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City of North Lauderdale vs SMM Properties, Inc.

MR. CHIEF JUSTICE: GOOD MORNING. THE NEXT CASE ON THE COURT'S DOCKET THIS MORNING IS CITY OF NORTH FT. LAUDERDALE VERSUS BROWARD COUNTY. MR. NABORS, I BELIEVE YOU ARE GOING TO PROCEED.

MAY IT PLEASE THE COURT. MY NAME IS BOB NABORS, OF NEIGHBORORS GIBLIN. I REPRESENT THE CITY OF NORTH LAUDERDALE. AT COUNSEL TABLE WITH ME IS MY PARTNER VIRGINIA DELEGAL AND ROBERT CARUSO OF CARUSO. MAY IT PLEASE THE COURT. THE FIRE RESCUE PROGRAM FOR THE CITY INCLUDES BOTH CLASSIC FIRE PROTECTION SERVICES AS WELL AS EMERGENCY MEDICAL SERVICES, OR EMS. BY THAT, IT MEANS THAT THE FIRE FIGHTERS ARE CROSS TRAINED AS PARAMEDICS AND EMTs. IT IS A COMMONLY-ADMINISTERED PROGRAM. MUCH IT HAD -- MUCH OF IT HAS DUAL PURPOSE. THIS SUIT CHALLENGES THE EMS COMPONENT OF THE BUDGET, AS FAILING TO PROVIDE SUBSTANTIAL BENEFIT IN PROVIDING ONLY BENEFIT. THE CASE PROCEEDED AT TRIAL. THERE WAS A MOTION OF SUMMARY JUDGMENT ON THE SPECIAL BENEFIT ISSUE. IT WENT TO TRIAL ON APPORTIONMENT. THE CITY PREVAILED ON APPORTIONMENT, AND IT WAS APPEALED TO THE FOURTH DISTRICT COURT OF APPEAL. THERE REALLY IS NO ISSUE IN THIS CASE, AS TO THE SPECIAL BENEFIT PROVIDED BY FIRE PROTECTION SERVICES, ABSENT THE EMERGENCY MEDICAL COMPONENT, AND NO ISSUE ON FAIR APPORTIONMENT. THE FOURTH DISTRICT COURT OF APPEALS, IN OPINION, HELD THAT THE CONSOLIDATED PROGRAM FAILED TO PROVIDE SPECIAL BENEFIT, ON THE BASIS THAT THE EMS SERVICE COMPONENT PROVIDED NO DIRECT SPECIAL BENEFIT TO PROPERTY BUT ONLY A GENERAL POLICE POWER SERVICE THAT WAS FOR GENERAL BENEFIT. ALSO THE COURT SAID THAT, ON THE WHOLE, THE PROPERTY BENEFITED PEOPLE RATHER THAN PROPERTY, AND THAT A PROPER DIVIDING LINE BETWEEN, ON THE VALID SPECIAL ASSESSMENT, WAS THE FOUR CORNERS OF THIS COURT'S CASE, AN AS THE COURT CONSTRUED IT IN THE LAKE COUNTY CASE, IS THAT ONLY THE FIRST RESPONSE MEDICAL ACTIVITY AT THE SCENE PROVIDED A SPECIAL BENEFIT, AND ANYTHING BEYOND THAT ON THE EMS COMPONENT WAS ONLY A GENERAL BENEFIT ONLY.

WOULD YOU AGREE THAT, IN ORDER TO BE A VALID SPECIAL ASSESSMENT, THE ASSESSMENT OF THE SERVICE MUST HAVE A SPECIAL BENEFIT TO THE REAL PROPERTY?

ABSOLUTELY.

OKAY. AND SO WHAT DO YOU CONTEND HERE, IS THE SPECIAL BENEFIT THAT THESE PROPERTY OWNERS RECEIVE FROM THE SERVICE THAT IS SEPARATE AND APART FROM ANY BENEFIT THAT ANYONE ELSE IN THE CITY OR COUNTY WOULD RECEIVE?

I THINK THE ANALYSIS, I THINK THE ERROR, I WOULD ARGUE, JUSTICE QUINCE, THAT THE FOURTH DISTRICT MADE WAS LOOKING AT A COMPONENT AS A SEPARATE, AS IF IT WAS FURNISHED AS A SEPARATE SERVICE AND NOT LOOKING AT --

I WANT YOU TO LOOK AT IT AS A SEPARATE SERVICE HERE, FOR JUST AT LEAST FOR THE SAKE OF THIS ARGUMENT.

OKAY.

AND TELL ME WHAT SPECIAL BENEFIT THESE PROPERTY OWNERS WOULD GET FROM THIS SERVICE THAT NO ONE ELSE IN THE COMMUNITY WOULD RECEIVE.

WELL, I WOULD ARGUE THAT, IF YOU LOOK AT THE FOUR CORNERS OF THIS COURT'S CASE IN LAKE COUNTY IN WHICH ONE OF THE THINGS THAT WAS PROVIDED UNDER THE UMBRELLA BENEFITS, AS PROVIDED IN THAT CASE, WAS THE MEDICAL RESPONSE AT THE SCENE.

WAS THAT AN ISSUE IN THAT PARTICULAR CASE? DID THE PARTIES IN LAKE COUNTY TAKE OUT SPECIFIC COMPONENTS OF THE OVERALL PROGRAM AND SAY THESE SHOULD NOT BE INCLUDED AND THESE SHOULD BE?

SEE, I DON'T THINK THE COURT CAN DO. THAT I THINK, UNDER SEPARATION OF POWERS --

I AM ASKING YOU DID THE PARTIES DO IT IN LAKE COUNTY?

NO. IN LAKE COUNTY THERE WAS NOT A SPECIFIC CHALLENGE ON A COMPONENT. IT WAS THE SERVICE AS A WHOLE, AND THAT IS TRUE IN EVERY SPECIAL ASSESSMENT PROGRAM. EVERY SPECIAL ASSESSMENT PROGRAM THERE ARE ALWAYS ARGUMENTS THAT SOME OF THE COMPONENTS OR PART OF IT MAY PROVIDE GENERAL BENEFIT. THE ISSUE, ALWAYS, FOR THIS COURT TO DECIDE, IS WHETHER OR NOT THAT GENERAL BENEFIT IS INSIDE DENIAL TO THE PRIMARY BENEFIT THAT IS PROVIDED BY THE SERVICE, AND THEREIN LIES THE DEL I AM A -- THE DEL I AM AN IN THIS -- THE DILEMMA IN THIS CASE CASE. DILEMMA IN THIS CASE IS WHAT IS THE FOCUS OF THE JUDICIARY, IN LOOKING AT A COMPONENT AND BRINGING OUT A COMPONENT OF A SPECIAL SERVICE AND SAY THIS COMPONENT DOES NOT PROVIDE SPECIAL BENEFIT, EVEN THOUGH THE LOCAL GOVERNMENT DEFINED THE PROGRAM IN A COMPREHENSIVE WAY.

SO ARE YOU, THEN, CONCEDED THAT, IF YOU TAKE IT OUT AS A -- AS SEPARATE COMPONENT, THAT THERE IS NO SPECIAL BENEFIT FOR THESE PROPERTY OWNERS?

NO. I WOULD NOT CONCEDE THAT. I THINK THAT IS ANOTHER CASE AT ANOTHER TIME. I THINK, IN THIS CASE --

IN THIS CASE THEY DID TAKE IT OUT, SO IF, ASSUMING, ASSUMING THAT THE LOWER COURT WAS CORRECT THEN WHAT IS THE SPECIAL BENEFIT BENEFIT?

WELL, THE SPECIAL BENEFIT IS THE FINDINGS WERE MADE IN THIS CASE, BY THE CITY, THE SPECIAL BENEFIT IS THAT ONE OF THE THINGS THAT THE SERVICE PROVIDES WHICH WOULD BE EMS AS WELL, IS PROVIDING PROTECTION FOR THE INTENDED OCCUPANTS OF THE DWELLING AND PROPERTY FOR WHICH THEY RESPOND TO. I DON'T THINK YOU CAN RESPOND, YOU CAN SEPARATE, IN A FIRE RESCUE CONTEXT, PROTECTION TO PEOPLE FROM PROTECTION OF PROPERTY. WHEN FIRE RESCUE PEOPLE, OR FIRE PEOPLE, RESPOND TO THE SCENE OF A CRIME, IT IS A SERVICE THAT HAS ALL OF THE MIX OF BOTH ASPECTS. THEY PUT OUT THE FIRE. THEY, ALSO, RESPOND FOR THE PROTECTION OF THE PEOPLE THAT OCCUPY THE DWELLING, AND SO THIS CITY, IN ITS LEGISLATIVE DISCRETION MADE A LEGISLATIVE DECISION TO HAVE AN INTEGRATED SERVICE, AND FOR THE COURT TO SAY WE ARE GOING TO TAKE PART OF THAT OUT AND ANALYZE IT SEPARATELY IS JUST NOT THE FACTS OF THIS CASE. THAT IS WHY IT WAS IMPROPER TO DO. I DON'T MEAN THAT A COURT CAN SAY WE ARE GOING TO LOOK AT THIS COMPONENT AND MAKE A DECISION AS TO WHETHER OR NOT ADDING THAT COMPONENT IN TAINTS THE ENTIRE SERVICES PROVIDED, BUT I THINK IT IS A TWO-STEP ANALYSIS. I THINK ONE STEP THE COURTS HAVE TO TAKE IS, IS THAT COMPONENT, DID IT HAVE A NATURAL ONENESS WITH THE SERVICE BEING PROVIDED, AND OBVIOUSLY MEDICAL SERVICES PROVIDED AT THE SCENE OF A FIRE HAS A ONENESS WITH FIRE PROTECTION. THAT WAS RECOGNIZED IN THE LAKE COUNTY CASE.

WHAT ABOUT THE DANGERS, THOUGH, OF THIS SORT OF A SLIPPERY SLOPE? THAT IS NOW THAT THE GOVERNMENT DECIDES TO DO THIS, AND THIS GETS APPROVED, THAT THEY DECIDE, WELL, THERE ARE OTHER SERVICES, GENERAL SERVICES THAT WE PROVIDE THAT WE WILL, NOW, INTEGRATE INTO SPECIAL ASSESSMENT DISTRICTS, TOO, AS AWAY, NOW, OBVIOUSLY, LOOKING

FOR ABILITIES TO FUND ALL OF THE THINGS THAT THEY DO, AND TRYING TO BE, SO, IS THERE A CONCERN, THERE, THAT A GOVERNMENT, HAVING DONE THIS, THAT THEY WILL, NOW, USE THIS AS A SLIPPERY SLOPE? AS I SAY, TO TAKE POLICE SERVICES AND, AS SOME CITIES DO, I BELIEVE THEY HAVE COMBINED POLICE AND FIRE DEPARTMENTS. I DON'T KNOW IF ANYBODY HAS HAD A SPECIAL ASSESSMENT DISTRICT FOR POLICE AND FIRE OR TRIED THAT, BUT WHAT ABOUT THAT? IF WE APPROVE THIS, AREN'T WE GOING DOWN A ROAD, AND NOW I AM SAYING THIS, ASSUMING THAT WE WERE TO FIND THAT THE EMERGENCY MEDICAL SERVICES PORTION, HERE, COULD NOT STAND ON ITS OWN, AS A SPECIAL ASSESSMENT DISTRICT. HELP ME WITH THAT.

I THINK --

-- POLICY.

I THINK IN THE FIRST PLACE, IN THE CONTEXT OF WHAT THE ROLE OF THE JUDICIARY IS, WHEN A DECISION IS MADE AS TO HOW SERVICES ARE DELIVERED, I THINK OBVIOUSLY THE COURT HAS A ROLE TO LOOKING AT THOSE COMPONENTS AND PICKING OUT A COMPONENT THAT DOESN'T HAVE, AS I SAY, A ONENESS OF PURPOSE WITH THE OVERALL SERVICE BEING PROVIDED. FOR EXAMPLE, IF A CITY WAS TRYING TO ASSESS AND INCLUDE A POLICE COMPONENT, WHICH IS OBVIOUSLY A GENERAL GOVERNMENTAL THAT WOULD FAIL, BECAUSE THAT HAS NOT A ONENESS OF PURPOSE WITH FIRE RESCUE SERVICES, BUT EMERGENCY MEDICAL SERVICES DOES, SO THEN THE NEXT INQUIRY IS, BY INCLUDING THAT COMPONENT, TAKING THE SERVICE AS A WHOLE, IS THE GENERAL BENEFIT INSIDE DENIAL OR NOT? SO IT DEFEATS A SPECIAL ASSESSMENT. THIS COURT, IN THE CASE OF, IN THE LAKE COUNTY CASE, RECOGNIZES AND ALL OF THE CASE RECOGNIZE THAT THERE IS ALWAYS AN INSIDE DENIAL BENEFIT TO THE GENERAL PUBLIC. THE QUESTION IS WHETHER OR NOT THAT BECOMES MORE THAN INSIDE DENIAL AND PERMEATES THE ASSESSMENT, SO THAT IT MAKES IT A GENERAL BENEFIT, SO I THINK THAT THE WAY YOU AVOID THE SLIPPERY SLOPE IS YOU ALLOW COURTS TO DO A PIECEMEAL ANALYSIS TO THE EXTENT THAT THEY SAY, LOOK, CITY, IN YOUR DEFINITION OF SERVICE, YOU HAVE INCLUDED A COMPONENT THAT DOESN'T HAVE A ONENESS OR LOGICAL RELATIONSHIP TO THE SERVICE YOU ARE BEING PROVIDE, AND THAT IS IMPROPER, AND THAT IS GENERAL GOVERNMENTAL, SO NO ONE IS ATTEMPTING, TO MY KNOWLEDGE, TO TRY TO ASSESS FOR A POLICE-TYPE SERVICE OR USE THIS AS A MECHANISM TO BOOT STRAP OTHER SERVICES. I THINK THAT IS A ROLE FOR THE JUDICIARY, BUT HAVING LOOKED AT THE SERVICES, THE COMPONENTS, AND SAYING THERE IS A LOGICAL ONENESS, THE NEXT QUESTION IS, THEN, AS A TOTAL, DOES THAT PROVIDE A LOGICAL RELATIONSHIP TO PROPERTY OR INSIDE DENIAL BEN ANYTIME -- AGAIN BENEFIT? YOU CAN LOOK AT SOME OF -- ADDITIONAL BENEFIT? YOU CAN LOOK AT SOME OF THE SERVICES IN LAKE COUNTY. DEALING WITH CALLS ON THE HIGHWAY, SOCIAL SERVICES BENEFITS, ENUMERATED WITHIN THE UMBRELLA THAT WOULD BE HELD AS SPECIAL BENEFIT. IF YOU ENUMERATE THESE SERVICES HERE AND TOOK THEM OUT AND LOOKED AT THEM INDIVIDUALLY, INDIVIDUALLY, THIS IS A GENERAL BENEFIT, BUT THE ROLE OF THE COURT IS TO LOOK AT THE SERVICE AS A WHOLE AND WHETHER OR NOT THERE IS AN INSIDE DENIAL BENEFIT.

-- AN INSIDE DENIAL BENEFIT.

-- AN INCIDENTAL BENEFIT.

HAVEN'T WE ALREADY, THEN, WITH THAT RESPONSE, PERHAPS GONE DOWN A SLIPPERY SLOPE, AND THAT IS THAT, IF WE LOOK, YOU SAY THERE IS A ONENESS OF PURPOSE HERE, IN THESE EMERGENCY SERVICES BEING PROVIDED, BUT THE TRADITIONAL ROLE OF A FIRE DEPARTMENT HAS, INDEED, BEEN BIG FIRE TRUCK AND THE HOSES AND A FIRE, AND YOU GO TO PUT OUT A FIRE ON A PIECE OF PROPERTY, AND IT IS ONLY, I AM NOT SURE WHEN IT ORIGINALLY GOT STARTED, BUT CERTAINLY THE PROLIFERATION OF THE EMERGENCY MEDICAL SERVICES WITH THE FIRE THING HAS, REALLY, BEEN AN ATTACHMENT TO THAT TRADITIONAL ROLE OF FIRE FOOR FIGHTERS PUTTING OUT -- FIRE FIGHTERS PUTTING OUT FIRES ON PROPERTY, AS OPPOSED TO

PROVIDING MEDICAL AND RESCUE SERVICES, AND SO HAVE WE ALREADY GONE DOWN A SLIPPERY SLOPE THAT WE NEED TO PUT THE BRAKES ON?

WELL, NO, I DON'T THINK YOU HAVE, YOUR HONOR. I WOULD ARGUE THAT THE UNIQUE UNIQUENESS, ONE OF THE UNIQUE UNIQUENESS ABOUT FIRE PROTECTION SERVICES AND THERE ARE NUMEROUS CASES PRIOR TO THE LAKE COUNTY CASE, THAT TALKED ABOUT THE FURNISHING OF AMBULANCE SERVICES WITH NO DISTINCTION BETWEEN, THERE WERE ASSESSMENTS DONE TO THAT AND IN THE SARASOTA CASE, IN THE DRYEN CASE AND OTHER CASES, BUT THE POINT BEING THAT, EVEN IN OLD TRADITIONAL, OLD TIMEY FIRE DEPARTMENTS, WHERE YOU MAY HAVE HAD VOLUNTEERS, FOR INSTANCE, THERE WAS STILL AN ELEMENT OF ON-SCENE MEDICAL ASSISTANCE, BECAUSE A FIRE, AND EVEN THE STATUTORY DEFINITION OF FIRES RECOGNIZED IT IS ALSO THE PROTECTION OF PROPERTY AND THE SAVING OF LIVES INHERENT IN THAT FIRE.

IS THERE ANY STANDARDICAL EVALUATION PRESENT THE BELOW -- PRESENTED BELOW, EITHER LEGISLATIVE SHORD UP IN THE COUNTY'S RECORDS OR THE CITY'S RECORDS HERE -- SHOWED UP IN THE COUNTY'S RECORDS OR THE CITY'S RECORDS HERE OR AT A HEARING, THAT SHOWED HOW MANY OF THE CALLS THAT AN UNIT LIKE THIS TAKES ARE, INDEED, SIMPLY FOR MEDICALLY-RELATED SERVICES? AS OPPOSED TO FIRE-RELATED. ANY EVIDENCE OF THAT FOR US TO LOOK AT IN THE RECORD HERE?

WELL, I BELIEVE IN THE OPINION IN THE CURRENT OPINION BY JUDGE KLEIN, I THINK THERE WAS A PERCENTAGE PLACED. I DON'T RECALL WHAT THAT PERCENTAGE WAS.

I THINK HE SAID TWO-THIRDS OF THE RESPONSES. NOT FOR FIRES.

BUT THE OTHER THING I WOULD URGE THE COURT TO THINK OF THIS SERVICE IS THE OTHER QUESTION YOU HAVE GOT TO ASK YOURSELF IS, IN TERMS OF WHETHER OR NOT THAT IS AN INSIDE DENIAL GENERAL -- AN INCIDENTAL BENEFIT IS WHETHER OR NOT THERE IS AN INCREMENTAL COST INVOLVED. IF YOU HAVE FIVE FIREMEN AND A FACT THAT THERE IS A DECISION MADE AT THE LOCAL LEVEL, TO INCREASE THE CAPACITY OF THOSE FIREMEN AND ADD TO AND BETTER TRAIN THEM TO DO EMERGENCY MEDICAL SERVICES, THE FACT THAT THEY MAKE CALLS FOR EMERGENCY SERVICES, THEY USE THEIR SPARE TIME IN A MORE EFFICIENT WAY, IS A LEGISLATIVE DECISION THAT SHOULD BE DEFERRED TO BY THIS COURT. THIS COURT SHOULD NOT SAY THAT YOU HAVE TO ARTIFICIALLY SEPARATE THESE OUT, UNLESS THERE IS A SHOWING THAT THE GENERAL BENEFIT IS INSIDE DENIAL TO THE -- IS INCIDENTAL TO THE PRIMARY SERVICE.

IT IS NOT A QUESTION OF WHETHER OR NOT THESE SERVICES ARE GOING TO BE PROVIDED OR WHETHER THEY ARE GOING TO BE PROVIDED IN A SUFFICIENT WAY. IT IS THE WAY THAT THEY ARE GOING TO BE FINANCED, WHETHER A SEPARATE GROUP IS GOING TO BEAR THE BURDEN, YOU KNOW, WITHIN A COMMUNITY, OR WHETHER THE WHOLE COMMUNITY, THROUGH GENERAL TAXATION, IS GOING TO BEAR THE BURDEN. THANK YOU FOR YOUR RESPONSE.

WHAT IF WE CROSS-TRAINED FIRE FIGHTERS AND LAW ENFORCEMENT?

WELL, I WOULD ARGUE --

IT WOULD BE THE SAME TYPE OF CROSS TRAINING. THEY DON'T HAVE THAT MUCH TIME THAT THEY ARE SPENDING ON FIRES, SO WHEN THEY ARE NOT DOING THAT, THEY CAN RESPOND TO LAW ENFORCEMENT-RELATED MATTERS.

WELL, MY ARGUMENT THERE WOULD BE THAT THAT WOULD BE IMPROPER AND THAT SHOULD NOT BE INCLUDED IN ASSESSABLE CAUSE, BECAUSE YOU DON'T HAVE A ONENESS PURPOSE WITH THE FIRE, YOU CANNOT DO THAT. BUT WHAT YOU CAN SAY IS, ONCE YOU HAVE A FIRE PROTECTION PROGRAM, IN LAKE COUNTY, THAT PROVIDED SERVICES AT THE SCENE, IN TERMS OF

STABILIZATION, THE FACT THAT A CITY MAKES A DECISION ABOUT A HIGHER LEVEL OF MEDICAL SERVICES AT THE SCENE, THERE IS A QUESTION THAT, BY DOING THAT, AND THE FACT THAT OTHER THINGS ARE DONE, ARE THE OTHER THINGS THAT ARE BEING DONE MORE THAN INSIDE DENIAL? ---MORE THAN INCIDENTAL? THAT IS THE QUESTION AND YOU CAN NOT PULL THIS OUT AS MORE THAN ONE SERVICE. THE THING THAT IS LOOKED AT, OFTEN, IS WE ARE NOT TALKING ABOUT TRANSPORTS FOR AUNT NELLIE TO A NURSING HOME AND A HOSPITAL. THOSE ARE PAID BY FEES. IN ADDITION, ALMOST ROUTINELY AND IN THIS CASE, TOO, EVEN THE EMERGENCY TRANSPORT IS BILLED AS A FEE. AND SO THE POINT IS THAT THE CITY MAKES A DECISION TO BETTER USE ITS RESOURCES, SO CROSS TRAIN PEOPLE, TO USE VEHICLES THAT HAVE MULTIPLE RESPONSIBILITIES, TO PROVIDE NOT ONLY SAFETY AT THE FIRE, BUT THE INCREMENTAL COST, ALSO, TO THE EMS, IS INCIDENTAL TO THE PERSONNEL YOU WOULD NEED FOR THE BASIC SERVICE OF FIGHTING FIRES. THE CALL IS NOT AS IMPORTANT AS WHAT IS THE BASIC CORE EXPENSE THAT IS NEEDED IN THE ASSESSMENT IN TERMS OF ASSESSIBLE COST.

YOU ARE IN YOUR REBUTTAL TIME. IT IS UP TO YOU. MR. CARUSO. -- MS. CARUSO.

MAY IT PLEASE THE COURT. I AM EDNA CARUSO. I AM HERE ON BEHALF OF THE PROPERTY OWNERS. WE THINK IT IS QUITE OBVIOUS THAT EMERGENCY MEDICAL SERVICES DO NOT PROVIDE A SPECIAL BENEFIT TO PROPERTY. I KNOW THAT SOME OF YOUR CASES HAVE SAID AN UNIQUE BENEFIT AND ONE OF YOUR CASES, THE LAKE COUNTY CASE SAYS THE LOGICAL RELATIONSHIP HAS A LOGICAL RELATIONSHIP TEST, AND WE DON'T CARE WHICH TEST YOU APPLY HERE, WHETHER IT IS THE UNIQUE BENEFIT OR LOGICAL RELATIONSHIP, WE DO NOT THINK THAT EMS SERVICES MEETS THE TEST. THESE ARE THE VERY SAME SERVICES THAT WERE, FOR YEARS IN BROWARD COUNTY, THAT WERE PROVIDED BY THE COUNTY, THROUGHOUT THE WHOLE COUNTY, AND THE COUNTY COLLECTED AND PAID FOR THESE SERVICES, BY ADVALOREM TAXES, AND THEN THE COUNTY SAID WE ARE NOT GOING TO DO THIS ANYMORE, AND THE CITY OF NORTH LAUDERDALE SAID, TO THE COUNTY, WE WANT TO CONTRACT WITH YOU TO PROVIDE THOSE SAME SERVICES TO US, THE CITY, AND WE WILL PAY FOR THEM, AND WE WILL PAY YOU, AND THEY DID IT FOR YEARS, BY WAY OF ADVALOREM TAXES. THEY PAY FOR THESE SERVICES BY ADVALOREM TAXES, BUT THE COUNTY AND THE CITY, AND THEN THE CITY DECIDED IT DIDN'T WANT TO DO THAT ANYMORE, AND IT HIRED A CONSULTANT, AND QUITE CLEARLY, THE REPORT OF THE CONSULTANT IS IN EVIDENCE, AND IT SUPPORTS THE SUMMARY JUDGMENT, AND IT SHOWS THAT THEY WERE HIRED TO COME UP WITH A WAY TO SAY THAT EMS SERVICES PROVIDE A SPECIAL BENEFIT TO PROPERTY OWNERS, SO THAT THE VERY REASON IS THAT THEY CAN PAY FOR THESE, THEY CAN FUND THESE THROUGH A SPECIAL ASSESSMENT AND NOT THROUGH THE GENERAL REVENUE ANYMORE, AND THE WAY THE CONSULTANT CAME UP WITH THIS SPECIAL BENEFIT, IT SAID, WELL, WAIT A MINUTE. WE KNOW THAT FIRE PROTECTION, OVER HERE, PROVIDES A SPECIAL BENEFIT, BECAUSE THE FLORIDA SUPREME COURT HAS SAID THAT, AND SO WE ARE GOING TO COMBINE EMS AND FIRE PROTECTION TOGETHER AND SAY THAT, BECAUSE THE FIRE PROTECTION, AND WE ARE GOING TO CALL THIS A FIRE RESCUE PROGRAM, NOT --

ARE YOU SAYING THAT, PRIOR TO A CERTAIN DATE, THAT THE FIRE DEPARTMENT AND THE EMERGENCY MEDICAL WERE TWO SEPARATE ENTITIES -- SEPARATE ENTITIES IN THE CITY OF NORTH LAUDERDALE?

PRIOR TO A CERTAIN DATE, THE COUNTY, YES, PROVIDED THESE SERVICES, THROUGH THE COUNTY, AND THEN THE CITY BEGAN, AND THEN THEY INCORPORATED INTO THE CITY'S PROVISION.

RIGHT. BUT AT THAT POINT, WHEN THEY WERE FIRST INCORPORATED AND THEY WERE PAID BY ADVALOREM TAXES, WAS IT A ONE ENTITY OR TWO ENTITIES?

YOU KNOW, I AM NOT SURE THE RECORD IS CLEAR, AND MR. NEIGHBORORS PROBABLY KNOWS. I AM NOT -- AND MR. NABORS PROBABLY KNOWS. I AM NOT SURE THE RECORD IS CLEAR ON THAT,

BUT THEY WERE TOGETHER. THEY WERE TOGETHER LIKE THEY ARE NOW. THEY WERE JUST PAID FOR BY ADVALOREM TAXES. IT IS THE SAME THING, EXCEPT NOW THEY ARE BEING PAID FOR, FUNDED BY THE SPECIAL ASSESSMENT.

WHO PAYS ADVALOREM TAXES?

THEY ARE PAID FOR BY REAL PROPERTY AND PERSONAL PROPERTY. THEY ARE FUNDED THROUGH PERSONAL PROPERTY AND REAL PROPERTY, AS I UNDERSTAND IT.

SO PEOPLE OTHER THAN THOSE WHO OWN REAL PROPERTY PAY ADVALOREM TAXES.

THAT'S RIGHT. SO THEY WEREN'T BEING PAID FOR BEFORE, BY JUST REAL PROPERTY OWNERS. NOW THEY ARE SIMPLY BEING PAID FOR BY REAL PROPERTY OWNERS. THE REASON THAT THEY CAME UP WITH THIS INTEGRATED PROGRAM IS BECAUSE OBVIOUSLY THEY UNDERSTOOD THAT THEY COULD NOT SIMPLY PASS AN ORDINANCE THAT SAID WE ARE GOING TO FUND EMS THROUGH SPECIAL ASSESSMENTS, OR THEY WOULD HAVE DONE THAT, BECAUSE THEY KNEW IT WOULD BE INVALID, BECAUSE EMS SERVICES PROVIDE NO SPECIAL BENEFIT TO PROPERTY, AND SO THEY CAME UP WITH THIS INTEGRATED PROGRAM, AND THEY ARE GOING TO LUMP IT UNDER FIRE PROTECTION, AND THE WAY THAT THEY CONVINCED THE TRIAL COURT AND THE FOURTH DISTRICT IN McCON HI, THAT THEY SHOULD BE ABLE -- McCON AHI, THAT THEY SHOULD BE -- McCONNAHEY, THAT THEY SHOULD BE, IS THEY DEALT WITH IT IN LAKE COUNTY, AND WHAT THE COUNTY DID IS SAY WE ARE GOING TO DEAL WITH IT IN AN UMBRELLA OF SERVICES. YOU HAD FIRE PROTECTION SERVICES FIRST RESPONSE MEDICAL AID, WHICH IS SERVICE THAT THE FIREMAN IS TRAINED TO DO. THERE IS NO DIFFERENT ASSESSMENT FOR THAT. IT IS PART OF HIS NORMAL FUNCTION.

LET ME ASK THE REVERSE KIND OF QUESTION THAT JUSTICE ANSTEAD ASKED, AND THAT IS WHERE WE HAVE GOTTEN DOWN THIS PATH, IF WE FOLLOW THE FOURTH DISTRICT, NOW, AND WE DO BREAK THESE INTO COMPONENTS, AND WE LOOK AT THEM AS JUDGE KLEIN SAID, AT 66 PERCENT OR SOMETHING.

67 PERCENT WERE THE EMS.

WELL, IF IT WAS 49 PERCENT EMS, WOULD THAT MEET THE LOGICAL RELATIONSHIP TEST, OR WHERE WOULD WE BE THEN? I MEAN, HOW ARE WE GOING TO SET THE STANDARD AS TO WHAT DOES MEET IT AND WHAT DOESN'T MEET IT IN THESE LUMPED-TOGETHER SERVICES?

WELL, I THINK THAT YOU LOOK AT THE INDIVIDUAL SERVICES, LIKE THE FOURTH DISTRICT DID. YOU LOOK AT THE COMPONENT PARTS. EMS SERVICES HAVE TRADITIONALLY, ALWAYS, BEEN TREATED AS A SERVICE, A GENERAL SERVICE TO THE COMMUNITY. IT BENEFITS --

51 PERCENT FIRE, BY THIS UNIT BY THIS AGENCY, WOULD THAT MEET THE TEST?

I DON'T THINK SO. I THINK THAT YOU LOOK TO THE SERVICE, ITSELF, AND NOT THE PERCENTAGE OF WHAT IS BEING PROVIDED. THE --

SO IF ANY OF THIS IS, IF THEY ONLY FIRST ADD 5 PERCENT RESCUE --

I THINK THAT IT SHOULD NOT BE PAID FOR BY THE PROPERTY OWNERS. I THINK THAT IS TRUE.

HOW CAN YOU GO LIKE THAT THOUGH? WE ALTHOUGH THAT -- WE ALL KNOW THAT THE FIRE DEPARTMENT RESPONDS TO AUTOMOBILE FIRES, AND THAT THEY DO RESCUE PEOPLE, AND THEY RESCUE CATS FROM THE TOPS OF TREES. THAT THEY DO OTHER THINGS BESIDES PUREFIER CONTROL ON PROPERTY SITES.

BUT I AM NOT SAYING THAT THOSE PARTICULAR THINGS -- I THINK THAT THAT FALSE WITHIN THE FUNCTION OF THE FIREMEN. WHAT WE THINK OF AS BEING THE FUNCTION OF THE FIRE PROTECTION SERVICES. I THINK THAT THOSE CAN BE SPECIALLY ASSESSED. IF YOU ARE GETTING A CAT OUT OF THE TREE, BUT I DO NOT THINK THAT RESPONSE TO ROADSIDE ACCIDENTS SHOULD BE A MATTER OF SPECIAL ASSESSMENTS. WHY SHOULD THE PROPERTY OWNER HAVE TO PAY FOR THAT? I THINK THAT THINGS THAT ARE RELATED TO THE FIRE PROTECTION SERVICES CERTAINLY, INCLUDING FIRST RESPONSE MEDICAL AID, COULD BE PART OF THE SPECIAL ASSESSMENT, BUT NOT SOMETHING THAT DOES NOT FALL WITHIN, UNDER THAT UMBRELLA.

BUT AREN'T YOU FORCING THE GOVERNMENT, THOUGH, TO BE IN EFFICIENT? THAT IS, AS YOUR OPPONENT SAYS, WE HAVE GOT FIREMEN THERE. THEY REALLY CAN'T JUSTIFY THE BUDGET FOR THE FIRE DEPARTMENT ON THE BASIS OF THIS, AND HERE, NOW, TO MAKE THAT VERY EFFICIENT THERE IS OBVIOUS THIS NEED OUT THERE IN THE COMMUNITY, AND AREN'T YOU, NOW, FORCING THEM TO DO THIS IN A VERY IN EFFICIENT WAY?

WELL, I THINK WHAT WE ARE DOING IS ASKING THE COURTS TO LOOK TO OUR CONSTITUTION. I MEAN, THEY ARGUED TO THE FOURTH DISTRICT, IT IS MORE EFFICIENT FOR THIS, US TO DO IT THIS WAY. IT IS MORE ECONOMICAL FOR US TO DO IT THIS WAY, AND THE FOURTH DISTRICT, ONE OF THE QUESTIONS WAS, BUT, SO WHAT? THAT IS NOT THE ISSUE HERE. THE ISSUE IS WHETHER IT PROVIDES -- I MEAN ADMINISTRATIVELY, WHAT IS BETTER FOR THE STAY, THE WAY IT IS BETTER FOR THEM TO HANDLE IT IS REALLY NOT THE ISSUE. THE ISSUE IS WHETHER IT PROVIDES A BENEFIT TO THE PROPERTY OWNERS AND WHETHER THEY GET TO CHARGE FOR IT THROUGH A SPECIAL ASSESSMENT OR WHETHER THEY HAVE TO PAY THROUGH THEIR GENERAL FUND, AND THEY HAVE SIMPLY COME UP WITH A WAY, HERE, TO PASS THE COST OF THE EMS SERVICES OFF TO THE PROPERTY OWNERS.

COULD YOU, COULD THE CITY KEEP THE SAME STRUCTURE, THAT IS THAT THE EMERGENCY MEDICAL SERVICES AND THE FIRE DEPARTMENT OR AND THE FIRE DEPARTMENT ARE ONE UNIT BUT FUND THEM WITH PARTIAL SPECIAL ASSESSMENT AND PARTIAL --

ABSOLUTELY. IT IS DONE ALL THE TIME. AS A MATTER OF FACT, IN THE LAKE COUNTY CASE, WHEN YOU WERE TALKING ABOUT THE UMBRELLA OF SPECIAL, OF FIRE PROTECTION SERVICES, AND UNDER IT CAME THE FIRE FIGHTERS AND THE FIRST RESPONSE MEDICAL AID, WHICH IS A FIRE FIGHTER FUNCTION, AND THE FIRE INSPECTION, THERE WAS EMS INVOLVED IN THAT CASE. EMS SERVICES WERE INVOLVED IN THAT CASE. BUT THEY DID NOT COME UNDER THE UMBRELLA OF FIRE PROTECTION SERVICES. THEY WERE PAID FOR BY AD VALOREM TAXES. NOW, THAT WAS A RECOGNITION IN THAT CASE, THAT NOBODY THOUGHT THAT EMS SERVICES COULD BE BROUGHT UNDER THAT UMBRELLA. IT WAS PAID FOR SEPARATELY. WE ARE NOT SAYING THAT THE FIRE DEPARTMENT HAS TO OPERATE ANY DIFFERENTLY THAN IT DOES, PHYSICALLY OR ANY OTHER WAY. THE SERVICES ARE STILL RENDERED. THEY SIMPLY CANNOT BE ASSESSED AGAINST REAL PROPERTY OWNERS, SOLELY. IN THIS CASE, AS A MATTER OF FACT, THE COUNTY SUPPLIES THE TWO EMERGENCY MEDICAL SERVICES. THE COUNTY PROVIDES THE EMPLOYEES. THEY ARE COUNTY-PAID EMPLOYEES. THEY ARE HOUSED AT THE CITY, TWO DIFFERENT LOCATIONS WITH THE CITY, BUT THEY, THOSE --

ARE THOSE -- THAT IS WHAT I WANTED TO ASK YOU. ARE THOSE TWO DIFFERENT LOCATIONS, BOTH, FIRE DEPARTMENTS, OR IS ONE A FIRE DEPARTMENT AND ONE IS SOMETHING ELSE?

I FORGET. I THINK ONE IS A FIRE DEPARTMENT AND -- BUT THEY ARE THE FIRE, THEY ARE AT THE FIRE LOCATIONS, I THINK. ONE IS A FIRE DEPARTMENT, AND I AM NOT SURE ABOUT THE OTHER LOCATION. BUT THEY ARE THE PEOPLE. THE COUNTY IS THE ONE, THE COUNTY EMPLOYEES ARE THE ONES WHO ARE PROVIDING THE EMERGENCY MEDICAL SERVICES HERE. HOWEVER, I DON'T THINK IT MAKES ANY DIFFERENCE, WHETHER THE COUNTY EMPLOYEES ARE THE ONES THAT ARE PROVIDING IT. IT SIMPLY SHOWS THAT THIS WAS SOMETHING THAT IS DONE BEFORE AND NOW IT

HAS GOT A NEW NAME. IT HAS GOT FIRE RESCUE, AND WE ARE GOING TO SPECIALLY ASSESS FOR IT. I DON'T THINK IT MAKES ANY DIFFERENCE WHETHER THE COUNTY IS PROVIDING IT OR WHETHER THIS CITY DECIDED IT IS GOING TO TRAIN ITS FIRE FIGHTERS TO BECOME PARAMEDICS, EMS TECHNICIANS, AND WE ARE GOING TO DO THIS ON OUR OWN, AND WE ARE GOING TO FUND IT BY WAY OF SPECIAL ASSESSMENT. I DON'T THINK IT MAKES ANY DIFFERENCE WHO PROVIDES THE SERVICE. THE ISSUE IS WHETHER THAT SERVICE PROVIDES A SPECIAL BENEFIT TO THE PROPERTY OWNER, AND HE -- JUSTICE SHAW HAD A QUESTION.

I AM SORRY. SIR?

WELL, THE COURT IS SEEMINGLY BEING CALLED UPON TO MAKE THE CALL HERE. WHAT WEIGHT, IF ANY, IS GIVEN TO WHERE YOU HAVE THESE INTEGRATED SERVICES, SUCH AS THE -- IS GIVEN TO THE CITY'S DETERMINATION OF WHAT THEY ARE DOING AND WHAT THEY INTEND TO DO THAN TYPE OF THING. WHAT WEIGHT WOULD YOU GIVE THAT?

I THINK YOU DO GIVE GREAT WEIGHT TO THE DETERMINATION THAT IT IS A SPECIAL BENEFIT, BUT THIS COURT HELD, IN, LET ME GIVE THE, SOUTH TRAIL, THAT THAT DETERMINATION, BY A CITY OR A GOVERNMENTAL ENTITY, IS NOT UNLIMITED, AND IT CAN'T, BY FIAT CREATE A SPECIAL BENEFIT THAT DOES NOT EXIST, AND WE THINK THAT THAT IS EXACTLY WHAT WE ARE TALKING ABOUT HERE. THE TELLTALE THING HERE, IS THAT THE CITY HIRED A CONSULTANT, AND THEY CAME UP WITH THIS REPORT THAT WAS INCORPORATED INTO THE ORDINANCE, AND THEY HAVE NOT BEEN ABLE TO ARTICULATE A SPECIAL BENEFIT TO PROPERTY, NOT IN THE ORDINANCE, NOT IN THE REPORT. THEY CAN'T DO IT. THE ONLY THING THEY COULD FINALLY COME UP WITH IS THAT IT PROVIDES PROTECTION FOR THE LIFE AND SAFETY OF OCCUPANTS ON THE PROPERTY.

DOES IT COME TO US WITH ANY PRESUMPTION. A PRESUMPTION OF CORRECTNESS?

YES. BUT IT HAS TO BE SUPPORTED BY THE EVIDENCE HERE, AND THERE IS NO EVIDENCE. ALL OF THE EVIDENCE IS TO THE CONTRARY. THEY -- WE WERE HERE, WE ARE BEFORE THE COURT ON A SUMMARY JUDGMENT. THEY HAVE PRETTY MUCH RELIED UPON THE FINDINGS IN THE ORDINANCE. -- IN THE ORDINANCE. JUST STATEMENTS IN THE ORDINANCE THAT THERE IS A SPECIAL BENEFIT, AND THEY HAVE GIVEN FOUR REASONS AND THREE OF THEM RELATE TO FIRE PROTECTION, NOT TO EMS, AND THE ONE THAT THEY POINT TO, TO SAY THERE IS A SPECIAL BENEFIT REGARDING EMS, IS THE LIFE AND SAFETY OF OCCUPANTS. WELL, THAT IS A BENEFIT TO EVERY INDIVIDUAL IN THE CITY. WE ARE TALKING ABOUT PROTECTING PEOPLE NOT PROTECTING PROPERTY HERE. WE ARE TALKING ABOUT PROTECTING PEOPLE.

BUT HAVEN'T WE ALLOWED, IN SCHOOL SPECIAL ASSESSMENT CASES, THE FACT THAT THERE MAY BE APARTMENT BUILDINGS OR THERE MAY BE INDIVIDUAL RESIDENCES IN ONE OF THESE TAXING DISTRICTS THAT DON'T HAVE ANY CHILDREN IN THE SCHOOLS THAT MAY, STILL, BE SUBJECT TO THE ASSESSMENT?

WELL, I THINK THAT, I THINK THAT PEOPLE HAVE TO, SURE, I MEAN, I THINK THAT IF IT IS DETERMINED THAT IT IS A VALID ASSESSMENT, THAT THE FACT THAT I DON'T HAVE CHILDREN DOESN'T MEAN I DON'T HAVE TO, YOU KNOW, PAY, BUT HERE --.

THAT MEANS YOUR PROPERTY DOESN'T GET THE BENEFIT OF WHAT THE SPECIAL ASSESSMENT IS GOING TO BE, WHERE MUCH LIKE HERE, PERHAPS, YOU MIGHT NOT GET THE BENEFIT. IT IS GOING TO BE UNKNOWN, BUT ISN'T IT MORE LOGICAL TO SAY THAT IT DOES ENHANCE THE VALUE WITHDREW OF PROPERTY, IF THESE KINDS OF SERVICES ARE READILY AVAILABLE, THAT IS THAT JUST LIKE HAVING GOOD SCHOOLS OR HAVING OTHER QUALITY GOVERNMENT SERVICES, THAT THERE IS, THEN, ENHANCEMENT VALUE TO THE PROPERTY.

BUT IF THERE IS ENHANCEMENT TO PROPERTY FROM EMS SERVICES, THEN IT IS AN ENHANCEMENT TO PROPERTY FROM FIRE PROTECTION, YOU KNOW, AND THERE IS ENHANCEMENT

TO THE PROPERTY FOR ANIMAL CONTROL, BECAUSE YOU KNOW YOU GET THESE STRAY ANIMALS OFF. YOU CAN GO ON AND ON AND ON AND THAT IS THE PROBLEM. YOU CANNOT, I WOULD SUGGEST, DISTINGUISH THIS CASE FROM FIRE PROTECTION. YOU KNOW, WE ARE TAKING, AS THE DISTRICT COURT SAID IN LAKE COUNTY, AND I THINK IT WAS IN A FOOTNOTE, SAID, YOU KNOW, WE DON'T REALLY SEE THE CONNECTION WITH FIRST RESPONSE MEDICAL AID. WE DON'T SEE THE BENEFIT FROM THAT, BUT IF THERE IS, THEY WENT ON TO SAY, IF IT IS TRUE, THEN THERE MUST BE A CONNECTION, A LOGICAL RELATIONSHIP WITH FIREMEN, AND THEY WENT ON AND ON AND ON. THERE IS NO DISTINCTION BETWEEN SAYING, HERE, THAT THERE IS A LOGICAL BENEFIT FOR EMS SERVICES WHICH BENEFITS EVERYBODY, THAT IT IS A BENEFIT TO PROPERTY, HOW IS THAT DISTINGUISHABLE FROM POLICE PROTECTION? AND IT REALLY ISN'T. THESE ARE GENERAL SERVICES PROVIDED TO EVERYONE, AND SHOULD BE PAID FOR NOT BY PROPERTY OWNERS.

WHERE DOES THIS BECOME A TRAINING ISSUE? HAD WE NOT HAD THE THING CALLED EMS AND JUST A NATURAL DEVELOPMENT OF A FIRE FIGHTER WAS INTO INTO THE SIMPLE TYPES OF HEALTH-RELATED KINDS OF THINGS, THEN IT DEVELOPS ON INTO MORE SOPHISTICATED THINGS, AND WHO KNOWS? I MEAN, I GUESS IN OUR LIFETIME, I GUESS THEY WOULD CROSS TRAIN THEM OR TRAIN THEM TO THE EXTENT THAT THEY COULD BE A PHYSICIAN ASSISTANT. DOES THAT, THEN, THAT -- THERE SEEMS TO BE -- ARE WE TALKING, IS IT A WORD GAME?

NO. I THINK WE ARE TALKING THE DISTINCTION BETWEEN FIRE PROTECTION, WHICH THIS COURT, THE DISTINCTION BETWEEN FIRE PROTECTION AND HEALTH CARE ISSUES. THIS COURT SEEMS TO HAVE CARVED OUT A SPECIAL EXCEPTION, SORT OF FOR FIRE PROTECTION, AND SAID WE ARE GOING TO SAY THAT FIRE PROTECTION DOES PROVIDE A SPECIAL BENEFIT TO PROPERTY, NOT ONLY PROPERTY OWNERS BUT THE PROPERTY, ITSELF, BECAUSE IT LOWERS INSURANCE PREMIUMS AND INCREASES THE VALUE YOUTHFUL THE PROPERTY -- THE VALUE OF THE PROPERTY. EMS SERVICES REALLY RELATES TO HEALTH CARE, AND IT DOES NOT BENEFIT THE PROPERTY. THEY CAN'T POINT TO A BENEFIT FOR THE PROPERTY. THEY HAVE NEVER BEEN ABLE TO POINT TO HOW EMS SERVICES BENEFITS THIS PROPERTY OR THE VALUE OF THE PROPERTY EVER. YOU KNOW, THE ONLY THING THEY CAN SAY IS THAT, AND SAID HERE, TODAY, WELL, IT PROTECTS THE OCCUPANTS OF THE PROPERTY, BUT WE ARE TALKING ABOUT PROTECTION OF PEOPLE NOT PROPERTY.

BUT EVEN SO, ISN'T THERE SOME CFE SUPPORTING THE CITY'S DETERMINATION THAT THERE IS SOME EXTRA BENEFIT, EVEN THOUGH IT IS SUPPORTING PEOPLE, AS YOU SAY, RATHER THAN PROPERTY? THAT THERE IS SOME SPECIAL BENEFIT TO THE PROPERTY. SOME CSE TO SUPPORT THAT DETERMINATION, IS THERE NOT?

BUT IF WE SAY THAT THERE IS A CONNECTION, YOUR HONOR, THEN I DON'T KNOW WHERE YOU STOP THAT. IF WE ARE GOING TO SAY THAT EMS PROVIDES A BENEFIT TO PROPERTY, THEN WHY DOESN'T POLICE SERVICES AND WHY DON'T ALL OF THESE OTHER SERVICES, AND THEN THEY CAN ALL BE SPECIALLY ASSESSED? YOU KNOW. IT, AND YOU JUST PACK IT ON TO SOMETHING WHICH PROVIDES A SPECIAL BENEFIT. YOU TACK IT ON TO FIRE PROTECTION. IN THIS CASE, WHAT THEY, WHAT THEY HAVE SAID IS THEY WERE POINTING TO LAKE COUNTY AND SAYING THERE IS AN UMBRELLA OF FIRE PROTECTION SERVICES, AND, REMEMBER, EMS WAS NOT PROVIDED UNDER THAT UMBRELLA IN THAT CASE BE AND HERE -- IN THAT CASE, AND HERE THEY SAY WE ARE GOING TO HAVE AN UMBRELLA HERE, AND WE ARE GOING TO HAVE FIRE PROTECTION, AND WE ARE GOING TO HAVE EMS, AND THE UMBRELLA, HERE IS REALLY EMS. WE HAVE 67 PERCENT EMS HERE, AND THEN WE HAVE GOT THE TAIL WAGGING THE DOG HERE, WHICH IS THE 37 PERCENT FIRE PROTECTION, AND SO WE ARE NOW SAYING TO THE PROPERTY OWNERS THEY ARE GOING TO BE ASSESSED FOR ALL OF THAT BECAUSE OF THE 37 PERCENT FIRE PROTECTION. IT IS A WAY OF PASSING THIS ON TO THE PROPERTY OWNERS, AND THERE IS NO SPECIAL BENEFIT HERE. THE CITY'S EXPERT ADMITTED, IN THIS CASE, THAT HE AND THE CONSULTANT HAD DONE NO ANALYSIS WHATSOEVER, AND I WILL SIT DOWN, NO ANALYSIS WHATSOEVER, TO DETERMINE THAT THERE WAS ANY SPECIAL BENEFIT TO THE PROPERTY. THERE WAS NONE DONE. ONLY THE

STATEMENTS IN THE ORDINANCE. THANK YOU VERY MUCH.

THANK YOU.

MR. NABORS. MR. NABORS, YOU KNOW, WE HAVE BEEN CHASING THIS RABBIT DOWN THE ROAD, HERE, -- WE HAVE BEEN CHASING THIS RABBIT DOWN THE ROAD, HERE, SINCE I HAVE BEEN ON THE COURT, AND I, IF YOU WOULD RESPOND TO MISS CARUSO'S ARGUMENT, HOW IN THE WORLD IS THERE ANY LOGICAL DIFFERENCE BETWEEN WHERE YOU ARE PROVIDING THIS HEALTH SERVICE, TO PROVIDING THE POLICE SERVICE? I MEAN, POLICE SERVICE, POLICE SERVICE, REALLY, IS MORE AKIN TO A FIRE SERVICE, IN THAT YOU PROBABLY DO GET SOME BENEFIT FOR THE REDUCTION IN YOUR HOMEOWNERS WHICH WAS THE MAJORITY'S LOGIC IN THE EARLIER CASES. HOW -- WHERE DOES IT STOP?

WELL, I THINK IT HAS STOPPED. I THINK THIS COURT IN LAKE COUNTY DREW THE BRIGHT-LINE BETWEEN GENERAL GOVERNMENTAL AND THOSE PROPERTIES THAT HAVE A LOGICAL -- THOSE SERVICES SERVICES THAT HAVE A LOGICAL RELATIONSHIP TO PROPERTY. DEALING WITH PEOPLE AND MEDICAL AND PEOPLE THAT GO TO THE FIRE DEAL WITH PROPERTY. THE QUESTION IN THIS CASE IS, IN A MODERN FIRE DEPARTMENT, WHERE YOU HAVE PEOPLE THAT ARE TRAINED BEYOND JUST GIVING THE RECITATION, DOES THAT CREATE A DIFFERENT TYPE OF SERVICE THAT BENEFITS PROPERTY? LET ME GIVE YOU A COUPLE OF EXAMPLES. LET'S SAY THAT WE HAD A FIRE DEPARTMENT THAT HAD ALL OF THE, EVERYBODY WAS TRAINED AS EMS AND A PARAMEDIC. BUT IT WAS -- OVER HERE WE HAD AN EMS THAT WAS SEPARATELY FUNDED BY ADD VALUER ONLY -- ADVALOREM TAXES AND WE HAVE A VERY SOPHISTICATED FIRE DEPARTMENT. EVERYBODY AGREES THAT A HIGHER LEVEL OF SERVICE AT THE SCENE DOESN'T ELIMINATE THE BENEFIT THAT WAS FOUND IN LAKE COUNTY.

BUT, AGAIN, IT COMES TO WHERE DOES IT STOP, BECAUSE AS I ASK COUNSEL, WE TRAIN FROM FIRE FIGHTERS TO PARAMEDICS TO EMS, TO PHYSICIAN ASSISTANTS AND WHY NOT, AS GOVERNMENTAL ENTITY, SHIFT THOSE, BECAUSE I WOULD RATHER HAVE A PHYSICIAN ASSISTANT AT THE SCENE TO HELP OTHER PEOPLE? IT FLOWS RIGHT ALONG. IT IS A MORE SOPHISTICATED EDUCATION.

I THINK, IF A CITY WAS TO DECIDE, ON A PURE FIRE FIGHTING ASSESSMENT, THEY WERE TO DECIDE TO HAVE PHYSICIAN ASSISTANTS ON THE TRUCK, THAT THEY COULD DO THAT AND IT WOULD BE A GREAT BENEFIT, BECAUSE THEY GO TO A FIRE AND TREAT PEOPLE WHO ARE POTENTIALLY VIRTUALLY INJURED IN THE FIRE -- POTENTIALLY INJURED IN THE FIRE, AND THAT WOULD BE A DECISION THAT THIS COURT COULDN'T MAKE, BECAUSE THEY WOULD BE PROVIDING SERVICES AT THE FIRES. BUT HERE EVERYBODY AGREES, WITH THE HIGHER LEVEL OF PHYSICIAN ASSISTANTS, LET'S SAY, THAT COULD PROVIDE A HIGHER LEVEL OF FIRE SERVICES, AND OVER HERE YOU HAVE FUNDED EMS, WHICH I ARGUABLY, BUT A LOCAL GOVERNMENT WHICH IT IS A DECISION AMONG PEOPLE OF A MORE MODERN FIRE DEPARTMENT, WE HAVE 80 PERCENT OF THE TIME FIRE FIGHTERS ARE PLAYING CHECKERS AND LIFTING WEIGHTS, SO IF WE TRAIN THEM TO HAVE THE ABILITY TO DO EMS, WHY NOT COMBINE THE SERVICES TO HAVE EFFICIENCY OF SERVICES? AND THE QUESTION OF THIS COURT TO MAKE IS, ONCE THAT IS DONE, IS THAT SERVICE AN AGGREGATE, BY ADDING AN ADDITIONAL LAYER OF SERVICE, DOES THAT CHANGE IT FROM A PRIMARY LOGICAL RELATIONSHIP OF THE PROPERTY TO, INSTEAD OF IS IT AN INCIDENTAL PUBLIC BENEFIT OR A PRIMARY PUBLIC BENEFIT?

IS THE QUESTION HERE THE DELIVERY OF SERVICES OR HOW WE ARE GOING TO PAY FOR THOSE SERVICES? ISN'T THAT THE REAL QUESTION IS HERE IS WHO GETS TO PAY FOR THIS SERVICE?

A LOT OF THE COST OF THE SERVICE ARE PAID BY FEES. A LOT OF THE EMERGENCY TRANSPORT AND NONEMERGENCY TRANSPORT ARE PAID BY FEES. I DON'T THINK THE QUESTION IS THAT A LOCAL DECISION IS MADE, ALLEGEDLY THE DECISION IS HOW THE SERVICE WILL BE DELIVERED.

HOW DO WE, NOW, HAVE ANY DISTINCTION BETWEEN A SPECIAL ASSESSMENT AND A TAX?

I THINK THERE IS A CLEAR DISTINCTION, BECAUSE I THINK YOU DREW THAT LINE IN THE LAKE COUNTY CASE. IF IT IS A GENERAL GOVERNMENTAL SERVICE, IT IS A TAX. POLICE AND A LITANY OF THOSE TYPES OF SERVICE. FIRE PROTECTION HAS A LOGICAL RELATIONSHIP TO THE PROPERTY. MANY CASES HAVE SAID THAT. THE QUESTION IS, BY ADDING A HIGHER LEVEL OF ON-SCENE EMERGENCY, DOES THAT INHERENTLY MAKE, ELIMINATE THE SPECIAL BENEFIT AND MAKE IT A GENERAL BENEFIT? -- BENEFIT? ALL SPECIAL ASSESSMENT CASES ALWAYS HAVE AN INSIDE DENIAL GENERAL BENEFIT. THE SLIPPERY SLOPE THAT THIS COURT DOESN'T WANT TO DO --

MR. NABORS, I THINK YOUR TIME IS UP. THANK YOU VERY MUCH. THANK YOU, COUNSEL, FOR YOUR ASSISTANCE.