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## **City of Parker v. State of Florida**

**SC07-1400**

>> ALL RISE.

O YE, O YE, O YE.

THE SUPREME COURT OF FLORIDA IS  
NOW IN SESSION.

ALL THOSE HAVING BUSINESS  
BEFORE THIS COURT, DRAW NIGH,  
GIVE ATTENTION, AND YOU SHALL  
BE HEARD.

GOD SAVE THE UNITED STATES, THE  
GREAT STATE OF FLORIDA, AND  
THIS HONORABLE COURT.

>> GOOD MORNING.

>> LADIES AND GENTLEMEN, THE  
FLORIDA SUPREME COURT.  
PLEASE BE SEATED.

>> GOOD MORNING, FRIENDS.

WELCOME TO THE FLORIDA SUPREME  
COURT AND THE ARGUMENTS FOR  
THURSDAY, FEBRUARY 7th.

THE FIRST CASE IS CITY OF  
PARKER v. STATE OF FLORIDA.

>> GOOD MORNING AND MAY IT  
PLEASE THE COURT.

MY NAME IS RANDALL HANNA WITH  
THE BRYANT MILLER AND OLIVE.  
WE ARE REPRESENTING THE CITY OF  
PARKER AND THE CITY OF PARKER  
COMMUNITY REDEVELOPMENT AGENCY.

THIS CASE IS ON APPEAL FOR THE  
CIRCUIT COURT OF BAY COUNTY  
FLORIDA WHICH THE LOWER COURT  
DENIED VALIDATION ON ONE ISSUE  
AND THAT IS THE ISSUE WE  
APPEALED ON AND THAT IS WHETHER  
OR NOT THE FACT THAT IS AT  
THAT DOES NOT LEVEE AN AD  
VALOREM TAX CAN ESTABLISH A  
COMMUNITY REDEVELOPMENT AGENCY.

>> CAN YOU GIVE A PICTURE OF  
THE CITY OF PARKER?

AS I UNDERSTAND IT, THIS AREA  
THAT'S BEING PROPOSED FOR  
REDEVELOPMENT IS 505 ACRES,  
WHICH IS APPROXIMATELY 50% OF

PARKER'S TOTALING AREA?

>> THAT, THAT'S CORRECT.

>> AND THERE IS THE MILLAGE RATE AT THE TIME WAS OH, WHICH MEANS THAT NO TAXES WERE BEING ADDED ON TO THE TAX BILL OF THE CITY FOR, BY THE CITY S THAT CORRECT?

>> THE CITY DOES NOT LEVY AN AD VALOREM TAX.

>> SO HOW ARE SERVICES PROVIDED CITY?

>> SERVICES ARE PROVIDED THROUGH A VARIETY OF NON AD VALOREM REVENUES INCLUDING STATE SHARED REVENUES AND OTHER NO NAD VALOREM REVENUES THE CITY HAS.

>> SEE IF THIS BOND WERE APPROVED, THEN THE TAX -- LET ME ASK YOU ONE OTHER QUESTION.

DOES THE AD VALOREM TAXES THAT THE COUNTY COLLECTS, DOES ANY PORTION OF THAT GO TO PROVIDE SERVICES IN THE SIT A? AT THE PRESENT TIME.

>> WELL, I'M ABSOLUTELY SURE THEY DO BECAUSE RES DEPENDENTS OF THE CITY OF PARK ARE ALSO COUNTY RES DENTS.

>> SO WHAT THE EFFECT OF THE APPROVAL OF THIS BOND WOULD BE THAT FOR HALF OF THE SIT ANY SAD VALOREM TAXES COLLECTED FROM THE BASE VALUE, YOU KNOW, FOR THE INCREMENT WILL ALL GO TO REPAY THE BONDS.

IS THAT, IS THAT CORRECT?

>> IN OTHER WORDS -- IT'S A DIFFERENT SITUATION OF ME THAN CITY OF MIAMI JUST IN TERMS OF JUST THE FACTS.

>> IT'S, IT'S A DIFFERENT SITUATION THAN, THAN THE CITY OF MIAMI BEACH BUT IT'S NO DIFFERENT THAN ANY OTHER, ANY OTHER SITUATION WHERE YOU MAY HAVE A TAXING AUTHORITY THAT DOESN'T LEVY A TAX.

I MEAN, HERE WHAT YOU HAVE IS YOU HAVE A STATUTE THAT SAYS A CITY OR COUNTY MAY ESTABLISH A

COMMUNITY REDEVELOPMENT AGENCY.

NOWHERE DOES IT SAY THAT THAT CITY OR COUNTY MUST LEVY AN AD VALOREM TAX.

NOWHERE IN 161.3 --

>> CONTINUING ON JUST THE FACTUAL BACKGROUND.

>> SURE.

>> WHEN WE TALK ABOUT THE TAX , THE INCREMENT IS GOING TO COME FROM THE ADDED VALUE OF PROPERTY WITHIN THE COMMUNITY, THE REDEVELOPMENT AREA.

>> THAT'S CORRECT.

>> NOT FROM THE ENTIRE CITY.

IT'S JUST FROM THOSE --

>> JUST FROM WITHIN THAT AREA.

>> SO THE, THE ASSUMPTION BEHIND THE WHOLE SCHEME IS THAT BECAUSE YOU'RE REDEVELOP DEVELOPING THAT AREA, THE TAXES ARE GOING TO RISE, AND BASED ON THOSE TAXES RISING BECAUSE THE VALUES ARE RISING, THAT'S WHERE YOU REPAY THE BONDS.

>> ASSUMPTION BEHIND CHAPTER 163 PART 3, THE, WHICH WAS ENACTED IN 1969 AND THEN TAX INCREMENT WAS PUT IN 1978 IS THAT YOU WILL HAVE AN INCREASE IN THE AD VALOREM TAX BASE OF THAT AREA.

>> WHAT HAPPENS IF THE ASSUMPTION FAILS?

>> IF THE ASSUMPTION FAILS, THEN BOND HOLDERS ARE AT RISK, AND THE TAXPAYERS ARE NOT AT RISK.

>> SO IN RETURN FOR THAT, DOES THAT MEAN THAT, THAT THE BOND HOLDERS GET A, AN INCREASED RATE OF RETURN THAN THEY OTHERWISE WOULD BECAUSE THEY ARE TAKING THAT RISK?

>> IF, IF THE BONDS ARE JUST PAYABLE FROM TAX INCREMENT REVENUES, THAT IS THE CASE.

>> THOSE, THOSE BONDS ARE GENERALLY RATED LOWER AND --

>> THOSE BONDS GENERALLY ARE

RATED LOWER.

>> BUT THE ISSUE THAT, AND OF COURSE WE'RE KIND OF LOOKING AT THE PROBABLY YOUR OTHER -- THE OTHER ISSUE WHICH IS OUT THERE WHICH IS STRAND AND THE EFFECT.

>> I HOPE WE GET TO THAT.

>> MY CONCERN IS THAT THE -- UNLIKE MIAMI BEACH, WHICH I HAVE READ AND REREAD AND READ THE BRIEF, THE BOND HERE AND THE PLEDGE REVENUES ACTUALLY PLEDGE THE AD VALOREM TAXES, DON'T THEY?

>> NO, THEY DO NOT.

>> WHERE DOES IT NOT -- BECAUSE IF YOU USE ANY SOURCE OF THE PLEDGE REVENUES YOU HAVE TO GET THE BONDHOLDERS' APPROVAL.

>> NO, THEY DO NOT.

THE BONDS HERE PLEDGE PURELY THE MONIES IN THE TRUST FUND.

>> WELL, LET ME ASK YOU A QUESTION.

IF THE PROPERTY VALUES GO UP AND THERE IS A TAX INCREMENT, AND THE CITY OR THE COUNTY, ASSUMING THIS CASE IS NOT TAXING OR THE COUNTY DOES NOT DEPOSIT THAT AMOUNT OF MONEY IF THE TRUST FUND, -- INTO TRUST FUND, DO NOT THE BONDHOLDERS HAVE THE RIGHT TO ENFORCE THE CONTRACTUAL OBLIGATION AND FORCE THAT MONEY TO BE PLACE UNDER TO THE FUNDS IF THE FUNDS WERE GENERATED?

>> IF THE, IF THE TAX, IF THERE WAS AN INCREASED TAX INCREMENT,.

>> RIGHT.

>> THE COMMUNITY REDEVELOPMENT AGENCY WOULD HAVE THE ABILITY, THEY HAVE A CONTRACTUAL OBLIGATION -- STATUTORY OBLIGATION AGAINST BAY COUNTY TO ENFORCE THEM TO DEPOSIT THE MONEY INTO IT -- THE TRUST FUND

--

>> HOW LONG DOES THAT OBLIGATION LAST?

>> THE OBLIGATION WOULD LAST AS LONG AS THE BONDS ARE

OUTSTANDING AND IN PARKER, THAT WOULD BE 40 YEARS, BUT THAT DOES NOT, THAT DOES NOT IN ANY WAY COMPEL BAY COUNTY TO LEVY AD VALOREM TAXATION.

>> NOT TO COMPEL ANY ADDITIONAL AD VALOREM TAXATION.

YOU AGREE THAT ANY AD VALOREM TAX REVENUES RECEIVED THAT ARE PART OF THAT INCREMENT THAT FOR 45 YEARS THE COUNTY IS CONTRACTUALLY OBLIGATED TO DEPOSIT THAT MONEY INTO THE TRUST FUND.

>> WITH ALL DUE RESPECT, I DO NOT, YOUR HONOR.

>> OKAY.

>> I WOULD SUBMIT TO YOU THAT THEY ARE OBLIGATED TO DEPOSIT AN AMOUNT OF MONEY EQUAL TO THAT INCREMENT.

>> BUT ISN'T THAT WHERE THE FICTION IS AND WHERE WE MAY HAVE STARTED IN MIAMI BEACH AND THEN WE FIND OURSELVES 30-PLUS YEARS LATER IN A TOTALLY DIFFERENT SITUATION WHERE BAY COUNTY I THINK IT IS IN THE OTHER CASE WHERE OVER I THINK IT'S 16 TO 17% OF THEIR TAXES OR REVENUES ARE GOING TO PAY FOR, YOU KNOW, COMMUNITY REDEVELOPMENT BONDS THAT THERE IS -- WHERE, WHEN YOU TALK ABOUT THE KIND OF REVENUES THAT MAY BE GENERATED, WHERE ELSE IS THE COUNTY GOING TO GET THAT REVENUE?

>> WELL, AND I AM GLAD YOU ASKED THAT QUESTION AND I WANT TO TALK ABOUT, AND NOW WE ARE GOING TO GET TO STRAND, I WANT TO TALK ABOUT THE FICTION. IT'S NOT JUST SINCE MIAMI BEACH.

BASICALLY THE BRIGHT-LINE RULE THAT YOU HAVE USED SINCE THE 1930 CONSTITUTION IS WHETHER OR NOT YOU CAN COMPEL DIRECTLY OR INDIRECTLY THE LEVY OF AD VALOREM TAXATION.

>> WELL, THAT'S NOT REALLY -- YOU KNOW, IF YOU READ MIAMI BEACH IT SAYS THAT IN NO INSTANCE

HAS THIS COURT UPHELD THE PLEDGE OF GROSS REVENUE OF A FACILITY COUPLED WITH THE SUPPORTING PLEDGE OF AD VALOREM TAXES.

>> BUT IF YOU, IF YOU READ, IF YOU READ MIAMI BEACH, IT ALSO IT ALSO RELIES ON CASES SUCH AS TUCKER, IT RELIES ON ORANGE COUNTY, IT RELIES ON MIAMI BEACH, IT SAYS --

>> CAN WE TALK ABOUT TUCKER. ISN'T TUCKER THE HOLDING IN TUCKER, FOCUSED ON WHETHER OR NOT THERE WAS A VIOLATION OF THE BOND AGREEMENTS IN COVENANTS?

IT DID NOT SPECIFICALLY MAKE THE HOLDING THAT MIAMI BEACH RELIED UPON.

>> {J}, I THINK TUCKER MADE IT VERY CLEAR THAT YOU COULD USE AD VALOREM TAXES TO PAY DEBT AND THAT WAS NOT A VIOLATION OF THE CONSTITUTION.

>> WAS THAT A HOLDING IN TUCKER SO DECIDED THE PART OF THE CASE THAT SPEAKS TO THAT? BECAUSE WHEN I READ TUCKER, AGAIN IT SPEAKS ONLY TO WHETHER OR NOT THERE WAS A VIOLATION OF THE COVENANTS.

>> I THINK WHEN YOU READ TUCKER AND YOU READ IT IN THE CONTEXT IN WHICH IT WAS WRITTEN AND YOU GO BACK TO THE PORT OF PALM BEACH CASE THAT IT CITED IN THAT SAME PARAGRAPH, I BELIEVE IT IS VERY CLEAR THAT THEY WERE REFERRING TO ARTICLE VII SECTION 12.

REMEMBER, THEY TOOK SIX PAGES IN MIAMI BEACH, SIX PAGES TO DEAL WITH THIS CONSTITUTIONAL ISSUE.

>> AND THEN THEY, AND THEN IN THE END THEY SAY SOMETHING THAT HAS NO SUPPORT IN ANYTHING THAT HAD OCCURRED IN THE --

>> WITH ALL DUE RESPECT, YOUR HONOR, I, I, I CANNOT SAY THAT BECAUSE IF YOU LOOK BACK.

>> WELL, WAIT A MINUTE, I WANT TO MAKE SURE I GET AN ANSWER TO

THE REAL LIFE ISSUE, WHICH IS THIS, THAT WHEN YOU'VE GOT AN INCREMENT -- THE ONLY REASON THE BONDHOLDERS ARE GOING TO INVEST IN THIS IS IF THEY THINK THERE IS GOING TO BE A SUBSTANTIAL INCREASE IN THE VALUE OF THAT PROPERTY. AND WHEN A COUNTY, WHICH IS NOT EVEN GOING -- IS NOT GOING TO DIRECTLY BENEFIT IS GOING TO HAVE TO PAY BACK THAT AMOUNT, THAT INCREMENT, WHERE ELSE IN THE REAL WORLD, JUST TELL --, YOU KNOW, TAX -- WHERE ARE THEY GOING TO GET THAT REVENUE OTHER THAN FROM THE AD VALOREM TAXES OF -- THAT WERE ASSESSED WITH THE INCREASE?

I MEAN, WHERE -- THEY ARE NOT GOING TO GET IT FROM GAS TAX.

>> EXCUSE ME.

YOU MAKE A COUPLE OF ASSUMPTIONS THAT I BELIEVE ARE NOT CORRECT AND ARE NOT SUPPORTED BY THE RECORD. NUMBER ONE, THE OBLIGATIONS TO MAKE THOSE PAYMENTS AND THE REDEVELOPMENT WITHIN THAT AREA IS NOT JUST AN OBLIGATION OF THE CITY OF PARKER.

THE RESIDENTS OF THE CITY OF PARKE COUNTY RESIDENTS ALSO.

ALSO, IN THIS INSTANCE --

>> BUT YOU DIDN'T -- I'M TALKING ABOUT THE AFFECT ON THE COUNTY THAT IS NOT EVEN A PARTY TO THIS.

WHERE, WHERE ARE THE COUNTY REVENUES --

>> I'M SORRY.

>> WHERE ARE THE -- NOT THE CITY OF PARKER, YOU ARE GOING BACK TO THIS ISSUE OF THE MILLAGE RATE.

I AM SAYING WHERE IS THE COUNTY TO GET THE MONEY TO REPAY OTHER THAN FROM AD VALOREM TAXES?

>> THE COUNTY'S GENERAL FUND BUDGET IS APPROXIMATELY \$138 MILLION.

APPROXIMATELY 42% OF THAT COMES FROM NON AD VALOREM REVENUES.

IF YOU LOOK AT THE FACTS OF

THIS CASE, IF YOU LOOK AT THE FACTS OF THIS CASE, IF YOU LOOK AT THE REDEVELOPMENT STUDY, LESS THAN A FRACTION OF 1% OF THE NON-AD VALOREM REVENUES, THAT'S WHERE THE INCREMENT IS IN THIS CASE.

THIS IS A MINUSCULE AMOUNT.

>> YOU AGREE THAT IF THERE WERE NO INCREMENT, THEN THE COUNTY IS NOT OBLIGATED TO DEPOSIT ANYTHING INTO THE --

>> ABSOLUTELY.

>> SO GETTING BACK -- LET'S JUST FORGET ABOUT MIAMI BEACH FOR ONE SECOND.

AND LET'S SAY THAT WE'RE JUST LOOKING AT THIS WITH FRESH EYES AND LOOKING SOLELY AT THE LANGUAGE OF THE CONSTITUTION. HOW IS THIS NOT PAYABLE FROM AD VALOREM TAXES?

>> I THINK WHEN YOU LOOK AT THE DEFINITION OF PAYABLE FROM AD VALOREM TAXATION, AND I KNOW THIS IS AN ISSUE WHICH IS REALLY THE ONLY ISSUE IN THE OTHER CASE, AND THERE ARE SEVERAL OTHER ISSUES HERE, BUT I'M HAPPY TO GO HERE.

[LAUGHTER]

WHEN YOU LOOK AT THE DEFINITION OF PAYABLE FROM AD VALOREM TAXATION, I THINK WE USE THE WORDS FROM A, FROM A CASE THAT YOU USED, A MELODY IS MUCH MORE THAN ANY ONE OF ITS NOTES, AND YOU MUST LOOK AT ALL FOUR OF THOSE WORDS.

PAYABLE FROM AD VALOREM --

>> WELL, WHEN A NONLAWYER TALKS ABOUT PAYABLE, THEY THINK SOMETHING'S GOT TO BE PAID FROM WHATEVER YOU'RE LOOKING AT, SO PAYABLE FROM AD VALOREM TAXATION SEEMS TO BE IF YOU LOOK AT IT AS A PLAIN LANGUAGE YOU PAY IT FROM AD VALOREM TAX

>> ACTUALLY IT'S INTERESTING YOU MENTION THE WORD NONPAYABLE.

THAT'S A WORD THAT THIS COURT HAS STRUGGLED WITH ON TWO OCCASIONS IN THE ROLLINS CASE

WHERE YOU SAID, WHERE YOU SAID  
YOU MUST LOOK AT THE  
LEGISLATIVE HISTORY WHERE YOU  
LOOK -- WHERE YOU LOOK AT THE  
DEFINITIONS, YOU LOOK AT THE  
STATUTE, YOU LOOK AT THE CASES  
AND YOU LOOK AT THE LEGISLATIVE  
HISTORY AND WHEN YOU LOOK AT  
ALL OF THOSE TOGETHER --

>> WELL, YOU ARE TALKING TO THE  
WRONG GUY ABOUT LEGISLATIVE  
HISTORY

[LAUGHTER]

>> BUT I --

>> THIS IS CONSTITUTIONAL  
PROVISION THAT SAYS YOU, YOU'RE  
NOT SUPPOSED TO USE AD VALOREM  
TAXES PAYABLE FROM AD VALOREM  
TAXES, SO WHAT IS, WHAT WAS THE  
CONSTITUTIONAL PROVISION?

I MEAN, WHAT WAS THE VOTERS  
VOTING ON WHEN THEY VOTED FOR  
THAT CONSTITUTIONAL PROVISION,  
WHICH TO ME IS MUCH MORE  
THAN YOU KNOW, THE A  
STATUTE.

THE PEOPLE OF THIS STATE HAVE  
SAID YOU ARE NOT ALLOWED TO  
TAKE THE REVENUES AND PAY AD  
VALOREM.

>> THE STATE, JULY 31st, 1973,  
SAID THERE IS NOTHING IN THE  
1968 STATE CONSTITUTION THAT  
ABROGATES THE RULE OF EARLIER  
CASE, AND THE RULE OF EARLIER  
CASES WAS WHETHER OR NOT YOU  
COULD COMPEL THE LEVY OF AD  
VALOREM TAXATION.

>> SO WHAT WAS THE POINT?

>> THAT WAS THE RULE.

>> -- OF THIS CONSTITUTIONAL  
AMENDMENT?

>> THE POINT OF THIS -- I'M  
SORRY.

>> WHAT WAS THE POINT OF THE  
CONSTITUTIONAL AMENDMENT THAT  
SAID WHAT WE'VE ALL BEEN  
DISCUSSING HERE?

>> REMEMBER WHAT YOU HAD BEFORE  
1968 WAS A CONSTITUTIONAL  
PROVISION THAT SAID ALL BONDS  
MUST BE SUBJECT TO REFERENDUM.

AND YOU HAD JUDICIALLY

CARVED EXCEPTIONS  
FOR THE TAPER'S DOCTRINE FOR  
ONE BUT THEN IN 1933, IN STATE  
v. CITY OF MIAMI, THIS COURT  
SAID IF YOU CANNOT LEVY THE  
PAYMENT OF AD VALOREM TAXATION  
THAT THE BEST OF BRIGHT-LINE.  
WE'VE SEARCHED HARD.

WE'VE SEARCHED HARD AND WE'VE  
LOOKED AT THE COURT CASES WE'VE  
LOOKED AT YOUR INTERPRETATION  
AND YOUR INTERPRETATION OF THE  
68 CONSTITUTION HAS BEEN  
CONSISTENT AS THE 1930  
CONSTITUTION ON THIS POINT.  
UNTIL SEPTEMBER 6th, 20007, YOU  
NEVER CHANGE THAT  
INTERPRETATION.

>> BUT IF THAT, IF THAT  
CONSTITUTIONAL PROVISION IS THE  
SAME AS WHAT HAS ALREADY BEEN  
SAID, IT WOULD'VE BEEN EASY IT  
SEEMS TO ME TO HAVE PUT IN THE  
WORD LEVY AND, AND THE  
CONSTITUTIONAL PROVISION SO WE  
WOULD ALL BE CLEAR THAT WE'RE  
TALKING ABOUT ONLY IF YOU -- IF  
YOU ARE PLEDGING YOU KNOW  
TAXATION POWER  
BASICALLY --, THE TAXATION  
POWER OF A --

>> WE BELIEVE THE INTENT WAS TO  
DO TWO THINGS, AND BY NUMBER  
ONE, CHANGING THE WORD BONDS TO  
BONDS, NOTES, CERTIFICATES, I  
MEAN, THIS COURT HELD THAT YOU  
TOOK AWAY THE TAPERS DOCTRINE,  
WHICH YOU CAME BAD AND  
SUBSEQUENTLY RULED, AND SECOND,  
WE BELIEVE THAT THIS COURT IN  
ITS, AND IT'S BASED UPON, IT'S  
BASED UPON A STATEMENT BY  
SENATOR ASKEW AND WE SEARCHED  
DILIGENTLY HERE, WE SEARCHED  
DILIGENTLY IN THE RECORDS.  
WE BELIEVE THAT THE WORD  
PAYABLE FROM AD VALOREM  
TAXATION, THEY MEANT TO SAY  
THAT ANY BONDS IN WHICH YOU  
COULD COMPEL THE LEVY OF THE AD  
VALOREM TAXATION, THE AD  
VALOREM TAXING POWER THAT YOU  
MUST HAVE A REFERENDUM.

>> WHY DID THEY CHANGE THE

LANGUAGE FROM GENERAL  
OBLIGATION BONDS TO PAYABLE  
FROM AD VALOREM TAXATION?  
>> BECAUSE GENERAL OBLIGATION  
BONDS ARE BONDS PAYABLE FROM  
ANY REVENUE SOURCE.  
AND FROM ANY MILLAGE LIMIT.  
GENERAL OBLIGATION BONDS,  
IN YOU'RE, IF YOU'RE -- THEY CAN  
GO ABOVE THE 10 MILL LIMIT.  
WE OFTEN PAY BONDS WHERE WE GO  
TO A REFERENDUM.  
THEY ARE NOT GENERAL OBLIGATION  
BONDS.  
THEY'RE MORE LIKE LIMITED  
GENERAL OBLIGATION BONDS AND  
AND THE HISTORY --.  
>> SO YOUR POSITION IS THIS IS  
LIMITED TO LIMITED GENERAL  
OBLIGATION BONDS?  
>> WE BELIEVE THAT THAT IS THE  
-- THAT THAT WAS THE INTENT OF  
THE 68 CONSTITUTIONAL AMENDMENT  
OTHERWISE IT WAS NOT INTENDED  
TO -- IT WAS NOT INTENDED TO  
CHANGE.  
>> THE COMMENTARY SHOWS NO  
CHANGE.  
>> I WANT TO UNDERSTAND THE  
TAPERS DOCTRINE THAT SAYS THESE  
BONDS CAN ONLY BE USED FOR  
CAPITAL PROJECTS.  
I'M STILL HAVING TROUBLE AND I  
WANT TO MAKE SURE THAT YOU ARE  
SAYING THAT RATHER THAN  
NARROWING WHAT GOVERNMENT COULD  
DO, IT WAS INTENDING TO BROADEN  
WHAT GOVERNMENT COULD DO?  
>> NO, ACTUALLY, IT, IT WAS  
INTENDING TO SAY, NOT SURE IT  
WAS NARROWING OR BROADENING,  
BUT WHAT IT WAS --  
>> BEFORE AS YOU ANSWERED  
JUSTICE QUINCE, MUNICIPALITY OR  
CANNOT ISSUE A BOND WITHOUT A  
REFERENDUM.  
THAT'S AS CLEAR, THAT'S AS  
CLEAR AS CAN BE.  
THEY ADDED CERTIFICATE -- THEY  
ADDED DIFFERENT TYPES OF  
OBLIGATIONS SO SOMEONE COULDN'T  
GET AROUND IT BY CALLING IT  
SOMETHING ELSE.  
BUT IT SAYS MYSTERIOUS

ADDITION OF WHETHER PAYABLE AD VALOREM TAXATION WAS A, WHAT TYPE OF LIMIT THAT WAS INTENDED TO BE.

>> I REMEMBER IT WASN'T SO CLEAR IN 1930.

IT SAID ANY BONDS MUST BE PAYABLE FROM AD VALOREM TAXATION AND THIS COURT HAD TO INTERPRET THAT.

AND IN 1968 WHEN THEY MODERNIZED THE CONSTITUTION, AND YOU INTERPRETED THAT TO SAY PAYABLE IF YOU COULD DIRECTLY OR INDIRECTLY OBLIGATE THE TAXING POWER.

A GENERAL OBLIGATION BOND IS WHAT YOU HAD TO SAY WAS SUBJECT TO A REFERENDUM.

IN 1968, WHEN THEY SAID BONDS PAYABLE FROM AD VALOREM TAXATION, WHETHER A GENERAL OBLIGATION BOND OR JUST IF YOU COULD COMPEL THE AD VALOREM TAXATION WE SAY THAT IS WHAT THE INTENT WAS.

>> WHY IN PRIOR CASES YOU SEEM TO LEAVE OUT IN ALMOST EVERY ONE OF THE PRIOR CASES THAT THEY SPEAK ABOUT THE AD VALOREM TAXING, BUT ALMOST EVERY ONE OF THEM SAY THE CERTIFICATES WERE NOT TO BE PAID FROM AD VALOREM REVENUES OR AD VALOREM TAXES? FOR EXAMPLE, IN CITY OF JACKSONVILLE, CERTIFICATES OF INDEBTEDNESS ARE FOR AN AUTHORIZED PUBLIC PURPOSE AND ARE PAYABLE SOLELY FROM REVENUES FROM UTILITY REVENUES, LICENSES, OR SOME OTHER SOURCE THAN AD VALOREM TAXES.

>> RIGHT.

>> AND I BELIEVE --

>> AND THAT'S WHAT THE SERIES OF CASES ARE.

THEY ARE PURE REVENUE BONDS AND THE REVENUE BONDS WERE NOT PAYABLE FROM AD VALOREM TAXES.

>> AND ONCE AGAIN, ONCE AGAIN, AND THE PROBLEM WITH USING A DICTIONARY TERM,,

>> WHETHER IT'S PAYABLE OR AD

VALOREM TAXATION YOU HAVE TO PICK THE PROPERTY SENSE. YOU HAVE TO PICK THAT RIGHT SENSE WITHIN THAT DEFINITION, AND WITHIN THIS CONTEXT, THEY MEANT THAT THE BOND HOLDERS COULD ONLY COMPETE THOSE INDIVIDUAL REVENUE SOURCES. THEY DID NOT MEAN AND THAT'S THE REASON THAT THE LANGUAGE IS THERE YOU MUST --

>> HOW DO WE KNOW THAT? WHERE THERE --, OKAY, GIVE ME A CASE WHERE, GIVE ME ONE CASE WHERE AD VALOREM TAXES WERE PLEDGED AS HERE TO PAY BONDS THAT WERE PROVED BY THIS COURT.

-- APPROVED BY THIS COURT.

>> I WOULD SAY THAT YOU THAT TOWN OF MEDLEY IS A PERFECT EXAMPLE.

ALTHOUGH IT WAS NOT THE BONDS WERE NOT THE AD VALOREM TAXES WERE NOT PLEDGED, THE COURT RECOGNIZED THAT THERE WOULD BE AN IMPACT ON AD VALOREM TAXATION.

THEY REALIZED THAT THERE WOULD BE AN IMPACT ON AD VALOREM TAXATION, THAT WHEN YOU READ ALL OF THESE CASES TOGETHER, WHEN YOU READ MEDLEY, WHEN YOU READ --

>> BUT THEY ARE NOT REALLY PLEDGED.

IT SEEMS TO ME THAT THAT COULD HAPPEN IN ANY OTHER SITUATION IF YOU ARE USING OTHER THINGS I MEAN IF THOSE FALL SHORT THE COUNTY MAY OR FALL BACK ON USING AD VALOREM TAXES, SO, I THINK IT REALLY IS A DIFFERENCE IF YOU ARE NOT ACTUALLY PLEDGING AN AD VALOREM TAX.

>> MY TIME UNFORTUNATELY --

>>

[INAUDIBLE]

>> YEAH.

>> [INAUDIBLE]

>> YEAH, THE, UM, --

>>

[INAUDIBLE]

>>> MY QUESTION IS ISN'T THERE

A DIFFERENCE THAT YOU MAY HAVE TO FALL BACK AT SOME POINT ON USING SOME OF THE AD VALOREM TAXES BUT IT'S A DIFFERENCE IN ACTUALLY PLEDGING THROUGH THE AD VALOREM TAXES.

I MUST TELL YOU AND I HAVE READ THE STRAND CASE PROBABLY 100 TIMES, AND WHEN YOU, WHEN YOU WALKED AWAY FROM THAT BRIGHT-LINE RULE, THAT YOU'VE HAD IN PLACE SINCE 1933, I WORRY THAT DISTINCTION STILL EXIST.

I WORRIED ABOUT THE QUESTION JUSTICE PARIENTE SAID ABOUT THE STRAND CASE.

AREN'T WE WORRYING THAT THE AD VALOREM TAXES IS A {D} BAD THING.

>> WE ARE JUST SAYING THE VOTERS HAVE TO APPROVE IT AS THE CONSTITUTION SAYS.

>> AND I AM SAYING THAT IF YOU SAID THAT YOU ARE USING AD VALOREM TAXES TO PAY DEBT, IF A GOVERNMENT USES AD VALOREM TAXES TO PAY DEBT THAT YOUR REVERSAL OF STATE v. MIAMI BEACH GOES MUCH FURTHER, GOES MUCH, MUCH FURTHER THAN REVERSING TAX INCREMENT FINANCING.

>> BECAUSE THAT'S IN THEIR DEBTS --

>>

[INAUDIBLE]

>> THANK YOU.

>> GOOD MORNING.

I'M TERRELL ARLINE AND I REPRESENT DADE COUNTY.

THE PARKER CASE, ONE OF THE MAIN ISSUES ON THE PARKER CASE IS WHETHER OR NOT PARKER SHOULD'VE IMPOSED ITS OWN AD VALOREM TAX BEFORE IT COULD ENGAGE IN TAX INCREMENT FINANCING.

>> AND WHEREIN THE STATUTE IN 163 DOES IT REQUIRE PARKER TO BE ABLE TO LEVY ADD VALOREM TAXES BEFORE THEY CAN GET INTO THIS?

>> YOUR HONOR, THERE IS NOT A

DIRECT OBLIGATION IN THE STATUTE BUT WE THINK THE TRIAL COURT CORRECTLY READ VARIOUS PROVISIONS OF THE STATUTE TOGETHER TO COME TO THAT CONCLUSION.

SHE INTERPRETED NUMEROUS PROVISION OF THE, OF THE STATUTE TO ARRIVE AT THE CONCLUSION THAT THAT A MUNICIPALITY THAT WANTED TO IMPOSE TAX INCREMENT FINANCING HAD TO ITSELF TAX.

IN THIS INSTANCE BECAUSE THE CITY OF PARKER ELECTS NOT TO TAX ITS RESIDENTS, THE COUNTY WILL FUND ALL OF THE CRA IMPROVEMENTS IN THE PLAN.

>> LET ME ASK YOU THIS.

IF THERE ARE MULTIPLE CITIES IN A COUNTY A MULTIPLE MUNICIPALITIES THAT YOU KNOW YOU HAVE PARKER HERE, AND I BELIEVE THE NEXT CASE IS ALSO A BAY COUNTY MUNICIPALITY AND IF THERE ARE MULTIPLE ONES, ALL OF THE MUNICIPALITIES UNDER THIS STATUTE, AT LEAST AS IT WAS BEFORE, THEY COULD HAVE GONE THROUGH THIS CREATION OF A, A REDEVELOPMENT AREA CREATED THE REDEVELOPMENT TRUST FUND, AND THEN USED THE AD VALOREM TAX INCREMENT FOR THAT SECTION OF A CITY THAT WAS BEING REDEVELOPED FOR THE PAYMENT OF THE BOND SO MULTIPLE CITIES WITHIN A COUNTY COULD DO THIS.

>> YES, AND IN OUR COUNTY MULTIPLE CITIES HAVE DONE THAT.

>> AND SO THEN THAT WOULD LEAVE MY, MY, THE COUNTY, WHEN THE COUNTY WANTS TO DO SOMETHING, THEY ARE LEFT WITH THE LESS FUNDS TO DEAL WITH THIS BECAUSE ALL THE CITIES HAVE PLEDGED THE TAX INCREMENT.

>> YEAH I MEAN, THAT'S ONE OF THE EFFECTS OF TAX INCREMENT FINANCING IS THAT IT DIVERTS COUNTY FUNDS BACK TO THESE LOCALIZED CRA AREAS WHICH ESSENTIALLY PLACES ON THE BACK

OF THE NON-CRA TAXPAYERS THE OBLIGATION TO PICK UP LITTLE BIT MORE OF SHARE OF THE COUNTY OVERALL REVENUES, INCLUDING THE COST FOR THE CONSTITUTIONAL OFFICERS.

>> YOU KNOW, YOU SAY THAT NUMEROUS MUNICIPALITIES IN BAY COUNTY HAVE DONE THIS, HAS THERE BEEN AN ISSUE RAISED ABOUT THIS?

AND I DON'T RECALL THERE BEING A CASE THAT'S COME HERE ON APPEAL FROM ONE OF THESE BOND ISSUES THAT'S RAISED THIS POINT, THE STATUTE'S BEEN GOING ON SINCE, WHAT, 1978?

>> YOUR HONOR, THAT'S TRUE. THIS ISSUE HAS NEVER BEEN LITIGATED, BUT I, TO BE HONEST WITH YOU, IT'S HARD TO TAKE ON A CRA BECAUSE OF THE DEFERENTIAL LAW THAT'S APPLIED TO IT, SO I HAD TO EMPLOY CREATIVE ARGUMENT TO, TO FIND A WAY TO BRING THESE CRAs DOWN, AND, AND THIS ONE ISSUE IN PARKER WHERE IT DID NOT HAVE ITS OWN TAX BASE OPENED -- WAS JUST THERE IN FRONT OF ME.

>> I THINK I JUST HEARD SOMETHING THAT I, I -- WHEN YOU SAY BRING THE CRAs DOWN, THEN WHY DON'T YOU ATTACK THE CONSTITUTIONALITY OF A STATUTE THAT'S BEEN IN EFFECT SINCE, YOU KNOW, 19 -- THE 70s?

>> YOUR HONOR --

>> I THINK THAT'S A DISINGENUOUS.

>> IT IS.

>> AND THAT CONCERNS ME IS, YOU KNOW, THE JUSTICE THAT THAT'S, THAT WE'RE LOOKING AT SOMETHING AS JUSTICE WELLS SAID THAT'S BEEN IN PLACE, EVERYONE'S RELIED ON IT, AND NOW YOU'RE GOING, THIS IS, IT'S, I MEAN, LEGISLATURE IS ACTUALLY AMENDED THE STATUTE TO MAKE IT MORE DIFFICULT TO HAVE THESE CRAs, SO HOW IS IT, HOW IS IT BAD THAT, I MEAN, WHAT -- BUT MAYBE THAT'S ALSO BEGGING THE

CONSTITUTIONAL ISSUE, SO, LET'S GET BACK TO THAT.

>> YOUR HONOR, I OVERSTATED T. CRAs ARE GOOD.

COMMUNITY DEVELOPMENT PLANNING, REDEVELOPMENT AREAS, PLANNING FOR THAT IS G. WHAT I MEANT WAS TAX INCREMENT FINANCING TO SUPPORT THE CRAs.

>> BUT WHAT STRIKES ME IS THAT THIS ARGUMENT ABOUT WHETHER YOU, THE TAXING AUTHORITY HAS TO LEVY A TAX OR NOT.

WHY ISN'T THAT SOMETHING THAT REALLY NEEDS TO BE DEALT WITH LEGISLATIVELY SINCE THE STATUTE DOESN'T REQUIRE THAT AT PRESENT, WHICH I THINK YOU CAN SEE THAT THERE'S NO EXPRESS LANGUAGE IN THE STATUTE, SO IF IT'S BEEN GOING ON SINCE 1978, AND THERE DOES NEED TO BE SOME, I MEAN, THE LEGISLATURE STEPPED IN, DID AMEND THE STATUTE NOT LONG AGO, AND SO WHY ISN'T THAT THE, THE BETTER FORUM TO DEAL WITH THAT?

>> I, I, OUR POSITION IS THAT THE LEGISLATURE ASSUME THAD THAT MUNICIPAL MUNICIPALITY THAT IS ENGAGING IN TAX INCREMENT FINANCING ITSELF IS CONTRIBUTING TO THE TAX INCREMENT PROGRAM.

>> WITHIN THE -- WELL, DIDN'T THE LEGISLATURE CORRECT THAT BY THE MILLAGE PARITY PROVISION?

>> NO, I DON'T, I DON'T BELIEVE SO.

>> IT DOESN'T RESOLVE YOUR PROBLEM HERE?

>> NO, I MEAN, THEY ARGUE THAT MILLAGE PARITY STANDS FOR THE PROPOSITION THAT A MUNICIPALITY NEED NOT TAX.

ACTUALLY WHAT IT SAYS IS THAT A COUNTY IS LIMITED TO WHAT IT HAS TO RETURN AS FAR AS THE TAX INCREMENT BASED UPON THE MILLAGE THAT THE LOCAL GOVERNMENT IMPOSES ITSELF. SO I MEAN, I SEE THAT AS A RECOGNITION THAT THE LEGISLATURE SAID, WELL, THESE

MUNICIPALITIES ARE TAXING.

>> SO IF THE MILL SUBJECT ZERO IN THE CITY, -- MILLAGE IS ZERO IN THE CITY THEN THE COUNTY WOULD CONTRIBUTE ZERO.

>> ZERO, AND THEN YOU WOULD HAVE A TRUST FUND WITH ZERO IN IT.

>> SO WHY DOESN'T THAT ANSWER YOUR CONCERN, AND THAT IS, IN ORDER TO GET THE COUNTY TO CONTRIBUTE, X AMOUNT OF MILLAGE, THE CITY HAS TO IMPOSE THAT X AMOUNT OF MILLAGE RATE IF IT'S ZERO, IF THEY DON'T TAX AT, ALL THEN THE COUNTY NEED NOT CONTRIBUTE AT L..

>> WELL, YOUR HONOR, THAT WOULD, THAT, BECAUSE THERE WAS THIS GRANDFATHERING PROVISION AND THAT ANALYSIS DIDN'T KICK IN UNTIL I THINK JUNE OF 07 AND THEY WERE ABLE TO GET IN UNDER THE WIRE BEFORE THAT, AND THERE, THEY ARGUE THAT MILLAGE PARITY MEANS THAT THEY DON'T HAVE TO CONTRIBUTE ANYTHING. ON ONE POINT, I WANT TO JUST, IN THIS FURTHERS THAT, AND IT'S SOMETHING THAT JUSTICE PARIENTE SAID, IF THE CITY HAD TAXED ITS OWN RESIDENTS, HAD ITS OWN AD VALOREM BASE, IT'S POSSIBLE WE MIGHT NOT HAVE HAD A BLIGHTED SITUATION BECAUSE THEY'D HAVE HAD THE FUNDS TO DO, PUT ROADS AND SIDEWALKS AND THINGS IN, STORM WATER, THAT THEY DIDN'T. SO I THINK THAT'S ANOTHER KIND OF OVERALL POLICY BASIS --

>> WELL AND THE POLICY IS FOR THE LEGISLATURE, RIGHT?

THAT, THAT'S AN ARGUMENT, THAT'S A, A GREAT ARGUMENT FOR REVISING THE STATUTE.

IT DOESN'T SEEM TO BE A GREAT ARGUMENT IN OUR INTERPRETING THE STATUTE.

>> CAN I MOVE --

>> I MEAN YOU AGREE YOU'RE NOT IN YOUR HEAD.

>> NO.

I THINK THAT THE TRIAL COURT'S ANALYSIS OF THE STATUTE WAS

CORRECT, AND I BELIEVE THAT THE LEGISLATURE IN, YOU KNOW, ASSUMED THAT A MUNICIPALITY ITSELF WAS GOING TO TAX.

>> I STILL HAVEN'T HEARD THAT ANALYSIS, SO YOU BEGAN YOUR ARGUMENT BY SAYING THAT YOU HAD TO DEVELOP SOME CREATIVE ARGUMENTS TO GET THE TRIAL COURT TO RULE IN YOUR FAVOR BECAUSE YOU SAID THERE WAS, THERE WERE SEVERAL STATUTES WHEN READ TOGETHER WOULD SUPPORT YOUR POSITION, SO WHY DON'T YOU EXPLAIN TO ME WHAT THOSE STATUTES ARE SINCE YOU APPARENTLY CONCEDE THAT THERE IS NOT ONE PARTICULAR STATUTE THAT SUPPORTS YOUR POSITION.

>> OKAY.

I'LL BRIEFLY DO THAT AND IT'S ALL WITHIN THE 163, THE COMMUNITY REDEVELOPMENT ACT. IF YOU READ VARIOUS PROVISIONS OF THAT, YOU'VE GOT TO COME TO THE CONCLUSION THAT A MUNICIPALITY MUST TAX.

THE DECLARATION OF NECESSITY PROVISION IS KIND OF LIKE THE LEGISLATIVE INTENT SECTION FOR THE CRA, SAYS THAT RECOGNIZED THAT BLIGHT IN COUNTIES IS A PROBLEM IN PART BECAUSE IT DECREASES THE TAX BASE AND REDUCES TAX REVENUES.

WELL, HOW CAN BLIGHT REDUCE THE TAX REVENUES OF PARKER IF IT DOESN'T HAVE TAX REVENUES?

>> ANOTHER PART OF THAT SAME SECTION SAYS THAT THE PRESERVATION AND ENHANCEMENT OF THE TAX --

>> WELL, DOESN'T THAT REDUCE THE TAX REVENUES FOR THE COUNTY OVERALL BECAUSE THE COUNTY IS THE ONE WHO IS DOING THE AD VALOREM TAXES EVEN FOR THAT AREA.

>> YES, YOUR HONOR, YOU COULD READ THAT ONE PROVISION TO SAY THAT IT'S ONLY THE REVENUES OF THE COUNTY THAT ARE AFFECTED BUT THAT WOULD TAKE THAT ONE

SECTION, READ IT OUT OF CONTEXT WITH OTHERS.

IF I COULD JUST GIVE YOU ANOTHER ONE.

THE WAY THEY DEFINE TAX INCREMENT FINANCING OR THE AMOUNT THAT'S SUPPOSED TO BE PAID BY THE MUNICIPALITIES IS IN 163.87 IT BASICALLY FOCUSES ON THE FUNDS OF EACH TAXING AUTHORITY.

NOW PARKER'S A TAXING AUTHORITIES WHETHER IT TAXES OR NOT IT MEETS THE DEFINITION OF A TAXING AUTHORITY AND THEN THE STATUTE GOES ON IN THAT SAME SECTION AND TELLS YOU HOW YOU CALCULATE THE TAX INCREMENT PAYMENT AND IT SAYS THE AMOUNT OF AD VALOREM TAXES EACH YEAR LEVIED BY EACH TAXING AUTHORITY.

>> WELL YOU WILL AGREE THE TAXING AUTHORITY IS A BODY THAT LEVIES OR IS AUTHORIZED TO LEVY AD VALOREM TAX ON REAL PROPERTY SO YOU COULD -- YOUR ARGUMENT WOULD BE A GREAT ARGUMENT IF ALL IT IS WAS A PUBLIC BODY THAT LEVIES AD VALOREM TAXES.

>> YES.

>> BUT IT DOESN'T SAY THAT. IT SAYS IT IS AUTHORIZED TO.

>> YOUR HONOR, THAT IS ONE -- THAT THAT'S THE DEFINITION OF TAXING AUTHORITY AND READ IN ISOLATION THAT PROVISION DOES NOT SUPPORT MY ARGUMENT BUT YOU CAN READ THAT PROVISION WITH THE OTHER PROVISIONS OF THE CRA LAW TO SUPPORT THE CONCLUSION THAT THAT --

>> WHY SHOULD -- IN OTHER WORDS, THAT TO ME IS GOING BACK WHEN YOU SAID ABOUT POLICY, WHERE WE'LL CRITICIZED AS COURTS ARE CRITICIZED WHEN THEY TAKE SOMETHING THAT ISN'T EXPRESS AND TRIES TO CONJURE UP SOMETHING BECAUSE SOMEBODY SAYS IT'S A BETTER POLICY.

AND I DON'T STILL SEE THAT YOU'VE GIVEN US SOMETHING THAT WOULD SAY THAT AS A MATTER OF

LAW IN STATUTORY CONSTRUCTION  
THAT THE LEGISLATURE INTENDED  
THAT THE CITY HAVE TO OR  
WHOEVER IT IS LEVY TAXES BEFORE  
THEY CAN TAKE ADVANTAGE OF THE  
COMMUNITY REDEVELOPMENT ACT.  
NOW, AGAIN, AND SO, WHAT  
PRINCIPLE WOULD WE EMPLOY TO,  
TO, TO PUT SOMETHING WHERE  
THERE IS NOT A YOU KNOW, PATENT  
AMBIGUITY TO CONSTRUE IT  
BECAUSE WE THINK THAT MAKE AS  
BETTER POLICY?

WOULDN'T WE BE --

>> I ARGUE TO THE TRIAL COURT,  
THAT YOU READ THE PROVISIONS --

>> WELL THAT'S ONLY IF THERE IS  
AN AMBIGUITY.

>> WELL THERE IS AMBIGUITY THAT  
THE DEFINITION OF THE TAXING  
AUTHORITY SEEMS TO SAY THAT  
THEY DON'T HAVE TO LEVY AD  
VALOREM AND THEN WHEN YOU LOOK  
AT, AT THE OBLIGATION TO  
APPROPRIATE THE TAX INCREMENT  
FUND IN 163.387 IT SAYS EACH  
TAXING AUTHORITY TO OF --  
BASICALLY REQUIRES TO  
APPROPRIATE TO THE TRUST FUND A  
SUM NOT LESS THAN THE TAX  
INCREMENT.

WELL, HOW CAN YOU APPROPRIATE A  
SCUM OF ANY INCREMENT IF YOU --  
IF THE LOCAL GOVERNMENT DOESN'T  
HAVE ITS OWN TAX BASE?

I, I THINK THAT, YOU HAVE,  
THERE'S JUST OTHER PROVISIONS  
IN THE STATUTE INCLUDING THE  
MILLAGE PARITY ARGUMENT THAT,  
THAT SUPPORT THAT CONCLUSION.  
BUT I, I UNDERSTAND YOUR, YOUR  
CONCERN ABOUT POLICY.

THIS IS A \$40 MILLION PRICE  
TAG.

THE CRA, THAT PARKER CREATED.  
IN THEIR OWN DOCUMENTS IT'S  
ESTIMATED THAT THE COUNTY'S TAX  
INCREMENT PAYMENT OVERALL COULD  
BE UPWARDS TO \$86 MILLION --

>> BUT ISN'T IT AGAIN, GOING TO  
THE REAL LIFE EFFECT, RIGHT NOW  
YOU HAVE GOT THERE ARE 505  
ACRES.

WHAT IS THE -- HOW MUCH AD VALOREM TAXES IS, HAS THE COUNTY RECEIVING FROM THOSE 505 ACRES?

IS THAT IN THE RECORD?

>> YEAH, I'VE GOT THAT, YOUR HONOR.

THE, THE 2007 PAYMENT OF TIF PAYMENT TO PARKER WAS ARRANGED SOMEWHERE BETWEEN 29,000 TO 122,000.

AND THEN IT, YOU KNOW IT GOES UP.

THEY TRIED TO ESTIMATE THE GROWTH IN AD VALOREM --

>> THAT MEANS THAT THAT'S THE AD VALOREM TAXES THAT ARE REALIZED UP BEFORE THE BOND IS, THAT'S BEING --

>> YOUR HONOR, IF YOU LOOK -- THOSE ARE ALL SET OUT AT PAGE 52 TO PAGE 54 OF THE CRA PLAN.

THEY HAVE A TABLE THAT, THAT ANALYZED --

>> ALL RIGHT, BUT THE POINT THAT THERE IS SOME AMOUNT THAT'S ALREADY BEING RECEIVED, AND AGAIN, IN TERMS OF WHY THIS IS ALWAYS, HAS MADE SENSE, OBVIOUSLY FOR 30-PLUS YEARS IS BECAUSE THE COUNTY MAY BE GETTING MORE TAXES BECAUSE THIS AREA'S GOING TO BE IMPROVED BUT IF WASN'T IMPROVED THEY WOULDN'T GET THESE ADDITIONAL TAXES, AND YOU KNOW THAT'S THE ASSUMPTION OF IT.

AND I THINK, OF COURSE NOW WE HAVE A BUST RATHER THAN A BOOM THAT THE FALLACY IN THAT IS IF THE VALUES GO UP FOR REASONS OTHER THAN THE REDEVELOPMENT, YOU KNOW, THE COUNTY STILL HAS TO PUT THAT MONEY BACK BUT AGAIN TO ME THAT'S POLICY, SO

--

>> AND YOU SEE THAT ARGUMENT IN SOME OF THE EXTRA JURISDICTIONAL CASE LAW, BUT TO ME, IT'S, IT'S AT ODDS WITH YOUR CONCLUSION IN STRAND BECAUSE THAT, WHAT, WHAT THAT ARGUMENT IS BASED ON, YOU KNOW, YOU

WOULDN'T HAVE THE MONEY IF WE DIDN'T DO THE REDEVELOPMENT KIND OF ARGUMENT, IS, IS THAT IT'S, IT'S LOOKING AT TAXATION VERSUS THE TAXES.

AND --

>> BUT YOU AGREE IN TERMS OF THE REAL LIFE EFFECT THAT IF THERE ISN'T AN INCREASE, OR THERE'S ONLY A MINIMAL INCREASE IN THE VALUE OF THAT PROPERTY, THAT THE, THAT THE COUNTY DOESN'T HAVE TO PAY MORE THAN WHATEVER THE INCREASED VALUE IS.

>> ABSOLUTELY.

IT'S BASED UPON --

>> YOU AGREE WITH THAT?

>> -- THE GROWTH IN AD VALOREM TAX BASE IN CRA.

>> AND THE OTHER HALF OF THE CITY BENEFITS BECAUSE ONE-HALF IS, YOU KNOW, FLOURISHING, WHICH OFTEN HAPPENS, TO ADJACENT PROPERTY, THEN THERE WILL BE INCREASED AD VALOREM TAXES AVAILABLE FOR THE COUNTY.

>> BUT WE NEED TO, A LOT OF THE NON-CRA AREA, YES, MA'AM. THAT WAS TRUE.

>> THE INCIDENTAL EFFECT IS THAT NOW YOU HAVE HALF THE TOWN IS GOING TO HAVE E, THIS FLOURISHING AREA SUPPOSEDLY.

>> YES, MA'AM, BUT WITHIN THE CRA, THOSE FOLKS ENJOY THE BENEFIT OF THE COUNTY TAXES COMING BACK TO THEM,.

>> BUT IT DOESN'T COME BACK TO THEM T. COMES BACK TO THE BONDHOLDERS.

>> COMES BACK TO THE TRUST FUND THAT IS EARMARKED AND PROMISED TO PAY AND SUPPORT THE BONDS IS WHERE IT IS.

THE -- ON, I'VE GOT A COUPLE MINUTES.

I'D JUST LIKE TO HIT ON THIS ISSUE ABOUT THE COMPREHENSIVE PLANS OF THE OBLIGATION THAT THE CRA PLAN CAN FORM TO THE COMPREHENSIVE PLAN.

I WANT TO TALK MORE ABOUT THE

TAX ISSUE WHEN WE GET INTO CEDAR GROVE BUT I THINK THIS PERSONALLY THINK THIS IS IMPORTANT.

IT'S NEVER BEEN RAISED AS FAR AS I CAN TELL BEFORE YOU. THE COMMUNITY REDEVELOPMENT PLAN IS REQUIRED BY THE CRA ACT, IT'S A CONDITION TO THESE BONDS, IT IS A CONDITION TO EVERYTHING AND IT IS CHAPTER 163 PART 3 IS THE CRA ACT.

WELL, AS YOU KNOW CHAPTER 163.2 IS THE MANAGEMENT GROWTH ACT THAT THE ACQUIRES ALL LOCAL GOVERNMENTS --

>>

[INAUDIBLE]

>> I GUESS YOU COULD CONCLUDE THAT THERE IS SOME IS EVIDENCE THAT THERE IS SOME CONFIRM, BUT THAT'S -- HONESTLY, THOSE WERE MOUTHING THE WORDS. THEN IGNORE THE, THE COMP SUBSTANTIAL EVIDENCE ARGUMENT.

WHAT THE COURT DID WAS IT APPLIED A WRONG STANDARD OF ANALYSIS OF CONFORMITY. SHE CONFUSED CONFORMITY WITH CONSISTENCY.

THE, THE CITY ACTUALLY ARGUED IN ITS BRIEF, AND BEFORE THE, THE COURT THAT THE CONCEPT OF CONFORMITY, I MEAN THE STATUTE SAYS THE CRA PLAN SHALL CONFORM TO THE COMPREHENSIVE PLAN, SO THE STATE ARGUED THAT THAT IS A DECISION OF FACT. IT IS NOT A DECISION OF FACT. IT IS A DECISION OF LAW.

>> THE QUESTION IS HOW CAN SOMETHING BE CONSISTENT WITH THE COMP PLAN AND NOT CONFORM TO IT.

>> I THINK THE TERMS ARE ACTUALLY INTERCHANGEABLE. I MEAN, THEY MEAN KIND OF THE SAME THING AND WHEN YOU LOOK AT 163 PART 2, IT USED THE TERMS ALSO INTERCHANGEABLY. BUT TO ANSWER YOUR QUESTION, SHE JUST DID NOT APPLY A RIGOROUS ANALYSIS OF WHAT

CONFORMITY MEANT.

AND THAT IF YOU WERE ABLE TO CONCLUDE THAT CRA PLANNING NEED TO BE PRECEDED BY COMPREHENSIVE PLANNING THEN I THINK THAT WOULD IMPROVE THE WHOLE PROCESS BECAUSE AS YOU KNOW THEN YOU WOULD HAVE TO AMEND THE COMPREHENSIVE PLAN, YOU'D GET STATE REVIEW, THERE'S AN ADMINISTRATIVE OPPORTUNITY

--

>> LET -- FACTS, FACTS FACTUALLY IN THIS CASE, WHO WAS THE, THE WITNESS FOR PARKER AS FAR AS THE CONFORMITY WITH COMPREHENSIVE PLAN?

>> I --

>> DID THE WITNESS NOT HAVE INVOLVEMENT IN THE DEVELOPMENT OF THE COMPREHENSIVE PLAN?

>> NO, I DON'T THINK THAT WAS THE EVIDENCE.

I THINK THEY CAME -- HONESTLY, THE PARKER COMPREHENSIVE PLAN WAS PRETTY HOLD OLD BY THE YEARS BEFORE.

AND THERE IS --

>> IT'S NOT THE SAME CONSULTING FIRM THAT DEVELOPED THE COMPREHENSIVE PLAN, AN EXPERT FROM THAT FIRM CAME IN AND TESTIFIED THAT CRA -- THAT THERE WAS CONFORMITY?

>> THEY -- I DON'T KNOW WHETHER THEY, THEY, THEY CREATED IT OR NOT, JUSTICE BELL, BUT, THEY DID SAY THAT.

THEY DID SAY THAT IT CONFORMS.

AND SO I GUESS THERE IS EVIDENCE OF, OF, YOU KNOW, OF CONFORMITY BUT --

>> WHY DO YOU SAY IT DOES NOT CONFORM?

>> I'M SORRY?

>> WHY DO YOU SAY IT DOES NOT CONFORM?

I MEAN, IT SEEMS THAT THEY WENT THROUGH THESE, THESE ITEMS TO DEMONSTRATE WHY IT DID, DIDN'T THEY?

>> WELL, I THINK IT'S, THE, WELL, THE WITNESS

MOUTHING THE WORDS AND IGNORING  
THE REALITY.

THE REALITY IS THE CRA PLAN,  
THE 500-ACRE AREA YOU ARE  
TALKING ABOUT IS NOT EVEN  
IDENTIFIED ON THE COMPREHENSIVE  
PLAN MAPS.

THE CRA PLAN COMES UP WITH NEW  
LAND USES LIKE MAIN STREET  
DISTRICTS, COMMERCIAL INTENSIVE  
DISTRICT, HISTORIC DISTRICTS,  
THEY'RE NOT EVEN DISCUSSED IN  
THE FUTURE LAND USE ELEMENT OF  
THE COMPREHENSIVE PLAN.

THE \$40 MILLION CAPITAL  
IMPROVEMENTS PLAN FOR  
REVITALIZING THIS AREA IS NOT  
EVEN ADDRESSED IN THE  
COMPREHENSIVE PLAN'S CAPITAL  
DEVELOPMENTS.

I THINK IT'S PRETTY BASIC AND  
OUR EXPERT TESTIFIED THAT THERE  
IS NO CONFORMITY BETWEEN THE  
CRA PLAN AND THE COMP PLAN,  
BUT, I THIS IS, IF WE HAD A,  
YOU ISSUE A STRONG OPINION ON  
CONFORMITY MEAN SOMETHING, I  
THINK THAT THE COMPREHENSIVE  
PLANNING PROCESS WOULD START TO  
DRIVE THE CRA PROCESS RATHER  
THAN THE OTHER WAY AROUND, AND  
THAT WOULD BE A GOOD THING FOR  
FLORIDA.

THANK YOU VERY MUCH.

>>

[INAUDIBLE]

>> JUSTICE LEWIS, I AM ASSUMING  
THAT WE WILL GET TO THAT IN  
CEDAR GROVE, AND I WILL STAND  
ON STRAND JUST FOR PURPOSES OF  
PARKER.

THEY'RE BOTH EXACTLY THE SAME  
TAX INCREMENT PROGRAMS, AND YOU  
KNOW, I'LL GIVE YOU 20 MINUTES  
OF WHAT I THINK ABOUT IT IN THE  
NEXT CASE

[LAUGHTER]

>> [INAUDIBLE]

>> I GOT A LITTLE -- I DID GET  
A LITTLE HELP.

>> YOU DID.

>> YOU DID.

>>

[INAUDIBLE]

>> I VERY MUCH APPRECIATE THAT AS A PRACTITIONER IN THIS AREA OF THE LAW.

>> GETTING TO THE, THE POINT THAT MR.^ARLINE RAISED, IT DOES SEEM A LITTLE ANOMALOUS THAT A TAXING AUTHORITY CAN COMPEL ANOTHER TAXING AUTHORITY WITHOUT THAT GOVERNING BODY CONSIDERING THE ISSUE AT ALL TO, TO USE ITS AD VALOREM TAX FOR A SPECIFIC PURPOSE.

>> UNUSUAL MAYBE.

31 MUNICIPALITIES IN THIS STATE DO NOT LEVY AD VALOREM TAXES. SO UNUSUAL, YES, ILLEGAL, NO. I THINK MR.^ARLINE POINTED OUT THAT HIS ARGUMENT WAS REALLY ONE OF FAIRNESS, AND THAT'S ONE THAT THE LEGISLATURE DEALT WITH.

THE LEGISLATURE DEALT WITH THAT IN THE 2006 LEGISLATION WHERE THEY PROVIDED FOR MILLAGE PARITY.

THE COUNTY IS UPSET THAT WE CAME IN PRIOR TO THOSE STATUTORY AMENDMENTS.

THE USES THE TERM COUNTY OR MUNICIPALITY MAY ESTABLISH A CRA.

NOWHERE DOES IT SAY THAT THAT MUST BE A TAXING AUTHORITY.

>> SO ARE YOU SAYING THAT UNDER THE PRESENT STATUTE THAT THEY WOULD NOT HAVE TO CONTRIBUTE ANYTHING?

>> I'M SAYING THAT, I'M SAYING THAT IF WE HAD NOT MET THE --

>> RIGHT BUT UNDER THE CURRENT STATUTE.

>> I'M SAYING TODAY IF WE SET UP A CRA TODAY, THAT BAY COUNTY WOULD NOT HAVE TO CONTRIBUTE ANYTHING.

>> BECAUSE -- BUT WHY IF -- IF YOU ARE TALKING ABOUT MILLAGE PARITY, THE ARGUMENT, MR.^ARLINE, IS THAT NOWHERE IS IT CONTEMPLATED THAT THERE WOULD BE ZERO CONTRIBUTION BY THE MUNICIPALITY.

USUALLY MILLAGE PARITY WOULD BE

WELL WHATEVER THAT, WHATEVER THAT MEANS BUT NOT ZERO.

>> I, I THINK --

>> UNDER THE CURRENT LAW I GUESS --

>> I THINK WHEN YOU, I WOULD IMAGINE HE WOULD NOT BE TAKING THAT ARGUMENT IF THERE WAS A DECLINING VALUE, AND SO I THINK WHEN YOU LOOK AT THE DEFINITION OF INCREMENT, IT CAN BE POSITIVE OR NEGATIVE, AND WHEN IT WOULD -- IF IT WAS NEGATIVE, CLEARLY THE DEFINITION WORKS, AND -- IN THAT INTENSE.

THEY WOULD NOT HAVE TO MAKE A PAYMENT IF IT WAS NEGATIVE.

IF THE LEGISLATURE HAD INTEND FOR THE MUNICIPALITY THAT CREATED THE CRA TO HAVE, TO HAVE AN AD VALOREM TAX, IT WOULD'VE SAID SO.

AND THEY DID NOT SAY SO.

IN FACT IT USED THE WORD TAXING AUTHORITY AND SAID OR IT'S AUTHORIZED TO LEVY AN AD VALOREM TAX AND ON THE SECOND ISSUE, IT'S A FACTUAL ISSUE.

IT'S A FACTUAL ISSUE THAT WAS ADDRESSED BY THE COURT, WAS ADDRESSED BY THE CITY'S EXPERT.

JUSTICE BELL DID NOT PREPARE THE COMPREHENSIVE PLAN BUT SHE DID REVIEW THE COMPREHENSIVE PLAN.

AND IT WAS ALSO REVIEWED BY THE LOCAL PLANNING AGENCY. OF THE, OF THE CITY.

>> [INAUDIBLE]

>> I'M VERY CONFUSED ON MY TIME.

[LAUGHTER]

>> [INAUDIBLE]

>> RIGHT.

STAY AT THE SAME TABLES.

I SEE.

>> [INAUDIBLE]