COUNTIES, CITIES AND TOWNS: PLANNING, SUBDIVISION OF LAND AND ZONING.

Property owner whose property is subdivided in one county for conveyance to family member is not prohibited from subdividing property he owns in another county for conveyance to such family member.

The Honorable Jo Ann Davis  
Member, House of Delegates  
March 6, 2000

You ask whether, pursuant to § 15.2-2244 of the Code of Virginia, an individual who has conveyed property in one county to a qualifying family member is prohibited from conveying property in another county to such family member.

Virginia’s subdivision enabling statutes are detailed in Article 6, Chapter 22 of Title 15.2, §§ 15.2-2240 through 15.2-2279. Section 15.2-2240 requires that every locality adopt a subdivision ordinance. The purposes of a subdivision ordinance are "to assure the orderly subdivision of land and its development" and to promote "the public health, safety, convenience and welfare of citizens." Section 15.2-2241(10) specifically requires subdivision ordinances to include "reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner." In accordance with this statutory provision, § 15.2-2244(A) provides:

In any county … a subdivision ordinance shall provide for reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner …. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this section.

Subdivision ordinances are enacted pursuant to the delegation of the police power of the Commonwealth to a locality. With respect to § 15.2-2244(A), a 1989 opinion of the Attorney General notes:

The manifest intent of the General Assembly in enacting [§ 15.2-2244(A)] was to permit property owners in counties … to divide existing parcels by a single transfer by a property owner to a family member without being subject to the formalities and expenses attendant to compliance with otherwise applicable provisions of the subdivision ordinance.

A 1986 opinion also notes that the principal focus of the exception in § 15.2-2244(A) is to promote the values society places on the disposition of family estates during the lifetime of the owner with a minimum of government regulation and to promote the cohesiveness of the family.
Thus, whereas this Office has concluded that § 15.2-2244(A) is not intended to apply to profit-motivated divisions for short-term investment purposes because such a division would have the purpose of circumventing otherwise applicable requirements of a subdivision ordinance, it also has concluded that a family division of a parcel to keep the family estate within the immediate family and passing real property interests from one generation to another is consistent with the purpose of § 15.2-2244(A). Based on the facts presented, it would appear that the conveyances of property in the respective localities fall within the purview of this statute and you do not indicate that there is any issue regarding circumvention of the statute.

The General Assembly, in enacting Virginia’s subdivision enabling statutes, "delegated to each locality a portion of the police power of the state, to be exercised by it in determining what subdivisions would be controlled, and how they should be regulated." Accordingly, each county "is granted broad discretion in determining the types of subdivisions of land which are to be subject to the requirements of its subdivision ordinance." Section 15.2-2244(A) mandates that a county’s subdivision ordinance provide for a family subdivision exception. Each county’s subdivision ordinance (including exceptions) is necessarily applicable to the subdivision of such county’s land. I am aware of no statute which articulates that the family subdivision exception may be exercised in only one county.

Accordingly, it is my opinion that a property owner whose property is subdivided pursuant to § 15.2-2244(A) in one county is not prohibited from subdividing property pursuant to this section which he owns in another county.

1Section 15.2-2240.

2Section 15.2-2200.


41989 Op. Va. Att’y Gen. 100, 101 (citing § 15.1-466(A)(k), predecessor statute to § 15.2-2244(A)).


See § 15.2-2240.