

Property:

Florida: Owner's Transfer of Property to LLC Deemed a Change of Ownership Resulting in Loss of Cap Benefit

Case No. 3D22-835, Fla. Dist. Ct. App. (3/15/23). In a case involving a couple's transfer of non-homestead real property to their wholly owned Florida limited liability company (LLC), a Florida District Court of Appeal (Court) affirmed that such transfer constituted a "change of ownership" of the subject property under state law, and therefore, Florida's beneficial "10% Assessment Limitation" (*i.e.*, a 10% cap on annual increases in a property's assessed value for Florida property tax purposes) on the subject property could *not* be retained by the LLC after the transfer. The couple unsuccessfully claimed that, effectively, no "change of ownership" had occurred because only legal title to the subject property was transferred to the LLC by quitclaim deed, and they essentially retained equitable title to the property in owning the LLC. Rejecting the couple's claim, the Court explained that there was *no* cited authority for the proposition that owners or members of an LLC who convey, via quitclaim deed, real property to an LLC retain, as a matter of law, the equitable title to the conveyed property because those owners or members control the LLC. Note that the Florida Supreme Court has since denied the LLC's petition to review this case [see Case No. SC2023-0796, Fla. (petition for review denied 10/24/23)]. Please contact us with any questions.

URL: https://3dca.flcourts.gov/content/download/1962720/opinion/Opinion_2022-0835.pdf

URL: <https://acis.flcourts.gov/portal/court/68f021c4-6a44-4735-9a76-5360b2e8af13/case/b5f12d84-c7ee-42ff-9525-b1ca219c9544>

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