOOKS, BY MAIL, SEND THIS FORM TO: The Florida Bar, CLE Programs, 651 E. Jefferson Street, Tallahassee, FL 32399-2300 with a check in the appropriate amount payable to The Florida Bar or credit card information filled in below. If you have questions, call 850/561-5831. ON-SITE REGISTRATION, ADD \$25.00. **On-site registration is by check only.**

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REGISTRATION FEE (CHECK ONE):

0761R - Public Finance in Florida (5/7/09)

- Member of the City, County and Local Gov't Law Section: \$240
- Non-section member: \$265
- Full-time law college faculty or full-time law student: \$195
- Persons attending under the policy of fee waivers: \$75

0700R - 32nd Annual Local Government Law in Florida (5/8-9/09)

- Member of the City, County and Local Gov't Law Section: \$350
- Non-section member: \$375
- Full-time law college faculty or full-time law student: \$212.50
- Persons attending under the policy of fee waivers: \$75

Reduced fee for both seminars

- Member of the City, County and Local Gov't Law Section: \$540
 - Non-section member: \$590
 - Full-time law college faculty or full-time law student: \$357.50
 - Persons attending under the policy of fee waivers: \$150
- Includes Supreme Court, DCA, Circuit and County Judges, Magistrates, Judges of Compensation Claims, Administrative Law Judges, and full-time legal aid attorneys if directly related to their client practice. (We reserve the right to verify employment.)*



Please check here if you have a disability that may require special attention or services. To ensure availability of appropriate accommodations, attach a general description of your needs. We will contact you for further coordination.

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COURSE BOOK — AUDIO CD/COURSE BOOK

Private taping of this program is not permitted. **Delivery time is 4 to 6 weeks after 5/8/09. TO ORDER AUDIO CD OR COURSE BOOKS, fill out the order form above, including a street address for delivery. Please add sales tax to the price of tapes or books. Tax exempt entities must pay the non-section member price.**

Please include sales tax unless ordering party is tax-exempt or a nonresident of Florida. If this order is to be purchased by a tax-exempt organization, the course book/tapes must be mailed to that organization and not to a person. Include tax-exempt number beside organization's name on the order form.

Public Finance in Florida

COURSE BOOK ONLY (0761M)

Cost \$50 plus tax

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(includes course book)

\$165 plus tax (section member); \$190 plus tax (non-section member)

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32nd Annual Local Government Law in Florida

COURSE BOOK ONLY (0700M)

Cost \$50 plus tax

TOTAL \$ _____

AUDIO CD (0700C)

(includes course book)

\$275 plus tax (section member); \$290 plus tax (non-section member)

TOTAL \$ _____

INTERNET RESERVATIONS

from page 1

ordinance providing for the local collection and administration of the tax. See Section 125.0104(10). Orange County levies a tourist development tax by ordinance and the Orange County Comptroller is charged with administering the tax.

In 2006, Orange County and its Comptroller filed a complaint seeking a declaratory judgment as to whether they can audit and assess the tourist development tax on the difference between the wholesale and retail rate charged by the internet companies. The trial court entered a final order dismissing the amended complaint, finding the

complaint failed to establish several of the elements necessary to grant declaratory relief. The trial court viewed Orange County's complaint as a request for an advisory opinion and believed the Comptroller should exhaust her administrative remedies before going to court. Orange County appealed, and in June 2008, the Fifth District Court of Appeal reversed the trial court, and remanded the case, stating:

The plaintiffs are not simply asking for instructions from the trial court as to how to proceed against the defendants; rather, they seek a judicial declaration determining their legal entitlement to assess the TDT on the retail price charged by the defendants for hotel rooms. Specifically, the questions set out in the amended complaint

for declaratory relief are: (1) whether, under the applicable statutes, the defendants are "dealers" for the TDT, (2) whether the difference between the wholesale price and the retail price charged guests is subject to the TDT, and (3) whether the defendants should remit...to [the comptroller] the TDT due on the total consideration paid for the hotel rentals at retail.

Although the internet companies filed a Notice to Invoke Discretionary Jurisdiction in the Florida Supreme Court, the Florida Supreme Court denied accepting jurisdiction on December 22, 2008. Because no stay was entered in the Fifth District Court of Appeal, the matter has been proceeding in the circuit court in Orange County. This is definitely a case for counties to monitor in 2009.

2008-2009 Calendar of Events

EXECUTIVE COUNCIL SCHEDULE

May 7, 2009

The Ritz Carlton Grande Lakes Resort
Orlando



SEMINAR SCHEDULE

CCLG Certification Review Course 2009

May 7, 2009

The Ritz Carlton Grande Lakes Resort
Orlando

Public Finance 2009

May 7, 2009

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32nd Annual Local Government Law in Florida

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