

**Statutory Requirements for Leasing Space  
and Issues Related to the Fla. Stat. §125.38 Exception from Competitive Bidding**

In order to lease space to the TBA or Legal Aid, the Board would need to pursue a competitive bidding process and award any lease to the highest bidder unless exempt from competitive bidding under *Fla. Stat.* §125.38. In order for the §125.38 exception to be applicable to the leasing of space to the TBA for use as an attorneys commons or Legal Aid office, thereby allowing its lease of the space without competitive bidding, the Board would need to find:

- (1) The TBA or Legal Aid, as applicable, is a nonprofit organization, organized for the purposes of promoting community interest and welfare;
- (2) Its proposed use of the leased space is for a public or community interest and welfare;
- (3) Its leased space is required for the proposed use; and
- (4) Its leased space is not needed for any County purpose.

Additional analysis of these four factors, based on the information staff was able to obtain from public sources, follows (the Board may seek additional information from the TBA to consider):

Factor #1 - Board's consideration as to whether TBA or Legal Aid is a nonprofit organization, which is organized for the purposes of promoting community interest and welfare -

1. Tallahassee Bar Association, Inc. (TBA) - The purposes of the TBA, according to its Articles of Incorporation follow, "The general nature of the objects and purposes of this corporation shall be to engage in any and all lawful activities which non-profit corporations may engage in under the laws of the State of Florida, and limited by those activities permitted under Section 501 (c) (6), Internal Revenue Code of 1954, as now in force, or hereafter amended, and to promote the objectives of the legal profession in compliance with the Code of Professional Responsibility, and to promote fellowship and goodwill among its members." Consistent with this purpose, its 2004 Income Tax report's Statement of Program Service Accomplishments includes: "...regular monthly meetings - dinner meetings with programs of professional interest and social contact with peer group"; Tallahassee Bar Bulletin - monthly publication of association activities and articles of professional interest; and lawyer referral service.

2. Legal Aid Foundation of the Tallahassee Bar Association, Inc. (Legal Aid) - The purposes for the Legal Aid, according to its Articles of Incorporation follow, "To render legal services to all residents of Leon County appearing worthy of such aid, who shall be unable to procure legal assistance elsewhere; to assist persons without means in the pursuit of any civil remedy and in the protection of their person or property." Consistent with this purpose, its 2004 Income Tax report's Statement of Program Service Accomplishments includes, "Civil Legal Assistance to Indigent Residents of Leon County."

Factor #2 - Board's consideration as to whether TBA's or Legal Aid's proposed use of the leased space is for a public or community interest and welfare – Mr. Hinkle's recent letter provides, "The Attorney's Commons is a great asset and valuable part of the Courthouse. Lawyers need a place to prepare or rest between hearings or during recess. The Commons is very popular. It also doubles as the administrative offices for the TBA." "Likewise, Legal Aid is a critical service needed now more than ever."

Factor #3 - Board's consideration as to whether TBA's or Legal Aid's leased space is required for the proposed use –

Staff surveyed the following 19 counties to gain an understanding of other counties' space allocations for legal aid, local bar associations, and attorney commons: Alachua, Bay, Brevard, Broward, Charlotte, Collier, Escambia, Hernando, Hillsborough, Lake, Manatee, Marion, Miami-Dade, Okaloosa, Osceola, Polk, Sarasota, Seminole and Volusia. According to the respondents from those counties:

1. None of the 19 reported having a legal aid office in the Courthouse.
2. None of the 19 counties reported leasing Courthouse space to their local bar association for bar association space.
3. Three counties reported allowing their local bar associations to use Courthouse space: (1) Manatee County said they have a letter of agreement between the Clerk and the local bar for space in the law library with a 6-week cancellation clause by either party; (2) Sarasota County said the Sarasota County Bar Association has no lease or other form of written agreement with the county, but was allocated space within the Courthouse (the Sarasota County Bar Association pays for all expenses associated with the space other than utilities and weekly custodial service, but they do not pay rent); and (3) Collier County said that the Collier County Bar Association has no lease for space in the Collier County Law Library (which they operate).
4. None of the 19 counties reported leasing Courthouse space to their local bar association for attorneys common.
5. Twelve counties (Alachua, Bay, Broward, Escambia, Hernando, Lake, Manatee, Marion, Miami-Dade, Okaloosa, Polk and Volusia) reported that they provide no space for attorneys' commons. Seven counties reported they provide some space for attorneys' use, but not through a written agreement and spaces could be reallocated for other uses if needed:
  1. Brevard County has a room approximately 15' x 20' (300 SF) with a phone and fax machine;
  2. Collier County has a conference room that is about 12' x 12' (144 SF);
  3. Charlotte County had meeting spaces outside of their courtrooms for attorneys to meet with their clients (Leon County provides ante rooms);
  4. Sarasota County has a business center that is approximately 8' x 8' (64 SF);
  5. Hillsborough County has a room that is approximately 244 SF that was furnished by the Young Lawyers Section, but there is no agreement for its use, and when the space is needed for other purposes it is understood the bar would need to relocate;

6. Osceola County has a small room on each floor of the courthouse to serve as attorney meeting room which is not provided through a formal agreement; and
7. Seminole County has a small room with a table and telephone for attorneys to use in the Civil Division.

The TBA and Legal Aid have the following staffing levels and office allocations in the Courthouse:

| Staff (TBA & Legal Aid) | Est. Staffing Allocations |           | Total FTE  | # of Offices in the Courthouse            |
|-------------------------|---------------------------|-----------|------------|---|
|                         | TBA                       | Legal Aid |            |   |
| Director                | .50                       | .50       | 1.0        | 2 (1 in Attorney Commons, 1 in Legal Aid) |
| Volunteer Coordinator   |                           | 1.0       | 1.0        | 1   |
| Receptionist            |                           | 1.0       | 1.0        | 1 (filled through part-time personnel)    |
| Marketing Assistant     | Part-time (.50 est.)      | 0         | .50 (est.) | 1   |

Mr. Fons' May 4, 2000 letter sought "...a smaller Attorney Commons meeting area, as well as two new offices for use by attorneys as deposition rooms. (As part of the Court's continuing effort to find space for Court personnel, the existing deposition rooms have been converted into offices)." This situation has changed, however, with the recent construction of additional Court office space. Court Administration staff advised they will be removing staff from the two deposition rooms on the 3rd floor of the Courthouse by this Thanksgiving. Therefore, those offices will once again be available to attorneys. Additionally, ante rooms (small meeting rooms that adjoin several courtrooms) that have been used by the Courts to house staff, will be reopened with the relocation of staff to office space.

Factor #4 (Board's determination as to whether the proposed space is not needed for any County purpose).

In 1986, when the Agreement with TBA was reached for use of Courthouse space for The Attorney Commons, there was space within the Courthouse that was not built-out and not allocated. Therefore, there was space in the Courthouse that the County was not using. That situation has changed.

Subsequent to that 1986 Agreement, the County not only built out all remaining Courthouse space through its 1999 Space Plan renovations, it relocated most of its Courthouse offices elsewhere (Public Works staff were relocated to a newly constructed Public Works building; Facilities Management staff were relocated to a newly constructed Facilities Management building; Emergency Management was relocated to the Leon County Detention Center;

Purchasing and MWSBE staff were relocated to a renovated warehouse at the Public Works Center; Health and Human Services and Grants were relocated to the renovated Amtrak station).

Further, the County purchased the Courthouse Annex and relocated the following offices from the Courthouse to that site: Clerk of the Court offices that do not perform court-related functions (such as Finance, Payroll, Personnel, and Official Records); Tax Collector; Property Appraiser; Supervisor of Elections; and Guardian Ad Litem (which the State includes in the definition of "circuit and county courts"). Additionally, as there was inadequate space within the Courthouse to accommodate the growth of the Public Defender's office, we have some of their staff located in the Courthouse Annex.

The County will be obligated to continue to meet increasing demands for space by those agencies for which the County is obligated to provide office space. That need will either be met within the Courthouse; within the Courthouse Annex (which reduces the amount of space available for revenue-producing lease income); or elsewhere.

Local bar associations and Legal Aid offices do not provide court-related functions and the County is not required to provide them with office space (Counties are required by s. 14, Art. V of the State Constitution to fund the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions).

The Phase One Space Allocation Plan (Space Plan), approved by the Space Plan Advisory Group (Advisory Group) on September 17, 2004 and by the Board on October 12, 2004: (1) relocated Legal Aid from its current 4<sup>th</sup> floor location to alternate space identified by the Courts within space allocated to the Courts; and (2) did not relocate or address The Attorneys Commons. Therefore, space was to be allocated within the area allocated to the Courts to house Legal Aid. Space Planning Advisory Group (Advisory Group) included the following members or their designees: Bert Hartsfield, Property Appraiser; Doris Maloy, Tax Collector; Ion Sancho, Supervisor of Elections; Bob Inzer, Clerk of the Courts; Charles Francis, Chief Judge; Nancy Daniels, Public Defender; Willie Meggs, State Attorney; Jane Sauls, Board Chairman; and Parwez Alam, County Administrator.

Space planning activities also included a 2030 Courthouse Master Plan, prepared by Barnett Fronczak Architects, which provided a long-range vision for the build-out of the Courthouse with the relocation of non-court functions to the BOA over the next 25 years. The Master Plan, endorsed by the Advisory Group and also presented to the Board in its October 12, 2004 meeting, provided for a vision of where the long-term construction of courtrooms and the public versus secure Courts' corridors could occur. It did not define long-term space for The Attorney Commons or Legal Aid. The majority of the space The Attorney Commons is in currently was reflected as future office space for the Courts (as The Attorney Commons is located within the Courts' secure corridor, although there is an entrance from the public corridor).