

## Tim Cristello

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**From:** William Clague  
**Sent:** Thursday, February 11, 2016 1:51 PM  
**To:** Margaret Daniell  
**Cc:** Mitchell Palmer; Ed Hunzeker; Dan Schlandt; Karen Windon; Tim Cristello; Charles Meador  
**Subject:** .Repurpose of Jail Site at Judicial Center; RLS-2016-0202

Margaret:

Pursuant to the above Request for Legal Services, you have asked whether the former jail facility located within the County's Judicial Center Property can be "parceled out" and sold as a separate parcel of real property. We provide the following advice in response:

1. Severing of Sub-Parcel of Land. The law generally allows the County to "sever" and sell a sub-parcel of a parent tract, subject to the requirements for disposal of County-owned property. So long as the County does not separate the parent parcel into three or more sub-parcels, the transaction will not trigger the subdivision requirements of the County's Land Development Code and Chapter 177, Florida Statutes. We note, however, that portions of the former jail facility may be fully integrated into the County's Judicial Center, such that lower floors of the Judicial Center are located beneath portions of the former jail facility. If this is the case, the County will not be able to dispose of the underlying land without compromising its ownership and control of the Judicial Center. If the County has funded any portion of the construction of the Judicial Center with tax exempt bonds, such a transaction could also violate the bond covenants and the Internal Revenue Code.
2. Severing of Building. The law also allows the County to sever the jail facility building and sell it, while retaining ownership of the underlying land. This, too, must comply with the requirements for disposal of County-owned property. Note, however, that if the severed facility shares common areas or amenities with the Judicial Center, the County may be required to establish a condominium form of ownership for both facilities pursuant to Chapter 718, Florida Statutes. In multi-story condominium development, it is quite typical to convey airspace without conveying the underlying land. This concept may have some applicability here, particularly with regard to those portions of the old jail structure that extend over the newer judicial center.
3. Potential Legal Issues. While the law allows the County to sever a sub-parcel of the underlying land or the jail facility building, we caution you that such a transaction could give rise to significant legal issues. These include:
  - a. Tort liability and insurance costs resulting from private uses in close proximity to, or sharing space with, the operation of the Judicial Center;
  - b. Security concerns resulting from private uses in close proximity to, or sharing space with, the operation of the Judicial Center;
  - c. Reliance on common areas for access; and
  - d. Allocation of responsibilities for maintenance and casualty loss for common areas and "party walls".Depending on the use of the severed parcel or building (office, commercial or residential), these issues could be insurmountable.
4. Practical Concerns. We are also concerned that any effort to repurpose the former jail facility could involve major expense. Any transaction to dispose of the facility should state the intended use of the severed property and fully insulate the County from the financial risks of such a venture.

This concludes my response to the RLS. Please contact me if you have any questions or concerns regarding the above stated legal advice.

Bill Clague  
Assistant County Attorney  
Manatee County, Florida  
ph. 941-745-3750  
fx. 941-749-3089  
[william.clague@mymanatee.org](mailto:william.clague@mymanatee.org)