

H. Kenza van Assenderp, Esq.

Overview

Henry Kenza (“Kenza” or “Ken”) van Assenderp is the sole proprietor since 1 October 2016 of van Assenderp Law and from March 1974 through 2016 practiced law with Young, van Assenderp and Qualls, PA (including the same firm with different names since 1974) with offices in Tallahassee (and also Naples for 30 years). His legal career began in 1973 with the Orlando firm of Gurney, Gurney and Handley PA. As an attorney and counselor at law, van Assenderp has an AV rating from the Florida Bar and, in 2019 was rated as a peer-rated preeminent attorney for professional excellence by Martindale-Hubbell.

Throughout his legal career, when representing and counseling a variety of clients, his efforts to help them identify and resolve their problems and recognize and seize their opportunities resulted often in new laws and in several disparate reforms and innovations in Florida law and policy. They range, for example, from: growth management through use of independent districts; to fair, efficient and accountable special assessments collection and enforcement to Florida’s first high-speed rail law to the constitutionality of community development districts and to the even-handed application of the doctrine of equitable ownership to both opposition of, and ownership-based exemption from, property taxes which therefore recognizes equitable ownership with proper indicia of record; and, extricating a college football head coach from an early-tenure complex set of inadvertent and ill-advised investment and business entanglements and then negotiating his revised contract with the university.

A member of the Florida and American Bar Associations, he is admitted to practice before the United States District Court for the Northern District of Florida and the Supreme Court of the United States of America.

Representative Services and Accomplishments for a Variety of Clients

1. As the Naples Daily News reported, van Assenderp had “a profound impact” on growth management in Florida through transforming the use of local independent special purpose districts as an alternative state-sanctioned way to provide infrastructure to the land proposed for development constituting a growth management mechanism now used throughout Florida. Accordingly, examples of client work within the ambit of Florida growth management law include:
 - One of his first developer clients, Mr. Joe Terravella (through Coral Ridge Properties, later acquired by Westinghouse Electric Corporation), pioneered the use of independent special purpose districts to provide basic infrastructure (such as roads, water, water management and drainage control, sewers, lights, etc.) to raw land to facilitate high quality and highly successful new communities in South Florida. Following the advent of home rule in

Florida's 1968 Constitution and related major studies and reforms of environmental and land use regional impact law, there arose strong opposition to the use of infrastructure-providing independent districts. In 1972, the state's ad hoc Local Government Study Commission listed a host of problems from the use independent districts and recommended laws to prohibit any future use of such districts, thereby threatening the future success of Mr. Terravella's building of new communities, in particular focused on a new community he was planning on land in northwest Collier county. Mr. van Assenderp assessed the situation and conferred with Mr. Terravella. He then researched, conceived, drafted and lobbied the Legislature successfully to pass the Pelican Bay Improvement District Special Act of 1974 which included a host of landmark innovative reforms on the use of independent districts including addressing and curing the host of criticisms listed in the Local Government Study Commission. Then Mr. Terravella and he had to work with the then Governor and his staff to help him reach the decision to let the special act become law. It became Chapter 74-462, Laws of Florida. This success not only resulted in the ability of his client to build the high-quality Pelican Bay new community but also was the key first step to blunt the opposition to the use of independent districts in growth management in Florida.

- Representing Coral Ridge Properties to ensure that a state task force (which produced the New Communities Act of 1975) preserved the legitimacy of using special purpose districts independent of counties or cities to provide local infrastructure to land designated for development as new communities, even though this task force also made what proved to be the mistakes of treatment of such districts only as financial incentives to developers and of conditioning them on attained development approvals and entitlements);
- On behalf of Coral Ridge Properties (including as acquired by the Westinghouse Electric Corporation), in concert with its in house counsel (Tom Wright, Esq.), conceived of, drafted and successfully lobbied into law the landmark Chapter 190, Florida Statutes, the Uniform Community Development Act, which eliminated the mistakes of the 1975 new communities task force and which introduced major innovations that enabled his client to continue its community development district operations in Florida.;
- Successfully defended before the Florida Supreme Court a challenge to the constitutionality of Florida Statute Chapter 190 in the landmark State vs. Frontier Acres case of June 1985, referred to in the case law section of this resume;
- Drafted, in 1985, a section in the new state plan, Florida Statutes Section 187.201(20)(b)2, based upon the landmark reforms in Florida Statutes 190, to declare the expressed state policy to limit use of all independent special purpose districts to those created only by, or pursuant to general law in order to prevent needless duplication, fragmentation and proliferation of local governments;
- Along with other lawyers, in 1989, drafted Chapter 189, Florida Statutes, the district accountability law to preserve the key reforms and precedents in FS Chapter 190 (that independent districts may only be created and established by or pursuant to state general law and including its related expressed state policy reforms) by codifying them into a major

statutory reform law on districts, affirming and providing for the accountability of independent special districts, and pursuant to, general law, including its minimum requirements that independent districts be tied to an expressed special purpose (which could no longer be financing).;

- Conceived of, drafted and then lobbied into law (representing the Baron Collier Companies), the next-generation innovation in the use of independent districts, the Ave Maria Stewardship Community District, Chapter 2004-461, Laws of Florida, creating and establishing independent special districts by special act pursuant to the detailed general law requirements in 189, based upon Chapter 190, Florida Statutes, an approach now being applied by practitioners throughout Florida;
2. Special counsel in mid 1970s to the City of North Miami to assess and to report to the Mayor and City Commission, and then to represent the City as special counsel to work to permit a municipal landfill on the old Interama site, in the Biscayne Bay Aquatic Preserve with a municipal golf course located on the landfill (but as to which when permitted the City decided not to proceed)..
 3. Special counsel beginning in 1986-1987 as requested by and in concert with Thomas B. Tart, Esq., the General Counsel to the Orlando Utilities Commission ("OUC") for the land use and environmental permitting and certification requirements to certify, construct and operate its 2000 megawatt Stanton Energy Center working with the Florida Audubon Society, the City of Orlando, Orange County, a Water Management District, a Regional Planning Council, the State environmental and Fish and Wildlife Agencies, the U.S. Corps Engineers, the U.S. EPA.
 4. Special counsel beginning in 1974 to Westinghouse to plan and to permit (including approval of a large mangrove preserve in exchange for upland development) the Pelican Bay planned community in northwest Collier County, Florida.
 5. Special counsel to the Pelican Bay Foundation (homeowner association) in Collier County to assess, draft and advise on whether to get a new independent special infrastructure district on its property; and, also on options to preserve the architectural integrity of the residential communities within Pelican Bay.
 6. Special counsel to David Shakarian (founder of GNC) from 1984-1995, for the planning, permitting, entitlements and developments of the innovative Bonita Bay community in Bonita Springs, Florida which his client wanted to be an exemplar of environmental health just as his company is for human health.
 7. Special Tallahassee counsel (beginning in 2007 with our Naples law office) to the Baron Collier Companies of Naples, Florida, to get the state (Governor and Cabinet) to approve the new rural lands stewardship overlay to the Collier County comprehensive land use plan to preserve economic values in their vast real estate holdings east of I-75, for example, by, making use of transferring their development rights from environmentally sensitive lands to developable uplands.

8. Special Counsel in 2006 to the Baron Collier Companies working with local and regional officials to advise, draft and then represent the companies in the Florida Legislature to enact, the Grove Community District in northern Okeechobee, Florida).
9. Represented Florida's Tax Collectors from 1974-2016 to advise and to represent them before state agencies and the Florida Legislature; created and then, from time to time modernized and updated their state wide non-profit tax-exempt organization, The Florida Tax Collectors, Inc., the non-profit trade association of the Florida's sixty-seven Tax Collectors (of which sixty four are the Constitution's sovereign county officers and three were charter county appointed officers until the 2018 constitutional amendment eliminating charter appointed Tax Collectors), tax exempt under IRC Section 501(c)6, to be qualified to influence public policy; advised and assisted in professionalizing and expanding the services provided by the Association to its members including education, training and member assistance in office procedures and compliance; advised, recommended and helped institute ethics and conflict of interest standards for members and for the Association; advised, recommended and successfully lobbied to reform laws and administrative rules on matters ranging from office certification to uniform office budget submission to and approval by the state; fighting successfully at the state level and in several counties to preserve and to enhance the Constitution's sovereign independent county office of Tax Collector; advised, conceived, recommended and lobbied successfully to increase the base compensation to Tax Collectors based on fairness commensurate with major new statutory duties and to work to provide a uniform statutory law related to future salary adjustments increasing base pay as a matter of fairness due to increased duties; conceived, advised, recommended and lobbied successfully to enact a new state law to provide for a new uniform methodology to assess, impose, levy, collect and enforce non ad valorem assessments to prevent abuse and needless loss of homestead property and to provide fairness and efficiency; to revise and reform motor vehicle title and registration law; to reform hunting and fishing licensure; to reform the state tax and assessment collection and enforcement laws to result in more fair collection and enforcement of ad valorem tax law; to protect and to advance the constitutional sovereignty of the office successfully by advocacy before constitution revision commissions and various state research and policy review commissions and offices.
10. Represented the Tax Collector Association upon van Assenderp's recommendation (after determining and assessing the need for reliable recurring funding of the work of the Association without using tax revenue under applicable federal law) to fulfill its decision to implement and create its own feeder subsidiary for-profit C corporation to earn income pay taxes and distribute after-tax income to the sole stockholder (the tax-exempt parent non-profit Tax Collector Association) and then serve as its general counsel.
11. Retained for four years beginning in 1979 by Coach Bobby Bowden, Head Football Coach at the Florida State University, to analyze and then recommend a detailed series of curative steps to extricate him from financial entanglements and risky business investments and then to develop and to negotiate a new contract with the University that became a model for lawyers representing other coaches at other institutions.

12. In a circuit court validation proceedings, on behalf of numerous districts throughout Florida, as issuer's counsel, validated approximately \$1.5 billion of infrastructure bonds by validating each independent special district itself, its bonds and its recurring first-lien revenue source to amortize the bonds to fund the district's management of infrastructure acquisition and construction.
13. Represented over a forty two year span a variety of landowners and developers both to draft and to create independent special districts by special acts and also to establish by county ordinance or by state rule a host of uniform community development districts and to serve such districts throughout Florida as general counsel and then to represent and counsel those districts in assessing, imposing and levying first-lien non ad-valorem special assessments and also in collecting, distributing and enforcing the those assessments and, further, in using those assessments either to amortize bonds used to construct or acquire infrastructure or to fund the operation and maintenance of the infrastructure systems, facilities and services.
14. On behalf of Florida's Tax Collectors, conceived, drafted and successfully lobbied a transformative new state uniform law on fair, accountable and efficient collection and enforcement of non-ad valorem special assessments (FS Section 197.3632) designed to, prevent foreclosure for nonpayment of special assessments through the use of tax certificate and tax deed mechanisms.
15. Represented Westinghouse Electric Corporation in the early 1980s as special Florida consultant in 1975 to pursue in the United States House of Representatives through the House Science and Technology Committee the authorization of the Clinch River Breeder Reactor Facility (proposed by the US Atomic Energy Commission, the US Department of Energy and the nuclear power industry) designed to reuse nuclear waste to "breed" new fuel for nuclear power plants, reduce nuclear waste and provide more related efficiency and safety (the House ceased considering such breeder reactors with the aftermath political reaction to Three Mile Island).

Professional & Community Involvement

- Appointed in 1974 by Governor Reuben Askew to the New Communities Task Force which studied use of independent special districts in providing infrastructure to land proposed for new community development and which recommended to the Legislature to enact the New Communities Act of 1975 (which was flawed and never used but in which van Assenderp worked to preserve in state his law the notion of independent districts used to provide the special purpose of infrastructure provision that in turn led to his law reforms);
- Appointed by Governor Jeb Bush to, and served as the sole non-party affiliate member on, the Florida Election Reform Commission in the immediate aftermath of the Florida presidential election of 2000 to recommend changes in technology, standards law, and related matters;
- President of the Alumni Association of the Florida State University from 1987-1989 instituting awareness and application of how the long, circuitous and unusual history of the University

produced the practical benefits of its historically derived academic power, institutional gravitas, accomplishments, and traditions of the University to society and then setting up a network of alumni (the Garnet and Gold Alumni Infrastructure) to support and to inform the university;

- Served on the Board of the Tallahassee Children's Home Society from 1974 to 1975;
- The LeRoy Collins Institute, served on the Board of Directors the Institute from approximately 2012 to 2015 during which: van Assenderp considered, researched, assessed and filed a report disclosing the organizational history and status of its legal parameters, making further clarifying recommendations and then recommending an alternative private financing mechanism; and, spent a significant amount of volunteer time eliminating mistakes, editing substantial aspects and writing key components of the Institute's multiple volume study on independent special districts posted on its web site.;
- For the Tallahassee Symphony Orchestra Board of Directors, served on the Board of Directors from 2014 to 2016: he commissioned and funded, as a gift to the Board, a professional futurist to identify, assess and make recommendations about how to manage near term technological and societal trends affecting professional symphonies (and van Assenderp also made assessments and recommendations on innovative private funding of symphony operations under applicable federal law);
- For Forward Tallahassee (an ad hoc civic organization), volunteered, helped conceive and create (and elected to chair in 1985) the non-profit community entity to promote quality of life, economic development, and environmental stewardship; it was ahead of its time and was folded into the local chamber of commerce.
- In the 1990s, appointed to and privileged to serve on the Research Foundation Board of the Florida State University which developed policies and procedures to manage the University's share of royalties from Bristol, Meyer Squib from the commercialization of the synthetization of the taxol molecule by Dr. Bob Holton, Chemistry, constituting to date the nation's largest royalty "hit" from any American university and to provide seed funding for research.

Significant Developments in Florida Case Law through van Assenderp's Appellate Work

1. Dryden v. Madison County, 696 So. 2d 728 (Fla. 1997), remanded 118 S.Ct. 1162 (1998), reaffirmed 727 So. 2d 245 (Fla. 1999), cert. denied 199 S.Ct. 2367 (1999) which determined that non-ad valorem special assessments levied by counties, even when the levying ordinances are challenged, but when the underlying assessment is not challenged, are not subject to refund under applicable federal and state law and because these assessments are not taxes of any kind, because the county acts in good faith.

2. Leon Co. Educ. Auth. v. Hartsfield, 698 So. 2d 526 (Fla. 1997), establishing that the doctrine of equitable ownership must be applied even-handedly, whether a property tax is being imposed or an exemption from a property tax is being claimed, so that exemption

from taxation based on ownership and use can involve equitable ownership only (with appropriate indicia of ownership indicated of record).

3. Orlando Utilities Commission v. Florida Sierra Club, 436 So. 2d 383 (Fla 5th DCA 1983), affirming the role of the Public Service Commission as the sole determiner of need for utility plant certification processes so that the need determinations were not proper for examination in the certification process before the Siting Board.

4. BSI, Inc. v. Department of Transportation, 443 So. 2d 981 (Fla 3rd DCA 1984), the appellate court per curiam affirmed the decision of the circuit court judge who held that the Department of Transportation has a responsibility to disclose to bidders the reasonably foreseeable existence, or probable existence, of both montmorillonite (a type of clay that hampers construction due to its water retention properties) and its unique characteristics. The Judge further opined that failure to disclose the existence of montmorillonite would impact the bids of all of the prospective bidders significantly and therefore was a breach of contract on the part of the Department of Transportation.

5. State v. Frontier Acres C.D.D. Pasco County, 472 So. 2d 455 (Fla. 1985), determining the constitutionality of Chapter 190, Florida Statutes, and describing the single purpose (managing infrastructure provision) of such community development districts in Florida's growth management law.

6. State ex rel Buntmeyer v. Florida State Commission on Ethics, 321 So. 2d 137 (Fla. 1st DCA 1975), determining that complaints (concerning public employees under applicable statute) shall be directed to the official or board responsible for hiring employees and that if, after 30 days, such responsible person or board has not initiated action on complaint, the Ethics Commission duty (to conduct its own investigation and to recommend appropriate action) begins, so that a special act drainage district's initiation and timely completion of complaint investigation (finding no conflict of interest with regard to its superintendent under the terms of the special act). The complaint was forwarded to the district by the Ethics Commission. The Ethics Commission was precluded from conducting an investigation and from taking further action on the complaint.

Publications

1. *Dispelling the Myths: Florida's Non-Ad Valorem Special Assessments law*. Henry Kenza van Assenderp & Andrew Ignatius Solis, Florida State University Law Review, Volume 20, spring 1992, Number 4.

2. Growth Management through the Uniform Community Development Act by Bill Kynoch and Kenza van Assenderp, Florida Environmental and Urban Issues, October 1983.

3. *Uniform Community Development District Act of 1980 and Local Government Home Rule* by Kenza van Assenderp, Local Government Law, The Florida Bar Journal, April 1982.

4. *Community Development Districts: An Alternative Way for the Private and Public Sectors to Finance Growth* by Kenza van Assenderp, Florida Environmental and Urban Issues, October 1983, Volume XI, Number 1

5. *Florida State System of Aquatic Preserves: Does it have Sufficient Management?* By Kenza van Assenderp and K. Kendrick Tucker, Florida Bar Journal, Volume 51, Number 2, February 1977.

6. *Telli v. Broward County- A Misunderstanding of County Home Rule and an Abridging of the Statutes of the Constitution's County Officers who are Not the Charter's County Officers* by Kenza van Assenderp and Kayla M. Scarpone, Nova Law Review, Volume 39, Number 1, 2014

7. Edited for legal, historical and state public policy purposes, certain portions of the following researched reports on Florida's special districts by consultants for the LeRoy Collins Institute of the Florida State University:

- Hidden in Plain Sight: Florida Special Districts (Executive Summary) - July 2014
- Community Development Districts: Financial and Accountability Issues - July 2014
- Piecing Together the Governing Puzzle: An Exploration of Florida's Special Districts - REVISED September 2014

Drafted the following report for the LeRoy Collins Institute of the Florida State University:

- District and CDD History - July 2014

Laws of Florida Drafted and Co-Drafted

General Law

- Representing TGV of Florida (the Train a Grand Vitesse, the French High-Speed Rail Company) drafting and lobbying the Legislature to enact Florida's first High-speed rail Transportation Commission law (Chapter 341.321- 341.386, Florida Statutes);
- On behalf of the Florida Tax Collectors Association, in order to prevent needless loss of property by property owners for nonpayment of first-lien non-tax special assessments on their property, van Assenderp conceived of, drafted and lobbied the Legislature to enact the Uniform Non-ad Valorem Special Assessment Collection Laws (Chapter 197.363 197.3631,

197.2632, 197.2635, Florida Statutes, as amended, and related Rule 12D-18, Florida Administrative Code;

- When the continued use by his client, Coral Ridge Properties, of independent improvement districts (used to manage construction, financing and provision of essential infrastructure needed to develop large high quality new communities in Southeast Florida), van Assenderp (and Tom Wright, the client's in house counsel) assessed the critical situation and then conceived of, drafted and lobbied the Florida Legislature to enact the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, which reformed Florida law on independent districts, eliminated the reasons for political opposition and allowed van Assenderp's client to continue its new community development business throughout all of South Florida (and which today is used by developers all over Florida).

Special Law:

- Chapter 74-462, the Pelican Bay Improvement District Act (the landmark innovative district to provide infrastructure for the Westinghouse Pelican Bay new community in northwest Collier County).
- Chapter 2004-461, Laws of Florida, the Ave Maria Stewardship Community Development District (to provide infrastructure to the Ave Maria University and surrounding community for the land owner-developer, the Barron Collier Companies in Collier County, Florida);
- Chapter 2006-357 Laws of Florida, the Grove Community District in Okeechobee County, Florida representing the landowner, the Barron Collier Companies.

Before Practicing Law Early Career

While studying at the Florida State University, van Assenderp majored in Political Science with a minor in History. Upon graduating with a BA degree in August 1963, he was commissioned as a Second Lieutenant in the United States Army. His two years of active duty were in Artillery in Fort Sill, Oklahoma, where his units helped develop firing data for the 175 mm gun. In 1973, Kenza earned his JD from the Cumberland School of law of the Cumberland University.

Then upon completing active duty, van Assenderp served from 1966 through most of 1968 as a Cabinet Affairs aide to the Honorable Tom Adams, Florida's elected Secretary of State, in Tallahassee. In that position, he assisted in and advised on environmental, land use, higher education state purchasing, conservation and related matters of public policy. He then was assigned to manage the Secretary of State's regional office in Orlando, Florida.

In 1969 he served the Honorable Don Fuqua, the United States Congressman from the 2d Congressional District of Florida, as Legislative Aide in Washington, DC.

In the summer of 1970, after the Honorable Tom Adams, as requested by gubernatorial candidate Reuben O'D Askew, joined as the candidate for Lt. Governor in the first primary campaign. van Assenderp worked with six other Floridians assembled by Adams and Askew on a voluntary ad hoc basis to upgrade and to manage the first primary gubernatorial campaign which resulted in a major upset political victory.