

>> ALL RISE.
[BACKGROUND SOUNDS]
>> SUPREME COURT OF FLORIDA IS
NOW IN SESSION.
PLEASE, BE SEATED.
>> THE NEXT CASE ON OUR DOCKET
IS NORTH PORT ROAD & DRAINAGE
DISTRICT VERSUS WEST VILLAGES
IMPROVEMENT DISTRICT.
MR. LEWIS, LET ME GET CLEAR ON
THIS TIME HERE.
YOU'RE GOING TO TAKE EIGHT
MINUTES?
>> EIGHTEEN.
>> EIGHTEEN.
>> THAT'S WHAT IT SHOULD BE.
I ACCEDED SEVEN MINUTES TO
MR. NEIGHBORS AND THE LEAGUE OF
CITIES --
>> YOU'RE GOING TO TAKE A
TOTAL --
>> AND FIVE -- I BELIEVE I HAVE
30 MINUTES.
EIGHTEEN IN THE MAIN, SEVEN
MINUTES TO MR. NEIGHBORS AND
THEN FIVE FOR REBUTTAL.
ISN'T THAT, DOES THAT ADD TO 30?
I HOPE SO.
>> EIGHTEEN PLUS --
>> [INAUDIBLE]
>> OKAY.
ALL RIGHT.
PROCEED.
>> YES, SIR.
THANK YOU, MR. JUSTICE.
MY NAME IS TERRY LEWIS, LAW FIRM
OF LEWIS, LONGMAN AND WALKER
HERE ON BEHALF OF THE NORTH PORT
ROAD & DRAINAGE DISTRICT.
WITH ME IS ROB ROBINSON,
CO-COUNSEL FROM THE CITY OF THE
DISTRICT, MR. NEIGHBORS IS HERE
REPRESENTING THE LEAGUE OF
CITIES.
WE'RE HERE BEFORE THE COURT ON A
CERTIFIED QUESTION OF GREAT

PUBLIC IMPORTANCE.

THESE QUESTIONS, MUNICIPAL YET SPECIAL DISTRICT PURSUANT TO THE MUNICIPAL HOME POWER IMPOSE A NONAD VALOREM SPECIAL ASSESSMENT ON REAL PROPERTY OWNED BY STATE GOVERNMENT IN THE ABSENCE OF EXPRESS OR NECESSARILY IMPLIED AUTHORITY.

THE QUESTION, BASICALLY, REQUESTS CLARIFICATION BY THIS COURT ON THE LIMITS OF MUNICIPAL --

>> SO IT WOULD ASK US TO PROCEED FROM OUR MUCH EARLIER CASE.

WOULDN'T WE HAVE TO DO THAT?

>> IT DOES ASK YOU TO RECEDE FROM BLAKE AND CLARIFY WHAT MUNICIPAL HOME RULE POWER MEANS.

>> WELL, BUT IF WE STICK TO BLAKE AT THE END OF YOUR ARGUMENT, IS THAT CORRECT?

>> I'M SORRY?

>> IF WE STICK TO BLAKE, IF WE ADHERE TO OUR PRECEDENT, THAT'S THE END OF THE ARGUMENT.

>> THAT IS CORRECT.

>> OKAY.

>> EVEN IF BLAKE APPLIED OR DID NOT APPLY, WOULDN'T THE SPECIFIC STATUTORY LANGUAGE OF CHAPTER 204.456 APPLY HERE?

>> AND I'M UNFAMILIAR WITH THAT STATUTE, SIR.

>> WELL, THAT WAS THE STATUTE THAT CREATED THE RESPONDENT HERE THAT GOVERNS WHAT MAY AND MAY NOT BE TAXED BY ANYONE, INCLUDING YOUR CLIENT.

>> IF THAT IS THE STATUTE AND, AGAIN, I DON'T RECALL THAT TRUTHFULLY, IF THAT IS THE STATUTE THAT WAS ENACTED BEFORE 1968, THEN I WOULD ARGUE THAT THE MUNICIPAL HOME RULE POWERS TRADITION --

>> I DON'T THINK IT WAS BEFORE
1968.
>> NO, IT WAS IN 2004.
IT WAS AN ENABLING STATUTE THAT
CREATED YOUR OPPONENTS.
IT WAS THE STATUTE THAT
SPECIFICALLY CREATED --
>> OH, I'M SORRY.
THEN FORGIVE ME.
OF COURSE, I MISSED THE STATUTE.
YOU KNOW, IT'S NOT MY OPINION
THAT THE WEST VILLAGE --
[INAUDIBLE]
YOU KNOW, THE PROVISION THAT
YOU'RE REFERRING TO IN THE WEST
VILLAGE IS -- ACTUALLY CLARIFIES
OR SIMPLY RETAKES WHAT IS
EXISTING LAW.
AND THAT IS THAT THE WEST
VILLAGE HAS THE ABILITY, IS
EMPOWERED, IN FACT, TO PAY
NON-AD VALOREM SPECIAL
ASSESSMENT.
THAT IS EXACTLY WHAT THAT
STATUTE SAYS.
THERE'S NO EXEMPTION IN THAT
SPECIAL ACT, YOU KNOW?
THERE IS, THERE'S NOTHING IN
THAT SPECIAL ACT THAT ALLOWS
WEST VILLAGES TO DENY AN
ASSESSMENT ON PROPERTY THAT
EXCEEDS THE BENEFIT --
>> WHAT'S THE NATURE OF THESE
PIECES OF PROPERTY THAT ARE
OWNED BY WEST VILLAGES?
>> THE WEST VILLAGE IS
PROPERTIES THAT WERE ASSESSED,
THERE ARE NINE OF THEM.
THEY RANGE FROM CONSERVATION TO
WATER CONTROL TO, I BELIEVE,
PASSIVE RECREATION.
THE FACT OF THE MATTER IS THEY
ULTIMATELY ALL WILL DISCHARGE
WATERS INTO THE PRIMARY SYSTEM
WITHIN THE CITY OF NORTH PORT
WHICH IS MANAGED BY THE NORTH

PORT ROAD & DRAINAGE DISTRICT.

>> YOU HAVE NO ARGUMENT THAT THOSE MAY NOT BE USED FOR GOVERNMENTAL PURPOSES?

>> I HAVE NO ARGUMENT THAT THOSE ARE NOT -- YES, THAT IS CORRECT. THERE'S ALSO A QUESTION IN THE DISTRICT COURT OF APPEALS NOTICED OF A POTENTIAL CONFLICT BETWEEN WEST VILLAGES IN THIS REMINGTON COMMUNITY DEVELOPMENT DISTRICT CASE, DECIDED BY THE FIFTH DISTRICT COURT OF APPEALS. A SMALL AMOUNT OF BACKGROUND FACTS IN THIS CASE, THE NORTH PORT ROAD & DRAINAGE DISTRICT IS A SPECIAL PURPOSE DISTRICT, THE DISTRICT WAS CREATED BY CITY ORDINANCE 0811.

IN EFFECT THE CITY AND THE DISTRICT, THE CITY OF NORTH PORT AND THE NORTH PORT ROAD & DRAINAGE DISTRICT ARE PARTS OF THE SAME ENTITY.

THE CITY IS, THE COUNCIL IS THE ADMINISTRATIVE BUDGETARY ARM OF THIS DISTRICT.

>> WELL, NO ONE'S MAKING AN ARGUMENT THAT IF NON-AD VALOREM SPECIAL ASSESSMENT WAS COMING FROM THE CITY ITSELF, THAT THEY COULD ASSESS THIS.

THAT'S NOT PART OF THE ARGUMENT HERE, CORRECT?

OR IS IT?

>> WELL, YEAH, ACTUALLY, I THINK THAT BLAKE IF YOU READ IT RELATES TO CITIES.

IT WAS A CITY THAT WAS ATTEMPTING TO HEAVY AN ASSESSMENT.

>> ISN'T IT -- WHO CREATED THE NORTH PORT ROAD & DRAINAGE DISTRICT?

>> THE CITY OF NORTH PORT.

>> DID THE STATE HAVE ANYTHING

TO DO WITH THE CREATION?

>> NONE.

>> SO IT'S DEPENDENT MEANING,
IT'S A DEPENDENT SPECIAL
DISTRICT DEPENDENT ON THE CITY
CREATING IT AS AN ARM OF THE
CITY.

>> THAT IS EXACTLY CORRECT.

>> IF ANYTHING, IT WOULD SEEM
THAT THE ARGUMENT IS WEAKER THAT
YOU WOULD ALLOW A CREATURE OF A
STATUTE OF A MUNICIPAL ORDINANCE
CREATED BY THE CITY TO BE ABLE
TO ASSESS NON-AD VALOREM
ASSESSMENTS AGAINST A
STATE-CREATED, INDEPENDENT
SPECIAL DISTRICT.

>> I DON'T --

>> I MEAN, I DON'T, AND BELIEVE
ME, I'M SURE SOMEONE'S THINKING
WHAT DOES SHE KNOW ABOUT THIS
MUNICIPAL GOVERNMENT LAW, SO IF
I'VE SAID SOMETHING WRONG, BUT
IT DOESN'T SEEM LIKE THAT HELPS
YOUR ARGUMENT.

>> I THINK THAT IT DOESN'T HELP
OR HURT.

IF YOU WANT TO KNOW THE TRUTH.
THIS COMES BACK TO THE MUNICIPAL
HOME RULE POWER'S AUTHORITY BOTH
WITHIN THE CONSTITUTION AND
WITHIN THE MUNICIPAL HOME RULE
POWERS ACT ENACTED IN THE 1973.

>> SEE, WHAT I'M HAVING TROUBLE
WITH IS THAT I UNDERSTOOD THAT
THE IDEA WAS THAT THE CITY
SHOULDN'T HAVE TO GO TO THE
LEGISLATURE EVERY TIME THEY WANT
TO DO SOMETHING.

THAT'S WHAT THE WHOLE HOME RULE
ISSUE WAS.

>> WELL, THAT IS EXACTLY RIGHT.
AND IN THE CASE OF THE
JURISDICTIONAL BOUNDARIES OF THE
CITY OF NORTH PORT, IN FACT, THE
CITY IS THE LEGISLATIVE BODY.

THEY ARE ENTITLED TO LEGISLATE ON THINGS BY THE CONSTITUTION, BY GENERAL LAW OR SPECIAL ACT. OR, FOR THAT MATTER, BY JUDICIAL LIMITATIONS.

THEY PROVIDE MUNICIPAL SERVICES --

>> DO THEY ALSO, DO THEY HAVE THE POWER OF EMINENT DOMAIN?

>> DOES THE CITY OF NORTH --

>> YES.

>> THE CITY CERTAINLY DOES.

>> SO COULD YOU TAKE THE PROPERTY OF THE WEST VILLAGES IMPROVEMENT DISTRICT?

>> THAT'S A MUCH MORE DIFFICULT QUESTION.

CONCEIVABLY, IT WOULD DEPEND -- I'VE BEEN THROUGH CASES LIKE THAT BEFORE WHERE YOU BOTH HAVE A PUBLIC PURPOSE IF THERE IS --

>> BUT IT'S STATE PROPERTY.

SEE, I GUESS I'M HAVING TROUBLE WITH THIS IDEA THAT A, THAT THE CITY COULD GO IN AND WITHOUT LEGISLATIVE AUTHORIZATION BE LEGALLY ABLE TO MAKE THESE ASSESSMENTS.

NOW, YOU MAY GIVE THAT THERE MAY BE A LOT OF POLICY REASONS WHY THAT'S GOOD, BUT I DON'T KNOW HOW BLAKE HAS BEEN -- MAKES, IT DOESN'T MAKE SENSE ANYMORE.

>> WELL, LET ME REFER TO ANOTHER ISSUE.

YOU MENTIONED THAT THE LAND IS STATE PROPERTY.

I WOULD DISAGREE WITH THAT.

WEST VILLAGES IMPROVEMENT DISTRICT IS A LOCAL GOVERNMENT AND A SPECIAL-PURPOSE GOVERNMENT SET UP WITH SEVERAL THOUSAND ACRES OF LAND WITHIN THE JURISDICTIONAL LIMITS OF THE CITY, YOU KNOW, FOR THE PURPOSE OF PROVIDING INFRASTRUCTURE FOR

THE LANDOWNERS WITHIN THE WEST VILLAGES DISTRICT.

STATUTES ARE RELATIVELY CLEAR IN DISTINGUISHING BETWEEN STATE AGENCIES WHICH WOULD POSSESS STATE LAND AND LOCAL GOVERNMENT, POLITICAL SUBDIVISIONS, IF YOU WILL.

YOU CAN EITHER LOOK AT THE WAIVER OF THE STATUTE AND THE WAIVER OF SOVEREIGN IMMUNITY STATUTE WHICH MAKES CLEAR DELINEATION BETWEEN STATE AGENCIES AND SUBDIVISIONS OR GOVERNMENTAL ENTITIES IF YOU REVIEW CHAPTER ONE FLORIDA STATUTES WHICH IS DEFINITIONS WHICH ARE TO APPLY TO ALL THE OTHER STATUTES TO THE EXTENT THEY CAN --

>> LET ME ASK YOU THIS.

I WANT TO GO BACK TO A QUESTION JUSTICE POLSTON ASKED YOU AT THE FIRST --

[INAUDIBLE]

ENABLING LEGISLATURE FOR THIS WEST VILLAGE SEEMS TO SAY THAT YOU CAN ONLY ASSESS THE PROPERTY IF IT'S BEING USED FOR NON-GOVERNMENTAL PURPOSES. AND YOU ALREADY AGREED THAT THE PROPERTY IS BEING USED FOR GOVERNMENTAL PURPOSES. SO HOW DO YOU GET AROUND THAT STATUTE?

>> WELL, AND I MISSPOKE SLIGHTLY WHEN I ANSWERED JUSTICE POLSTON'S QUESTION.

THE GRANT OF AUTHORITY IN THIS THAT SPECIAL ACT, YOU KNOW, IS ESSENTIALLY ONE THAT STATES THE OBVIOUS.

THAT IF LAND IS BEING USED FOR NON-GOVERNMENTAL PURPOSES, IT'S GOING TO BE ASSESSABLE IF IT RECEIVES A BENEFIT.

THAT, I THINK THAT IS A FAIR STATEMENT OF WHAT THE WEST VILLAGES ACT SAYS.

IT DOES NOT PROHIBIT THE CITY OR ITS SPECIAL DISTRICT FROM LEVYING AN ASSESSMENT ON PUBLIC LANDS THAT RECEIVE A BENEFIT.

>> WELL, THE PROBLEM IS THE LEGISLATURE ADDRESSED THIS SPECIFIC ISSUE IN THIS LIGHT, AND THEY SAID ANY PROPERTY INTEREST OWNED BY THE DISTRICT WHICH ARE USED FOR NON-PUBLIC OR PRIVATE COMMERCIAL PURPOSES SHALL BE SUBJECT TO AD VALOREM TAXES AND TANGIBLE PERSONAL PROPERTY TAXES OR NON-AD VALOREM ASSESSMENT AS IF WOULD BE ASSESSED IF THE PROPERTY WERE PRIVATELY OWNED.

AND I UNDERSTAND THAT THAT DOES NOT EXPRESSLY AND DIRECTLY STATE THAT THE PROPERTY OF THE DISTRICT THAT IS USED FOR A PUBLIC PURPOSE IS NOT SUBJECT TO NON-AD VALOREM ASSESSMENT.

BUT ISN'T THAT THE CLEAR IMPLICATION OF THAT LANGUAGE?

I MEAN, THE LEGISLATURE ADDRESSED THAT IN THIS WAY, IT'S ALMOST LIKE THEY ARE, THEY'RE STARTING WITH THE ASSUMPTION THAT IT WOULD NOT BE A SUBJECT TO THOSE ASSESSMENTS, AND THEN THEY'RE SPECIFYING THE CIRCUMSTANCES IN WHICH IT WOULD BE.

>> WELL, I WON'T PRETEND TO KNOW THE INTENTION OF THE LEGISLATURE, BUT I READ THAT, I READ THAT STATEMENT IN THE SPECIAL ACT TO THE PROPOSITION THAT IT IS A MATTER OF FACT, IT'S LIKE LETTER OF LAW.

YOU KNOW, I CAN CITE YOU THE TWO PROVISIONS IN OUR BRIEF THAT

WOULD ARGUE OTHERWISE WHERE I
THINK YOU NEED A SPECIFIC
EXEMPTION IN LAW.

IN ORDER TO CLAIM ONE.

THE FAIR ASSOCIATION CHAPTER
STATUTE CHAPTER 617 HAS A
SPECIFIC PROVISION OUTRIGHT
EXEMPTING FAIR ASSOCIATION
PROPERTY FROM SPECIAL
ASSESSMENT.

IT'S AN AFFIRMATIVE ONE BECAUSE,
IN FACT, THERE WERE LOCAL
COMMUNITIES THAT WERE ASSESSING
FAIR ASSOCIATION PROPERTY.

SIMILARLY, THE REMINGTON CASE
THAT I MENTIONED TURNS ON A
COMMUNITY DEVELOPMENT DISTRICT
VERY MUCH LIKE A WEST VILLAGE
DISTRICT LEVYING AN ASSESSMENT,
YOU KNOW, ON A CHARTER SCHOOL
PIECE OF PROPERTY.

AND WHEN THAT CASE WAS HANDED
DOWN, THE CHARTER SCHOOL STATUTE
CHAPTER 1002 DID NOT HAVE AN
EXEMPTION FOR CHARTER SCHOOLS.
IT DIDN'T EXIST.

AS A RESULT, THE CHARTER SCHOOL
ASSOCIATION CAME BACK TO THE
LEGISLATURE, APPLIED FOR AND
RECEIVED AN AFFIRMATIVE
EXEMPTION FROM NON-AD VALOREM
ASSESSMENTS.

I MEAN, THAT IS MY HONEST
READING OF HOW YOU HARMONIZE THE
STATUTE, IF YOU WILL.

>> AND THERE'S NO DISPUTE THAT
THERE'S NO APPLICABLE STATUTORY
EXEMPTIONS HERE?

>> I THINK THAT'S CORRECT.

I DON'T THINK THERE IS A DISPUTE
THAT THEY HAVE AN AFFIRMATIVE
EXTENSION.

>> LET ME ASK YOU ABOUT OUR
DECISION.

IT DOES NOT MENTION SOVEREIGN
COMMUNITIES IN THAT PARTICULAR

DIVISION, BUT IS THE REAL
PREMISE THERE BASED ON SOVEREIGN
IMMUNITY RULE OF LAW?

>> I DON'T THINK SO.

IF YOU CAN, IF I HAVE
OVERLOOKED, IF OUR LAW FIRM HAS
OR OUR CO-COUNSEL HAVE
OVERLOOKED A CASE ON POINT
INDICATING THAT, IN ESSENCE, NOT
ONLY STATE AGENCIES, BUT ALL
LOCAL GOVERNMENT, YOU KNOW, HAVE
SOVEREIGN IMMUNITY WHEN IT COMES
TO LEVYING A NON-AD VALOREM
ASSESSMENT OR HAVING TO PAY ONE,
I'VE LOOKED FOR THOSE, AND I
HAVE NOT FOUND THEM.

>> IF IT'S NOT BASED ON
SOVEREIGN IMMUNITY, WHAT IS IT?

>> I THINK YOU HAVE TO HAVE AN
AFFIRMATIVE STATUTORY EXEMPTION
OF, TO, YOU KNOW, AGAIN, TO
PREVENT, YOU KNOW, THE PAYMENT
OR TO AVOID THE PAYMENT OF
NON-AD VALOREM ASSESSMENT IF, IN
FACT, YOUR PROPERTY IS RECEIVING
A BENEFIT AND A SERVICE.

>> BUT I'M TALKING ABOUT THE
RULING IN BLAKE.

IF IT'S NOT PREMISED ON
SOVEREIGN IMMUNITY THERE, WHAT
RULE OF LAW WAS IT REALLY BASED
ON?

>> I THINK THAT, WELL, AS I'VE
READ THE BLAKE CASE UNDER THE
1885 CONSTITUTION, IT'S
ESSENTIALLY AN INTERPRETATION OF
DYLAN'S RULES.

AND DYLAN'S RULES STATED NOT
JUST FOR SPECIAL DISTRICTS, BUT
FOR MUNICIPALITIES, THAT THEY
ACTUALLY, YOU KNOW, A
MUNICIPALITY OR A DISTRICT
EITHER ONE COULD NOT LEVY AN
ASSESSMENT AGAINST OTHER PUBLIC
PROPERTY UNLESS THEY HAD AN
AFFIRMATIVE GRANT OF AUTHORITY.

IN THAT CASE THE PLATES OF THE EARTH HAVE ACTUALLY MOVED BETWEEN THE 1885 CONSTITUTION AND THE 1968.

UNDER 1885, AND I HAVE SOME LEGISLATIVE EXPERIENCE UP UNTIL 1968.

I DIDN'T PRACTICE IN 1885, BUT THERE WERE AS MANY AS 2,000 SPECIAL ACTS A YEAR PASSED BY THE FLORIDA LEGISLATURE. BECAUSE EVERY MUNICIPALITY NEEDED A SPECIFIC GRANT OF AUTHORITY TO DO SOMETHING, EVERY SPECIAL DISTRICT CERTAINLY DID. SPECIAL DISTRICTS STILL DO.

IN ESSENCE, THEY ARE GOVERNED BY DYLAN'S RULE TO THIS DAY.

MUNICIPALITIES RECEIVE THIS HUGE GRANT OF AUTHORITY.

THEY SIMPLY SAID IF IT'S NOT PROHIBITED BY THE CONSTITUTION, BY GENERAL LAW, BY SPECIAL ACT AND ITS MUNICIPAL SERVICE, YOU'RE ENTITLED TO DO IT.

AND I'D SAY THAT'S THE PRINCIPLE DECISION THAT I AND OUR CLIENT HAVE TAKEN ON THIS.

>> MY TAKE ON BLAKE IS NOT THAT THIS IS SOME KIND OF EXPANSIVE OPINION.

IT SEEMS TO ME THE COURT HAS A CONCLUDING THAT IT LOOKS TO THE CONSTITUTIONAL PROVISION AND WITHOUT LEGISLATIVE ENACTMENT, YOU CAN'T LEVY.

I MEAN, IT'S A VERY STRAIGHT AND NARROW KIND OF --

>> YES, SIR.

I THINK IT IS.

ONE OTHER RULING IN THAT ACT SIMPLY SAYS EVEN IF YOU LEVY AN ASSESSMENT AGAINST THE GOVERNMENT AND THEY DON'T PAY IT, YOUR ONLY REMEDY TO COLLECT IT IS --

>> [INAUDIBLE]

>> YEAH.

BUT THAT, YEAH, I THINK IT'S FAIRLY STRAIGHTFORWARD THAT WAY, AND I THINK, I THINK BLAKE WAS A CORRECT RULING UNDER THE 1885 CONSTITUTION.

>> AND SO BLAKE JUST SIMPLY WOULDN'T HAVE APPLICATION HERE BECAUSE WE DON'T HAVE A CORRESPONDING CONSTITUTIONAL PROVISION, IS THAT --

>> WELL, THAT'S MY VIEW.

>> YEAH.

>> IT'S ALSO MY VIEW THAT, AGAIN, IN FACT, SO FAR AS MUNICIPALITIES I THINK THE 1968 CONSTITUTION AND THE '73 HOME RULE POWERS ACT, ESSENTIALLY, SET ASIDE THE VIABILITY OF BLAKE --

[INAUDIBLE]

>> ARE YOU ARGUING THEN THAT THE, BECAUSE THE HOME RULE ACT DIDN'T INCLUDE THE POWER TO ASSESS, THAT IT WAS NECESSARILY BROAD ENOUGH TO ALLOW ANY, ANYTHING THAT THE STATE CAN DO --

>> AGAIN, IF IT'S NOT PROHIBITED BY A STATUTE, THERE'S CERTAIN STATUTES THAT PREEMPT ACTIONS TO STATE AGENCY.

>> IT'S JUST ODD, I GUESS, SINCE '68 UNTIL THE PRESENT, I MEAN, IS THIS FIRST TIME THIS ISSUE HAS COME UP?

>> TO MY KNOWLEDGE, AND BETWEEN MR. NEIGHBORS AND MYSELF, THERE ARE PEOPLE THAT HAVE WORKED MORE WITH HOME RULE, I DON'T KNOW.

>> SO MUNICIPALITIES HAVEN'T BEEN ISSUING A -- TO STATE-OWNED LAND, YOU KNOW, IS REALLY THE IMPLICATION.

>> THE ANSWER TO THAT IS

SOMETIMES YES, SOMETIMES NO.
I CAN TELL YOU FROM MY OWN
EXPERIENCE WITH THIS I GAVE THE
PRIMARY EXAMPLE IN MY EXPERIENCE
DEAL WITH SCHOOL DISTRICTS.
SCHOOL DISTRICTS HAVE A CLAIMED,
YOU KNOW, EXCEPTION MUCH LIKE
THE ONE IN THE WEST VILLAGES ACT
THAT REALLY ISN'T AN OUTRIGHT
EXEMPTION.
IT GIVES SCHOOL DISTRICTS THE
ABILITY TO PAY ASSESSMENTS IF
THEY AGREE TO IT.
>> IT JUST SEEMS --
>> THAT'S WHAT BLAKE SEEMS TO
SAY.
>> WELL, I THINK THAT'S SO.
BUT IN MY CASE AND IN THE CASES
I'M FAMILIAR WITH, I'VE GONE TO
SCHOOL DISTRICTS WHEN I KNEW
THEY NEEDED DRAINAGE, THEY
NEEDED FLOOD CONTROL, SOMETHING
LIKE THAT.
AND IT, IT'S JUST A MATTER OF
FACT.
I'LL GO TO THEM AND SAY YOU'RE
NOT GOING TO GET IT UNTIL YOU
AGREE TO PAY YOUR FAIR SHARE AND
THAT'S REALLY --
>> YOU ARE NOW INTO YOUR
REBUTTAL TIME.
YOU MAY PROCEED, BUT YOU'RE
USING YOUR REBUTTAL TIME.
>> NO, I'M GOING TO GIVE
MR. NEIGHBORS -- THANK YOU.
>> JUSTICE LEWIS' COMMENT TO
RESPOND, JUSTICE PARIENTE, YOU
DON'T HAVE TO RECEDE FROM BLAKE
IN ORDER TO DECIDE THIS CASE.
BLAKE JUST HAS TO BE RECOGNIZED,
THE POINT IN THE TIME WHEN IT
WAS DECIDED.
THE BLAKE CASE, WHEN THE CITY
HAD TO HAVE PROFESSIONAL
LEGISLATION IN ORDER TO DO ANY
ASSESSMENT, AND THE ISSUE IN

BLAKE HAD TO DO WITH WHETHER OR NOT THE LEGISLATURE HAD THE POWER TO ASSESS SCHOOL LANDS BECAUSE THE UNIQUE CONSTITUTIONAL PROVISION -- WHAT BLAKE IS ALL ABOUT. YOU'VE GOT TO LOOK AT THE CONTEXT WHICH BLAKE WAS DECIDED. IT WAS DECIDED AT A TIME WHEN YOU HAD TO HAVE SPECIAL LEGISLATION. THAT'S WHY BLAKE SAYS WHAT IT DOES.

>> LET ME ASK YOU A QUESTION TO FOLLOW THIS.

IF WE TAKE THAT APPROACH, THAT WOULD MEAN THAT CITIES OR THEIR DISTRICT SUBDIVISIONS CAN IN INSTANCES LEVY THIS -- MAKE SPECIAL ASSESSMENTS AGAINST SCHOOLS.

>> YOU COULD IN BLAKE, BUT NOW THERE'S AN EXEMPTION BECAUSE THAT HOME RULE POWER'S BEEN TAKEN AWAY BY STATUTORY EXEMPTION.

>> OKAY.

>> IT SEEMS TO ME THAT THIS IS SO QUINTESENTIALLY SOMETHING THE LEGISLATURE OUGHT TO RESOLVE RATHER THAN THIS COURT. IN OTHER WORDS, THINGS HAVE GONE ALONG, AND I'M JUST -- MY CONCERN IS THAT IT'S LIKE WHEN WE HAD THE CASE A FEW YEAR AGO WHEN THEY OPENED PANDORA'S BOX.

>> RIGHT.

>> ANYWAY, IT SEEMS THAT THE BALANCE AS TO WHETHER THERE SHOULD BE ASSESSMENTS ON STATE LAND, NON-AD VALOREM SPECIAL ASSESSMENT REALLY OUGHT TO BE A QUESTION OF THE LEGISLATURE MAKING THAT DECISION FOR THE STATE AND THE MUNICIPALITIES RATHER THAN THIS COURT TRYING TO

FIGURE IT OUT.

>> I AGREE WITH THAT, BUT THE OTHER THING I WANT TO MAKE CLEAR IS THIS IS NOT A CASE DEALING WITH STATE LANDS.

UNFORTUNATELY, THE QUESTION IS PHRASED INCORRECTLY.

WHAT WE HAVE HERE IN THE WEST VILLAGES IS A LOCAL GOVERNMENT UNIT WHICH IS CREATED LIKE A COMMUNITY DEVELOPMENT DISTRICT IN THE INFRASTRUCTURE --

>> DO YOU THINK, IS THE ANSWER --

>> GAME AND FRESHWATER FISH COMMISSION WHICH THE ATTORNEY GENERAL'S CONCERNED ABOUT. THAT'S ANOTHER ISSUE FOR ANOTHER DAY.

>> SO YOU WOULD SAY BECAUSE I WAS THINKING THE DEPARTMENT OF CORRECTIONS.

THEY'VE GOT OFFICES, THERE'S NOT AN OFFICE, THEY HAVE A PRISON FACILITY THERE.

YOU SAY THE ANSWER MIGHT BE DIFFERENT BECAUSE OF THE NATURE OF THE --

>> I WOULDN'T SAY THAT.

>> YOU WOULD OR WOULD NOT?

>> THAT WOULD BE A DIFFERENT ISSUE.

A DIFFERENT POLICY ISSUE ON THAT TODAY.

WHAT YOU HAVE HERE --

>> SO WE DO HAVE TO, THEN, UNDERSTAND MORE ABOUT THIS INDEPENDENT SPECIAL DISTRICT YOU'RE SAYING IN ORDER TO KIND OF -- WELL, THAT'S NOT SO BAD BECAUSE IN THAT SITUATION THEY'RE REALLY PART OF THE COMMUNITY WHEREAS IF THEY'RE A TRUE STATE AGENCY IT'S LIKE TALLAHASSEE COMING TO YOUR CITY AND IMPOSING ITSELF WHEREAS THIS

IS REALLY CALLED A STATE AGENCY.
IT'S REALLY ONE AND THE SAME.
IT SEEMS LIKE THAT'S WHAT YOU'RE
SAYING.

>> IT WAS JUST CREATED BY THE
LEGISLATURE.

ALMOST EVERY DISTRICT BY THE
SPECIAL ACT COMMUNITY
DEVELOPMENT DISTRICT OR PORT
AUTHORITY OR ANY LIBRARY
DISTRICT IS CREATED BY SPECIAL
ACT.

THAT DOESN'T MAKE IT A STATE
AGENCY WITHIN THE CONTEXT OF ALL
THESE POLICY ISSUES.

THE THING ABOUT BLAKE IS THAT
BLAKE NEEDS TO BE SET ON THE
SHELF IN TERMS OF HOME RULE
BECAUSE HOME RULE, BLAKE WAS
DECIDED IN '53.

EVEN I WASN'T ALIVE IN '53.

ACTUALLY, IT WAS '34.

I WAS ALIVE IN '53.

[LAUGHTER]

THE POINT IS THAT THE BLAKE
DECISION IS A LAW, AND YOU DON'T
NEED THE ABILITY IN ORDER TO
ASSESS LAND INCLUDING LOCAL
GOVERNMENT LAND UNLESS THE
LEGISLATURE HAS STEPPED IN AND
SAID, WAIT, YOU DON'T HAVE THE
HOME RULE POWER TO DO THAT, AND
THEY HAVEN'T DONE THAT.

>> THE PROBLEM I'M HAVING WITH
YOUR EXPLANATION OF BLAKE IS
THERE'S REALLY NOTHING CITED
UPON IN THERE THAT DEALS WITH
THE DYLAN RULE OR ANYTHING ELSE.
IF THIS PARTICULAR LANGUAGE IS
USED AND IT'S USED IN OTHER
CONTEXT ON THE AUTHORITY SIDE,
IT'S REALLY A SOVEREIGN IMMUNITY
TYPE CASE, ISN'T IT?

>> NO, JUDGE.

SOVEREIGN IMMUNITY CAN ONLY BE
WAIVED BY GENERAL LAW, NOT BY

SPECIAL ACT.

SO ALL BLAKE WAS, BLAKE WAS PART OF THE CHARTER OF THE CITY OF TAMPA WHICH GAVE IT POWERS TO ASSESS WHICH IS THE ONLY WAY CITIES HAVE THE POWER TO ASSESS IN 1934.

SO WHEN BLAKE, WHEN THE LEGISLATURE MADE ITS DECISION AND GAVE THE POWER OF THE CITY OF TAMPA TO ASSESS, IT ALLOWED IT TO ASSESS SCHOOL BOARD PROPERTY, IT HAD TO HAVE THAT SPECIFIC AUTHORIZATION.

SO THE ISSUE IN BLAKE WAS CONSTITUTIONALLY COULD YOU DO THAT?

BECAUSE OF THE STATE EDUCATION CLAUSE.

BLAKE DOESN'T HAVE ANYTHING TO DO WITH THOSE ISSUES.

>> BUT WHERE DOES IT SAY THAT IN BLAKE?

I UNDERSTAND YOUR ARGUMENT --

>> WHERE DOES IT SAY THAT?

>> THAT THE CLAUSE OF THE CONSTITUTIONAL AUTHORITY?

>> BECAUSE THAT'S THE ONLY WAY THE CITY'S HAD THE ABILITY BEFORE 1968 TO DO ANYTHING.

>> I UNDERSTAND.

BUT IT CITES IN HERE, IT CITES HAMILTON LAW SPECIAL ASSESSMENT, MARTIN B. DAY'S LAND COMPANY.

WHEN YOU LOOK AT THESE AUTHORITIES IN OTHER CASES, IN OTHER STATES, IN OTHER PLACES IT'S IN A DIFFERENT CONTEXT.

>> CITING THOSE THINGS WAS A PROPOSITION OF WHETHER YOU COULD ASSESS SCHOOL PROPERTY.

THAT'S WHAT ALL THE ANALYSIS WAS ABOUT BECAUSE OF THE PROVISION IN THE STATE EDUCATION CLAUSE.

THERE'S NO QUESTION THAT IN 1934 YOU HAD TO HAVE A SPECIAL ACT OF

LEGISLATURE.

NOW, YOUR CASE STANDS THE
INQUIRY NOW ISN'T LIKE IN BLAKE
WHERE YOU LOOK FOR THE AUTHORITY
TO DO IT, YOU SAY WHERE IN THE
STATUTE IT SAYS YOU CANNOT DO
THAT?

WHERE DOES IT SAY YOU CANNOT
ASSESS ANOTHER ISSUE OF LOCAL
GOVERNMENT?

IF IT DOESN'T SAY THAT, THEN THE
HOME RULE ABILITY IS THERE.

THE LEGISLATURE CAN STEP IN AND
SAY, NO, YOU CANNOT ASSESS, YOU
CANNOT ASSESS, YOU KNOW,
COMMUNITY DEVELOPMENT DISTRICTS.
YOU CAN SAY THAT.

YOU CANNOT ASSESS SCHOOLS.

THEY'VE DONE THAT FOR SCHOOLS.

THE LANGUAGE THAT YOU POINT OUT,
JUSTICE CANADY, IN THE SPECIAL
ACTS IS, YOU KNOW, YOU COULD
ARGUE, THE ARGUMENT IS THAT THIS
IS A STEP ANYTHING AND SAYING,
YES, YOU CANNOT ACCEPT THIS LAND
IN THIS CASE.

BUT I WOULD ARGUE THAT THIS
LANGUAGE UNDER SPECIAL ACT, IT
REALLY DEALS WITH AD VALOREM
TAXATION.

>> WELL, NO -- IT DOES, BUT IT
ALSO DEALS WITH THE NON-AD
VALOREM ASSESSMENT.

>> YEAH, BUT --

>> IF THEY DIDN'T, IF THEY
WEREN'T CONCERNED ABOUT NON-AD
VALOREM ASSESSMENTS, WHY WOULD
THEY PUT THAT IN THERE?

IT SEEMS TO ME THAT ITS PRESENCE
IN THERE, THAT REFERENCE IS AN
INDICATION THAT THEY'RE
OPERATING ON A BACKDROP WHERE
THE NON-AD VALOREM ASSESSMENT
CANNOT BE ASSESSED AGAINST
PROPERTIES USED IF FAR PUBLIC
PURPOSE.

>> LET'S MAKE AN INFERENCE --
>> IT SEEMS TO ME TO BE A VERY
STRONG INFERENCE.
AN ESCAPABLE ONE, PERHAPS.
>> THAT'S NOT THE GLOBAL
CONSTITUTION -- LET ME TELL YOU,
FAR BE IT FROM ME TO CRITICIZE
LANGUAGE OF THE LEGISLATURE.
BUT LET ME TELL YOU WHY I THINK
THIS LANGUAGE IS HERE.
THIS LANGUAGE WAS PUT IN HERE TO
MAKE IT CLEAR THAT IF IT'S A
PRIVATE USE, THERE'S NO
RESTRICTIONS IN TERMS OF PAYING
THE TAXES, AND THEY SET AD
VALOREM ASSESSMENTS BECAUSE
THAT'S EMBROILED IN THE WHOLE
ISSUE OF IMMUNITY, WHETHER OR
NOT IT'S USED FOR PRIVATE
PURPOSES.
THAT'S WHY IT'S IN THERE, TO
MAKE SURE THAT ANY PRIVATE
USE -- THAT DOESN'T MEAN BY
INFERENCE THAT YOU CAN'T DO AN
ASSESSMENT FOR A NONPRIVATE USE.
YOU COULDN'T DO AN AD VALOREM
TAXATION FOR THAT, SO I DON'T
THINK YOU CAN READ THAT LANGUAGE
THAT CLEARLY.
I THINK IT WAS PUT IN THERE ON
THE AD VALOREM ISSUE.
I DON'T THINK YOU CAN MAKE THE
INFERENCE BY THIS LANGUAGE THAT
SOMEHOW YOU CAN'T MAKE NONPUBLIC
USE -- PUBLIC USE OF PROPERTY
THEY ASSESSED FOR SPECIAL
DISTRICTS.
>> MR. NEIGHBORS, I'VE LET YOU
GO OVER ABOUT A MINUTE AND A
HALF HERE.
>> OKAY, THANK YOU.
>> THANK YOU.
>> MAY IT PLEASE THE COURT, I AM
PHILLIP BURLINGTON HERE ON
BEHALF OF WEST VILLAGES.
WITH ME IS JOHN WYATT WHO'S

CO-COUNSEL AND ALSO THE SOLICITOR GENERAL WHO NEEDS NO INTRODUCTION, I'M SURE.

>> HOW DO YOU, HOW DO YOU CHARACTERIZE WEST VIMMAGES IMPROVEMENT DISTRICT UNDER THE LAW?

NOW, IT SEEMS LIKE A LITTLE BIT OF SHIFT HERE FROM I WAS THINKING IT WAS A CREATURE OF THE STATE THAT WAS A STATE-CREATED SPECIAL DISTRICT. NOW MR. NEIGHBORS IS SAYING, NO, IT'S ACTUALLY A LOCAL GOVERNMENT ENTITY AND, THEREFORE, IT'S DIFFERENT.

>> IT IS STRICTLY A CREATURE OF THE STATE LEGISLATURE. IT WAS CREATED BY A STATE ACT. ITS ENTIRE AUTHORITY IS DERIVED FROM THE STATE.

THE STATE HAS THE AUTHORITY AT ANY TIME TO CHANGE ANY OF THE PROVISIONS.

IN FACT, IT HAS ON MULTIPLE OCCASIONS.

THEY WANT TO CHARACTERIZE IT AS A LOCAL GOVERNMENTAL UNIT BECAUSE IT FITS INTO THEIR ARGUMENT.

IT DOES NOT FIT INTO WHAT THIS DISTRICT'S HISTORY, IT CREATION, WHAT CONTROLS IT.

>> BUT WHAT WOULD FIT IN MANY? YOU WERE MENTIONING PORT AUTHORITIES, LOCAL --

>> IT'S A WATER-CONTROLLED DISTRICT UNDER SECTION 298, AND IT IS ALSO AN INDEPENDENT SPECIAL DISTRICT UNDER, I BELIEVE, IT'S 189.

AND IT'S GIVEN SPECIFIC AUTHORITIES, AND IT IS ENTITLED TO OBTAIN A FEE-SIMPLE TITLE TO PROPERTY. BUT ULTIMATELY, THE DISPOSITION

OF THAT PROPERTY IS IN THE CONTROL OF THE STATE BECAUSE IT CONTROLS THE CREATION, THE AMENDMENT OF THE ENABLING LEGISLATION.

AND WHEN THEY SUGGEST --

>> MR. BURLINGTON, ARE THERE SOME ENTITIES CREATED BY THE STATE THAT DO FALL INTO THE CATEGORY THAT YOUR OPPONENT IS SUGGESTING?

OR, NO, THAT JUST IS NOT, DOES NOT HAPPEN?

>> I THINK PORT AUTHORITIES WHICH ARE REALLY RUNNING, ESSENTIALLY, COMMERCIAL ENTERPRISES.

WHAT WE'RE DOING IS PROVIDING --

>> SO YOUR ANSWER IS, YES, THERE ARE SOME.

>> YES, THERE ARE SOME.

>> AND WHAT IS THE DISTINGUISHING FACTOR BETWEEN THOSE THAT THEY'RE ASSERTING AND WHAT YOU SAY APPLIES IN THIS CASE?

>> WELL, I WOULD SAY IT IS THE NATURE OF THE USE AND THE NATURE OF THE ENABLING LEGISLATION THAT CREATES IT.

AND HERE THE STATE HAS DICTATED THE NATURE OF THE USE, OUR AUTHORITY, AND THAT PROVISION WHICH CLEARLY APPLIES TO AD VALOREM, NON-AD VALOREM TAXES AND NON-AD VALOREM ASSESSMENTS, AND IT SAYS THAT THE PROPERTY THAT IS USED FOR NONPUBLIC OR PRIVATE USES OR OWNERSHIP IS SUBJECT TO THESE ASSESSMENTS. THE NECESSARY IMPLICATION UNDER VERY BASIC PRINCIPLES OF STATUTORY CONSTRUCTION IS IT WOULD NOT APPLY TO THOSE THAT ARE USED FOR GOVERNMENTAL PURPOSES, AND THERE'S NO

DISPUTE.

ALL THE PROPERTY IN THIS CASE IS BEING USED FOR GOVERNMENTAL PURPOSE.

AND I WANT TO ADD --

>> ARE THEY SUBJECT TO AD VALOREM TAXES?

>> I DON'T BELIEVE SO, NO.

>> THEY'RE EXEMPT, IMMUNE? WHAT DOES IT SAY?

>> I BELIEVE THEY WOULD BE IMMUNE.

>> WE PLAY, I MEAN, WE DON'T PLAY AROUND WITH WORDS.

YOU KNOW, I GUESS THE PART I SEE IS, I'VE GOT THIS PICTURE NOW.

THESE ARE LANDS THAT MAYBE WERE BOUGHT FROM, ZONED BY THE CITY MAYBE OR OWNED BY PRIVATE PEOPLE, AND THEY WERE DEVELOPED PARKS AND RECREATION FACILITIES FOR THE AREA?

IS THAT --

>> AND CONSERVATION.

>> BUT THEY GOT DRAINAGE ISSUES.

I MEAN, YOU'RE NOT, YOU KNOW, I GUESS THE OTHER QUESTION IS -- [INAUDIBLE]

>> NO QUESTION, THERE'S DRAINAGE ISSUES.

>> SO HOW DOES THE STATE IF THEY'RE USING THOSE RESOURCES LOCALLY, IS THAT JUST IN THE POLICY ISSUE OF THE STATE HAS TO DECIDE WHETHER THEY CAN CONSENT TO THE IMPOSITION OF THE NON-AD VALOREM SPECIAL ASSESSMENT?

>> WELL, LET ME EXPLAIN ONE FACTUAL MISSTATEMENT THAT WAS MADE UP HERE.

WE WERE NOT ASSESSED FOR DRAINAGE, AND WE POINTED THIS OUT IN OUR BRIEF AND ON PAGE 42 OF OUR BRIEF WE GO INTO MORE DETAIL WITH THE RECORD CITED. WE WERE CITED -- EXCUSE ME, WE

WERE ASSESSED FOR ROAD
MAINTENANCE AND THEN
ADMINISTRATIVE COSTS ASSOCIATED
WITH IT, NOT DRAINAGE.

BUT --

>> THAT'S A DIFFERENT ISSUE.

THAT'S SPECIAL BENEFITS, A
SPECIAL BENEFIT ANALYSIS, ISN'T
IT?

>> WELL, THAT WOULD --

>> SEPARATE AND APART THERE THE
ISSUE OF WHETHER YOU CAN DO IT.

>> YES.

IF YOU LOOK IN THAT SAME SECTION
OF OUR BRIEF, THE REPORT THEY
RELIED UPON FOR DETERMINING
BENEFIT DETERMINED THAT THE
LAKES, PONDS AND CONSERVATION
AREAS DON'T CREATE ANY TRIPS
AND, THEREFORE, AREN'T ENTITLED
TODAY A BENEFIT.

>> THAT'S WHAT I SAID.

I MEAN, THAT'S NOT WHAT WE'RE
HERE TODAY ON.

>> CORRECT.

BUT THESE SPECIAL ASSESSMENTS
ARE ANALYZED ABOUT BENEFITS.
HERE ARE TWO VERY IMPORTANT
POINTS.

NUMBER ONE, THERE IS A PROVISION
IN OUR ENABLING LEGISLATION TO
SHOW HOW COOPERATE I HAVE THE
STATE INTENDED US TO BE WITH
LOCAL GOVERNMENT.

THAT IF ANY OF OUR
INFRASTRUCTURE FOR WATER
MANAGEMENT, ROADWAY, ANYTHING,
IF THE CITY REQUESTS IT, WE HAVE
TO DONATE IT TO THEM.

AND IT IS SUBJECT TO EXISTING
DEVELOPMENT AGREEMENTS.

WE'RE NOT POACHING ON THEIR
LAND.

IF THEY WANT THOSE
INFRASTRUCTURES, THEY CAN HAVE
THEM.

THE SECOND THING IS WE CANNOT ACQUIRE FEE-SIMPLE TITLE TO ANY PROPERTY WITHIN THE CITY WITHOUT THE CITY'S APPROVAL.

BUT GETTING BACK TO THE QUESTION OF IS THERE A POSSIBILITY THAT SOMEHOW WE'RE GETTING A BENEFIT THAT WE ARE NOT PAYING FOR AND THAT THIS IMPOSES SOME TYPE OF HARDSHIP AND, FIRST OF ALL, I WOULD SAY THIS CASE HAS TO BE DECIDED ON POWER AND AUTHORITY, NOT THOSE TYPE OF PRACTICAL CONSIDERATIONS.

BUT THOSE PRACTICAL CONSIDERATIONS DO NOT HELP THAT BECAUSE THERE IS NO NET GAIN BY ASSESSING US FOR A BENEFIT THAT OUR PROPERTY MAY OR MAY NOT RECEIVE BECAUSE WHAT'S GOING TO HAPPEN IS THE PEOPLE WE ASSESS FOR OUR EXPENSES ARE THE PEOPLE IN THE CITY.

THIS IS UNIT TWO OF OUR DISTRICT WHICH IS ENTIRELY WITHIN THE CITY.

WE DO HAVE PROPERTY OUTSIDE THE CITY IN THE UNINCORPORATED AREAS OF SARASOTA COUNTY.

BUT THE SORT OF PARADE OF HORRIBLES THAT EXISTS HERE IS NOW WE HAVE THEIR DEPENDENT DISTRICTS ASSESSING US FOR A SUPPOSED BENEFIT THAT OUR PONDS AND LAKES AND TORTOISES GET FROM A ROADWAY.

AND WE'RE JUST GOING TO HAVE TO TURN AROUND AND ASSESS PEOPLE IN THE CITY, THE SAME CITY, TO PAY FOR IT.

IT DOES NOT --

>> WHICH IS CONTRARY TO THE THEORY OF SPECIAL BENEFITS.

>> PARDON?

>> WHICH IS CONTRARY TO THE THEORY OF SPECIAL DISTRICTS.

>> CORRECT.
>> SO YOU JUST PASS IT ON TO EVERYONE ELSE.
>> SO THERE'S NO NET GAIN. THERE IS TO SOME DEGREE A POLITICAL ISSUE OF WE DON'T HAVE A CONSTITUENCY. OF COURSE, THEY DON'T WANT THEIR TAXES TO BE HIGH, SO IT MAKES IT LOOK LIKE THEY'RE GIVING THEM A BENEFIT, OH, LET'S PUT IT ON THE SPECIAL DISTRICT. IT'S JUST ONE POCKET --
>> WELL, THAT'S A -- IN TERMS OF YOUR POWERS --
>> HOW?
>> DO YOU HAVE THE ABILITY TO ACTUALLY VOLUNTARILY PAY THIS AMOUNT?
>> I DON'T THINK WE ARE AUTHORIZED TO DO SO, AND I THINK IF WE DID IT, WE WOULD BE EXCEEDING THE ENABLING LEGISLATION THAT WE HAVE. BUT WHEN I GET INTO POWER --
>> WAS THAT RAISED AS ANOTHER ARGUMENT, THAT IS THAT IT'S NOT A QUESTION JUST OF WHETHER THEY HAVE THE ABILITY TO ASSESS, YOU DON'T HAVE THE ABILITY TO, YOU DON'T HAVE THE LEGAL AUTHORITY TO PAY THAT KIND OF ASSESSMENT?
>> WELL, I THINK THE WAY IT WAS RAISED IS WE ARE BOUND BY OUR ENABLING LEGISLATION. I DON'T THINK THERE WAS A SUGGESTION EVER MADE THAT THERE'D BE A WAIVER OR SOMETHING LIKE THAT, BUT IT'S OUR POSITION WE ARE NOT AUTHORIZED TO DO THIS, AND THAT'S WHY WE HAVEN'T DONE IT. BUT WHEN WE TALK ABOUT POWER, WE HAVE TO TALK ABOUT BLAKE, AND BLAKE HAS SURVIVED HOME RULE, CONSTITUTIONAL PROVISIONS, HOME

RULE STATUTORY PROVISIONS AND WAS CITED BY THIS COURT IN 2003 IN THE CITY OF GAINESVILLE CASE FOR THE EXACT PROPOSITION UPON WHICH WE RELY UPON IT FOR. IT WAS ALSO CITED IN THE RELATED BUT NOT UNDERLYING CITY OF GAINESVILLE CASE IN THE FIRST DISTRICT IN 2001.

>> DOES THE UNDERPINNING OF BLAKE REALLY BASE UPON SOVEREIGN POWER, SOVEREIGN IMMUNITY, OR IS IT BASED UPON AS THEY SUGGEST THAT IT'S REQUIRED BECAUSE CONSTITUTIONALLY REQUIRED FOR IT TO BE ASSESSED?

>> IT IS, IT IS ESSENTIALLY --

>> OR SOMETHING ELSE?

>> SORRY?

>> OR SOMETHING ELSE?

[LAUGHTER]

>> IS THE, ESSENTIALLY, BASED ON SOVEREIGN POWER THAT --

>> AND WOULD YOU, IF THAT'S THE CASE, WOULD YOU READ TO ME OUT OF BLAKE WHERE IT SAYS THAT?

>> WELL --

>> BECAUSE I'M GOING RIGHT TO THE HOLDINGS IN, AND IT DOESN'T SAY ANYTHING ABOUT THAT.

>> CORRECT.

>> IT TALKS ABOUT THE CONSTITUTION, IT TALKS ABOUT THE AUTHORITY OF SCHOOLS AND WHAT THEY CAN AND CAN'T DO, AND THEN IT GOES ON TO SAY, WELL, YOU CAN ASSESS THEM, SCHOOLS CAN'T PAY THEM.

ONLY WAY YOU CAN DO IT, YOU CAN'T LEVY ON THEM, IS YOU HAVE TO FORCE IT THROUGH MANDATES. ISN'T THAT WHAT BLAKE SAYS?

>> NO --

>> I'M ASKING, MY QUESTION IS BLAKE.

JUST BLAKE.

>> OKAY.

BLAKE HOLDS THAT WITH RESPECT TO
PROPERTY OF THE FEDERAL
GOVERNMENT, IT IS
UNQUESTIONABLY --

[INAUDIBLE]

LAW-MAKING POWER TO BE SUBJECTED
BUT PUBLIC PROPERTY WILL NOT BE
DEEMED TO BE SO INCLUDED UNLESS
BY NECESSARY IMPLICATION.

>> WOULD YOU READ THOSE TWO AND
WHAT THE HOLDING IS?

THAT'S NOT THE HOLDING OF THE
CASE.

THE HOLDING IS FOUND IN THE
WEST'S VERSION HEAD NOTES NINE
AND TEN AND 11 AND 12.

I THINK YOUR ARGUMENT MAY BE
CORRECT, BUT I DON'T THINK IT'S
BASED ON BLAKE.

>> WELL, IT SAYS WE FURTHER
HOLD --

>> NO, WE HOLD, THEREFORE, AS
FOLLOWS.

AND THEN IT GOES THROUGH THAT.

>> OH, THAT'S 9 AND 10.

I SEE.

>> RIGHT.

AND THEN IT GOES ON 11 AND 12,
AND IT DOESN'T TALK ABOUT
SOVEREIGN IMMUNITY OR ANYTHING.
IT TALKS ABOUT THE CONSTITUTION,
ARTICLE 12 OF THE CONSTITUTION,
AND IT TALKS ABOUT WHETHER YOU
HAVE THE AUTHORITY TO DO IT AND
WHETHER SCHOOLS, WHETHER YOU CAN
LEVY ON SCHOOL PROPERTY WITHOUT
SOME KIND OF LEGISLATIVE ACT.

>> CORRECT.

AND THERE IS NO REQUIREMENT FOR
A RELIANCE ON THE CONSTITUTION
AS THIS COURT CLEARLY HELD IN
DICKENSON, AND THAT IS WHY I
HAVE PHRASED IT IN MY BRIEF AS
THE INHERENCY DOCUMENT.
THE DIFFERENCE IS THAT THIS

DOCTRINE IS HOME RULE NEVER GAVE MUNICIPALITIES ALREADY OVER THE STATE.

THEY HAVE THE INHERENT RIGHT TO OPERATE THEIR MUNICIPALITIES. THEY WERE NEVER GRANTED THE LIGHT, AND THE LEGISLATURE IS DESCRIBED AS ALL PERVASIVE AND SUPERIOR.

AND THEY WERE NEVER GRANTED THAT AUTHORITY, AND IT IS NOT SOMETHING BASED IN THE CONSTITUTION, IT'S NOT SOMETHING REQUIRE AGO STATUTORY BASIS. VERY CLEARLY, THIS IS A FUNDAMENTAL PREMISE OF GOVERNMENT FOR WHICH THERE IS NO REQUIREMENT OF A CONSTITUTIONAL PROVISION OR A STATUTORY PROVISION.

AND THAT'S WHY BLAKE, ALBEIT IT COULD HAVE HAD MORE EXPLANATION, BUT AT THE TIME OF BLAKE THEY WERE DECIDING A VERY NARROW FACTUAL ISSUE.

AND THEY DID DECIDE IT FOR THE PRINCIPLE FOR WHICH IT'S BEEN CITED WHICH HAS BEEN CONSISTENT WHICH IS THAT STATE PROPERTY IS NOT SUBJECT TO SPECIAL ASSESSMENTS WITHOUT A SPECIFIC GRANT BY THE LEGISLATURE BECAUSE THE LEGISLATURE RETAINS THE RIGHT TO CONTROL ITS PROPERTY.

AND IT HAS TO GIVE THAT UP REGARDLESS OF HOME RULE, REGARDLESS OF THE HOME RULE CONSTITUTION, PROVISIONAL, STATUTORY PROVISIONS, AND THAT IS THE WAY THE GOVERNMENT IS STRUCTURED.

AND THAT'S WHY THIS CASE, ESSENTIALLY, TURNS ON POWER. AND I DON'T WANT TO SUGAR THE PILL.

IT'S POWER AND AUTHORITY.

WE CAN ARGUE ABOUT THE --
>> IT SEEMS LIKE WHAT, IT SEEMS
LIKE WHAT YOU'RE REALLY ARGUING
IS THAT THE REACH OF THE HOME
RULE AUTHORITY ARGUED BY YOUR
OPPONENTS IS TOO MUCH, TOO
BROAD.

IT'S MORE LIMITED --

>> CORRECT.

EXACTLY.

AND WE'VE CITED NUMEROUS CASES.
THERE'S THE LAKE WORTH UTILITIES
CASE THAT DISCUSSES IT VERY
CLEARLY, THE MIAMI BEACH V.
FLEETWOOD HOTEL CASE THAT TALKS
ABOUT, UM, THAT THE AUTHORITY
GRANTED IS LIMITED TO MUNICIPAL
PURPOSES.

IT IS NOT ABSOLUTE, NOR SUPREME.
THE LEGISLATURE'S RETAINING
POWER IS ALL PERVASIVE, AND IF
THERE'S ANY REASONABLE DOUBT,
AND THIS IS IN THE FLEETWOOD
HOTEL CASE, ANY REASONABLE DOUBT
IT'S RESOLVED AGAINST THE CITY.
NOW, IT WAS NOTED THAT IT SEEMS
ODD THAT AFTER HOME RULE POWERS
WERE ENACTED APPROXIMATELY 40
YEARS AGO AND THE STATUTE 35
YEARS AGO, THAT THIS ISSUE HAS
NEVER COME UP.

AND I WOULD SUBMIT IT IS BECAUSE
EVERYBODY RECOGNIZED IT AS SUCH
NOT JUST BASED ON CASE LAW, BUT
BASED ON THE BASIC PRINCIPLE THE
WAY OUR GOVERNMENT IS
STRUCTURED.

THE STATE HAS AUTHORITY OVER
MUNICIPALITIES, IT HAS GRANTED
AUTHORITY.

THEY HAVE INHERENT AUTHORITY TO
OPERATE THEIR FUNCTIONS.

BUT THAT DOES NOT GIVE THEM
POWER GOING BACK UP THE CHAIN.

>> IS THERE ANYTHING IN THE
CONSTITUTIONAL DEBATES OF THE

1968 CONSTITUTION OR ANYTHING ABOUT THE HOME RULE POWERS ACT THAT SUGGESTS THAT THE ISSUE OF TAXATION ON MUNICIPALITIES OVER STATE-OWNED PROPERTIES WAS DISCUSSED INCLUDED?

>> THERE'S NOTHING EXPLICIT IN THERE.

THEY ARE GIVEN CERTAIN POWERS TO TAX, BUT NOT VIS-A-VIS.

AND IF YOU LOOK AT, FOR INSTANCE, DICKENSON, WHICH WAS A UTILITY TAX SPECIFICALLY AUTHORIZED BY CHAPTER 166, THEY STILL HELD EVEN THOUGH THEY WERE GIVEN THAT SPECIFIC AUTHORITY BY THE LEGISLATURE, THEY WERE NOT ALLOWED TO PLAY PLY IT TO THE STATE ENTITIES.

AND FINALLY, MAY I ASK YOU, IS THIS MY 20 MINUTES, OR AM I INTO THE SOLICITOR GENERAL'S --

>> NO, I THINK YOU'RE STILL IN YOUR TIME.

>> OKAY, GOOD.

SO JUST GIVING THEM THE PARTY -- EXCUSE ME, THE POWER TO SPECIALLY ASSESS OR TAX IN THE STATUTE DOES NOT OVERCOME THE BASIC PREMISE THAT THEY CANNOT DO IT AS TO STATE PROPERTY WITHOUT A LEGISLATIVE ENACTMENT. AND IF SCHOOL DISTRICT GRANTS DISCRETION TO THE SCHOOL DISTRICT AS TO WHETHER TO PAY IT.

AND AS YOU MENTIONED, JUSTICE PARIENTE, TO SOME DEGREE THIS IS THE POLITICAL ISSUE THAT HAS TO BE RESOLVED PERHAPS NOT SOLELY IN THE LEGISLATURE, BUT THE COOPERATIVE RELATIONSHIP WITH LOCAL GOVERNMENT.

AND THE BOTTOM LINE IS IN OUR SITUATION, THEY HAVE VOTES VIS-A-VIS ELECTING LOCAL

REPRESENTATIVES AND ELECTING THE LEGISLATURE.

WE REALLY DON'T.

WE ARE NOT THERE TO POACH ON THEIR PROPERTY.

WE WILL GIVE THEM WHATEVER THEY ASK FOR.

BUT IN THE WAY OF HOW THIS SHOULD BE HANDLED, THEY CAN GO TO THE LEGISLATURE AND SAY, YOU KNOW, WE'RE HURT, WE HAVE ALL THESE COSTS, AND YOU HAVE X AMOUNT OF PROPERTY AND BECAUSE OF THAT WE CAN'T DO X, Y AND Z. AND THE LEGISLATURE, AS THEY HAVE DONE IN THE PAST, CAN AMEND OUR ENABLING LEGISLATION, BUT IT IS NOT SOMETHING THAT THEY AUTOMATICALLY GET TO DO AND PUT THE BURDEN ON THE STATE TO HAVE THE REACT.

THAT IS A VERY FUNDAMENTAL CONCEPT OF GOVERNMENT STRUCTURE THAT'S BEEN IN PLACE LONG BEFORE HOME RULE AND WAS NOT CHANGED BY HOME RULE.

ABSENT FURTHER QUESTIONS, I WILL YIELD TO THE SOLICITOR GENERAL.

>> MAY IT PLEASE THE COURT, THERE'S NO REASON TO RECEDE FROM BLAKE IN THIS CASE AND, JUSTICE PARIENTE, THERE'S NO REASON BECAUSE UNDER THE FIVE ORDINARY METHODS UNDER WHICH THIS COURT LOOKS AT THIS AREA OF THE LAW, THERE'S NO TEXTUAL BASIS, THERE'S NO INTENT UPON THE LEGISLATURE TO DEPART FROM THE PRINCIPLES THAT UNDERLIE BLAKE.

>> BUT, AGAIN, I MEAN, THE OTHER ARGUMENT IS BLAKE WAS 1963, AND WE HAVE NOW THE 1968 INSTITUTION AND THEN THE '72 AND '73 HOME RULE POWERS ACT.

AND WHAT THEY'RE ALSO FURTHER SUGGESTING IS THAT YOU,

SOLICITOR GENERAL FOR THE STATE OF FLORIDA, YOU DON'T HAVE TO WORRY ABOUT YOUR COMMISSIONS OR YOUR DOCs OR DJJs.

THEY'RE REALLY ONLY GOING TO BE DOING THIS TO THESE INDEPENDENT SPECIAL DISTRICTS THAT ARE LOCAL.

SO WHETHER BLAKE JUST DOESN'T HAVE APPLICATION ANYMORE BECAUSE OF THE '68 CONSTITUTION AND THE HOME RULE POWERS ACT.

TWO, YOU SHOULDN'T CARE BECAUSE THEY'RE DIFFERENT AND THE KIND OF ENTITIES THAT YOU'RE --

>> SURE.

BLAKE IS STILL VIABLE AS THIS COURT NOTICED IN THE CITY OF GAINESVILLE, AND THE REASON WHY IS, SURE, THE CONSTITUTION WAS CHANGE INSIDE '68 TO SPECIFICALLY ALLOW FOR HOME RULE AUTHORITY, BUT THIS COURT SHORTLY THEREAFTER IN THE FLEETWOOD CASE SAID, NO, YOUR POWERS AREN'T AS BROAD AS YOU THINK.

YOU'RE NOT OMNIPOTENT.

THAT WAS THE WORD THE COURT USED, DOES NOT MAKE MUNICIPALITIES OMNIPOTENT.

A STATUTORY CHANGE BY WHICH MUNICIPAL GOVERNMENTS WERE GIVEN BROAD POWERS.

THERE'S NOTHING IN THE HISTORY THAT I'VE JUST DISCUSSED, THE HOME RULE POWERS ACT OF '73, THE DISCUSSION OF ALL THAT IN THIS COURT'S OPINION THAT WOULD SUGGEST THAT SOMEHOW THEY CAN IMPOSE ASSESSMENTS ON STATE-OWNED PROPERTIES.

AND THAT'S ESSENTIAL THAT BLAKE HOLDS.

>> AGAIN, I WOULD HOPE THAT YOU HAVE OTHER AUTHORITY BECAUSE

I'VE READ IT, I'VE READ IT.
BRIEFS CAME IN, I READ IT AGAIN.
I'M SITTING HERE READING IT.
BLAKE JUST DOESN'T SAY WHAT YOU
SAY.
BLAKE WAS LIMITED TO A SPECIFIC
ARTICLE OF THE CONSTITUTION, AND
IT DOESN'T OUTLAW THE
ASSESSMENTS.
IT JUST SAYS THAT YOU CAN'T LEVY
ON THE PROPERTY.
>> WELL, THE SUBPOENAS YOU WERE
DISCUSSING HERE, JUSTICE
LEWIS --
>> I HAVE?
>> YOU GO DOWN FURTHER, IT TALKS
ABOUT THE SACRED CONSTITUTIONAL
TRUST IN WHICH THE SCHOOL
PROPERTY --
>> BY CONSTITUTION.
>> WELL, BY THE PRINCIPLE OF
SOVEREIGN IMMUNITY.
>> NO, IT DOESN'T SAY THAT.
IT SAYS SECTION THE OF THE
FLORIDA CONSTITUTION.
AGAIN, I DON'T WANT YOU TO TAKE
UP ALL YOUR TIME BECAUSE I'D
LIKE TO HEAR ANOTHER BASIS OTHER
THAN BLAKE.
IN MY VIEW, IT HAS NOTHING TO
DISCUSS AND APPLY HERE.
>> I JUST THINK WE DISAGREE.
>> WELL, I THINK WE DO.
I'D LIKE TO HEAR ANOTHER BASIS
IF YOU'D LIKE MY VOTE.
>> WELL, OBVIOUSLY, I THINK
THERE'S OTHER GROUNDS HERE.
THE ARGUMENT THEY'VE MADE
CONSTITUTIONALLY DOESN'T APPLY
BECAUSE IT DOESN'T TRUMP THE
SOVEREIGN IMMUNITY OF THE STATE
AND PROPERTY BE FREE FOR
ASSESSMENTS UNLESS THE
LEGISLATURE --
>> MY CONCERN OVER THAT ARGUMENT
IS THIS COURT'S OPINION AND PORT

AUTHORITY VERSUS THE DEPARTMENT OF REVENUE IN 1997.

THE COURT HELD THAT A SPECIAL DISTRICT JUST LIKE THIS ONE WOULD NOT BE SUMMIT TO SOVEREIGN IMMUNITY FOR PURPOSES OF TAXATION.

SO I'M CONCERNED THAT THAT CASE, PERHAPS, MIGHT ALTER ANY ARGUMENT FOR SOVEREIGN IMMUNITY PRINCIPLES OF THIS DISTRICT.

>> WELL, THE SOVEREIGN IMMUNITY ARGUMENT THERE IN FORT CANAVERAL DEALT WITH THE CONSTITUTION. I THINK THIS COURT HAD TO MAKE A DECISION.

BASICALLY, IT WAS A POLICY DECISION TO DECIDE WHERE TO DRAW THE LINE BETWEEN STATE ENTITIES AND NONSTATE ENTITIES.

WELL IF IT'S IN THE CONSTITUTION, IT HAS IMMUNITY AND SO FORTH. OF COURSE, SPECIAL DISTRICTS ARE UNDER THE CONSTITUTION, TOO, BUT WHY WOULDN'T THEY BE -- THE POINT I WOULD FOCUS ON IS THE NATURE OF THE PROPERTY, THE STATE PROPERTY.

AND IF IT'S STATE PROPERTY WHICH, I BELIEVE, IT IS HERE. THE QUESTION'S PHRASED IN TERMS OF THIS BEING STATE PROPERTY. THEN THE ANALYSIS SHIFTS BACK TO THE PRINCIPLES OF BLAKE THAT HAD BEEN UPHOLD NOT JUST BY THIS, BUT BY OTHER JURISDICTIONS.

IT SAYS YOU HAVE TO HAVE AUTHORITY, CLEAR AUTHORITY. THE LEGISLATURE HAS SAID CLEARLY YOU MAY PUT THESE SPECIAL ASSESSMENTS ON STATE-OWNED PROPERTY.

AND THEY ADMIT IT'S NOT HERE. THEY ADMIT THEY HAVE TO RECEDE FROM BLAKE, AND THE TRADITION -- 40 YEARS HAVE PASSED.

1968 CONSTITUTION.

OTHER THAN THE FEW OUTLIERS OUT THERE, THERE'S NO ATTEMPT BY ANYONE IN THE MUNICIPAL GOVERNMENT TO OPPOSE THE ASSESSMENT ON STATE PROPERTY.

>> ASK THIS QUESTION OF YOUR CO-COUNSEL.

DO YOU SEE THAT THERE'S DIFFERENCES IN THE TYPES OF PROPERTIES THAT MAY BE CREATED THROUGH ENTITIES BY THE LEGISLATURE, IE, PRISONS ON ONE HAND THAT SERVE A STATE SYSTEM AND OTHERS?

YOU MENTIONED PORT AUTHORITIES, BUT COMMERCIAL OPERATIONS, DRAINAGE THAT PERTAINS ONLY TO, ONLY TO A LOCAL PARTICULAR AREA?

>> WELL, I'D HAVE TO SAY THIS, JUSTICE LEWIS, IS THAT WHEN IT COMES TO SPECIAL DISTRICTS, THERE ISN'T ONE SIZE FITS ALL. THEY HAVE DIFFERENT COMPONENTS TO THEM.

SO IT'S DIFFICULT WITHOUT LOOKING AT THE LEGISLATION. YOU HAVE THE LEGISLATION HERE FOR WEST VILLAGES.

>> SO YOUR VIEW WOULD BE IT CAN AND DOES GO BOTH WAYS, SOME MAY BE OR MAY NOT DEPENDING ON A PARTICULAR LEGISLATION?

>> THIS PARTICULAR CASE BECAUSE OF THE STRONG STATE INVOLVEMENT IN THE STATE PROPERTY WOULD REFER TO THE STATE ON THE DISSOLUTION OF THE DISTRICT, OUR POSITION WOULD BE -- AND I'M JUST ARGUING FOR THE STATE, I'M NOT ARGUING FOR THEM, I THINK THEY HAVE A STRONG ARGUMENT THAT IT'S A STATE PROPERTY.

I THINK THE DIFFICULT THING IS, AS JUSTICE POLSTON POINTED OUT, IS WHAT TO DO WITH THIS CASE

BECAUSE -- THE LANGUAGE THERE SAYS YOU MAY ASSESS IF IT'S PRIVATE/COMMERCIAL, SO FORTH, AND SEEMS TO ME TO SUGGEST, WELL, YOU CAN'T DO IT IF IT'S A GOVERNMENTAL PROPERTY WHICH EVERYONE CONCEDES IT IS HERE.

>> IS THERE A CONFLICT BETWEEN THE, THIS CASE AND THE FIFTH DISTRICT?

COULD YOU ADDRESS THAT ISSUE AS TO WHETHER THEY ARE INCOMPATIBLE?

>> I DON'T SEE THIS AS INVOLVING THE SORT OF CONFLICTS THAT THIS COURT WOULD ORDINARILY EXERCISE --

>> THE ONLY REASON I ASK IS BECAUSE, AGAIN, I GUESS IT DEPENDS ON WHETHER WE SAY IT'S MANDATED OR I LIKE YOUR WAY OF APPROACHING IT, MR. BURLINGTON'S, WHICH IS THAT MUNICIPALITIES CAN DO JUST ABOUT ANYTHING THAT LOCAL GOVERNMENT, I MEAN, THAT THEY CAN DO ANYTHING THAT A GOVERNMENT CAN DO, BUT THEY CAN'T DO IT TO THE STATE.

SO THAT MEANS THERE'S COMPLICITY IN THAT THAT IS MUCH BETTER THAN TRYING TO FIGURE OUT A 1963 DECISION.

SO IF, IF WE CLARIFY BLAKE BUT IF WE FEEL LIKE WE DON'T NEED TO, THE ONLY OTHER REASON TO RECEDE THE CASE IS TO ADDRESS THE CONFLICT.

SO THAT'S WHY --

>> YEAH, I --

>> WE NEED TO DECIDE THIS CASE, I GUESS.

>> WELL, AND THAT'S, THAT'S A BIG ISSUE, I THINK, FOR YOU ALL TO DECIDE WHETHER TO PROCEED WITH THE CERTIFIED QUESTION OR

CONFLICT, SO FORTH.

>> BUT IF THERE'S CONFLICT,
THERE'S EVEN MORE OF A REASON
THEN --

>> TO BE FRANK TO THE COURT, I
DON'T SEE THE TYPE OF CONFLICT
THAT YOU'D ORDINARILY WANT TO
RESOLVE IS A THREAT HERE.
IN FACT, THE SECOND DISTRICT
JUST SAID, WELL, THEY DIDN'T
REALLY SAY.

IF YOU LOOK AT WHAT THEY SAY --

>> WELL, THERE WOULD BE
CONFLICTS IF PROPERTY INVOLVED
IN REMINGTON WHICH WAS A CHARTER
SCHOOL WAS STATE PROPERTY, AND
IF THAT SCHOOL WAS STATE
PROPERTY AND THEY DECIDED IT THE
OTHER WAY, WE WOULD, IN FACT,
HAVE A CONFLICT.

THE PROPERTY, OF COURSE, IN THE
REMINGTON --

>> MY RECOLLECTION IS IT WASN'T.
IT'S VERY DISTINGUISHABLE ON
FACTS THAT I CAN'T REALLY SEE
HOW --

>> I MEAN, USUALLY CHARTER
SCHOOLS ARE, I MEAN, THEY'RE --

>> PRIVATE PROPERTY.

>> DIFFERENT ENTITY.

>> EXACTLY.

SO WE CERTAINLY WOULD ASK THE
COURT TO ANSWER THE CERTIFIED
QUESTION WITH A RESOUNDING NO.
OF COURSE, THEY DON'T HAVE THE
AUTHORITY TO DO WHAT'S BEEN
PRESENTED IN THIS CASE.

I THINK WE NEED TO GET THERE.

WE THINK IT'S IMPORTANT FROM A
STATE PERSPECTIVE THAT THERE BE
SORT OF THIS DEGREE OF
CONFIRMATION, THE IMPORTANCE
OF --

[INAUDIBLE]

BECAUSE, LITERALLY, IF THERE'S
AN OPINION OF THE COURT THAT

GOES THE WAY THE PETITIONERS WANT, YOU'LL HAVE ASSESSMENT WARDS AROUND THE STATE BETWEEN LOCAL GOVERNMENTS ASSESSING ONE ANOTHER, THEN YOU'LL HAVE VERTICAL ASSESSMENTS, LOCAL GOVERNMENTS --

>> WELL, THERE STILL HAS TO BE, YOU STILL HAVE TO HAVE, I MEAN, IT'S NOT AN EASY THING TO GET NON-AD VALOREM -- WELL, MAYBE THERE IS, BUT THERE'S GOT TO BE A SPECIAL BENEFIT IN ORDER TO HAVE IT.

SO, HOPEFULLY, THE LAW OF SPECIAL ASSESSMENT WOULD LIMIT HOW MANY TIMES YOU COULD ASSESS, I MEAN, THERE IS SOMETHING APPEALING TO THE IDEA -- OR IT'S RIDICULOUS THAT THE ASSESSMENT WOULD GO RIGHT BACK TO THE CITY OR TAXPAYERS HAVING TO PAY.

>> THERE WOULDN'T BE THOSE LIMITED PRINCIPLES.

THIS DISTRICT WAS CREATED BY ORDINANCE, CITY ORDINANCE. NO AUTHORITY FROM THE STATE. AND THERE'S 400 AND SOME MUNICIPALITIES IN THE STATE, AND ONCE WE START GETTING ASSESSMENTS FOR VARIOUS PURPOSES ALL AROUND THE STATE BY THESE HUNDREDS OF ENTITIES AGAINST, STATE-RELATED ENTITIES, THEN WE'VE GOT A MESS.

SO IF I COULD SAY ONE THING IN MY LAST FIVE SECONDS HERE IS, DO NO HARM.

ALL THE PRECEDENT AND CERTIFIED QUESTIONS, NO.

THANK YOU.

>> HOW MUCH TIME DO I HAVE LEFT?

>> IT SAYS THREE MINUTES AND 12 SECONDS.

>> THREE MINUTES.

>> YOU DON'T HAVE A CLOCK ON THE

OTHER SIDE?

>> OH, I DO, I APOLOGIZE.

I WASN'T PAYING ATTENTION.

THANK YOU.

JUST A COUPLE OF THINGS TO THE
STATE IN IN REBUTTAL.

TO BEGIN WITH, PARTLY
CLARIFICATION HERE.

THE CITY AND THE DISTRICT SHOULD
BE CONSIDERED ONE AND THE SAME
FOR PURPOSES OF LEVYING THE
ASSESSMENT.

THERE'S REALLY NO DIFFERENCE.

THE GOVERNING BODIES ARE THE
SAME, THE SAME LEGISLATIVE ACT.

IT IS IMPORTANT TO UNDERSTAND AS
WELL THAT THERE IS NO THREAT TO
THE STATE, NO DRAW ON STATE
REVENUE AS SUGGESTED BY THE
BRIEFS IN THIS CASE, YOU KNOW,
IF ASSESSMENT IS INVALID.

ONLY LOCAL GOVERNANCE REVENUE,
YOU KNOW, LANDS THAT ARE ONE WAY
THE OTHER SERVED BY THE CITY'S
SPECIAL DISTRICT.

BE AS THIS ADHERENCE TO
DOCTRINE, THERE'S BEEN NO
ARGUMENT THAT STATE STATUTE,
STATE GOVERNMENT WOULD PREEMPT
TO THE EXTENT THEY WISH TO LOCAL
ORDNANCE BETWEEN STATUTE, YOU
KNOW, AND --

>> I'M NOT SURE I UNDERSTAND
THAT ARGUMENT.

I THOUGHT IT GOES THE OTHER WAY.
IN OTHER WORDS --

>> NO, THE STATE WINS.

I HAPPEN TO AGREE WITH THE
SOLICITOR ON THAT.

BUT IF YOU COME BACK TO A
SPECIAL ACT, NOT A GENERAL LAW,
AND THE QUESTION IS JUST ASKED
ME IN THE FIRST PLACE, THAT
QUESTION OR THE STATEMENT --

[INAUDIBLE]

ANY PROPERTY INTERESTS BY THE

DISTRICT WHICH ARE USED FOR
NONPUBLIC OR PRIVATE COMMERCIAL
PURPOSES SHALL BE SUBJECT TO ALL
AD VALOREM TAXES OR NON-AD
VALOREM ASSESSMENTS.

THIS WOULD BE APPLICABLE IF
PROPERTY WERE PRIVATELY OWNED.
EVEN A COUNTY WITH IMMUNITY FROM
TAXATION.

AND, YOU KNOW, IF THEY GIVE
THEIR PROPERTY OVER TO PRIVATE
USE, THAT PROPERTY IS GOING TO
PAY TAXES, PAY ASSESSMENTS, YOU
KNOW, FOR THOSE --

[INAUDIBLE]

YES, I THINK THERE IS REASON TO
RECEDE FROM BLAKE FOR THE
REASONS I'VE SAID.

THE CITY OF GAINESVILLE CASE
THAT WAS MENTIONED THAT JUSTICE
CANTERO, YOU KNOW, AUTHORED IN
THIS COURT WAS, BASICALLY,
DECIDING A BOND VALIDATION
ISSUE.

THAT'S REALLY ALL IT WAS.

IN PASSING, YOU KNOW, HE HAS A
DISCUSSION REGARDING THE
DIFFERENCE BETWEEN UTILITY FEES
WHICH BACKS THE BONDS AND NON-AD
VALOREM ASSESSMENTS AND RECITED
TO JUDGE BENTON'S OPINION IN
FIRST DISTRICT COURT OF APPEALS
WHICH AT THE SAME TIME WAS
DEALING WITH THE UTILITY FEE AND
JUDGE BENTON'S, YOU KNOW,
COMMENTS ON BLAKE IN MY OPINION
WERE ACTUALLY --

>> ARE YOU TELLING ME JUSTICE
CANTERO DECIDED AN OPINION --

[LAUGHTER]

>> [INAUDIBLE]

WOULD BE MY VIEW ON IT.

AND THIS IS NOT STATE PROPERTY,
YOU KNOW?

THAT CERTIFIED QUESTION DOESN'T
SAY IT'S STATE PROPERTY.

IT'S ASKING ABOUT ASSESSMENTS ON, ESSENTIALLY, STATE PRE-AIDED INSTITUTES.

THE OTHER THING IS CHAPTER 1002, THE QUESTION YOU ASKED ABOUT CHARTER SCHOOLS?

WITHIN CHAPTER 1002 THEY -- ANY CHARTER SCHOOL IS IDENTIFIED AS A PUBLIC BODY.

>> ABOUT THE NATURE OF THE PROPERTY.

WHY ARE YOU SAYING THIS IS STATE PROPERTY AND YOUR OPPONENTS CLEARLY SAY THAT THIS WAS CREATED BY THE FACT THAT IT'S CONTROLLED BY THE STATUTE? SO WHY ARE YOU SAYING IT'S NOT STATE PROPERTY?

>> IF THE PROPERTY'S NOT TITLED TO THE STATE OF FLORIDA OR TO ANY AGENCY OF THE STATE OF FLORIDA.

THE PROPERTY IS TITLED TO THE WEST VILLAGES IMPROVEMENT DISTRICT.

IT WOULD BE THE SAME IF THE CITY OF NORTH PORT OWNED THE PROPERTY.

THE CITY OF NORTH PORT, YOU KNOW, DOESN'T SHARE TITLE TO THE PROPERTY BE IT OWNS WITH THE STATE OF FLORIDA.

>> IS THERE A REVERTER CLAUSE?

>> I DON'T KNOW.

>> TIME IS UP.

>> THANK YOU, SIR.

>> WE THANK ALL OF YOU FOR YOUR ARGUMENTS TODAY.

[INAUDIBLE CONVERSATIONS]