

IN THE

SUPREME COURT OF THE STATE OF FLORIDA

FILED
SID J WHITE

APR 12 1938

CLERK, SUPREME COURT

By

Deputy Clerk

CASE NO.: 72,041

BROWARD COUNTY, a political subdivision of the State of Florida,

Appellant,

vs.

THE STATE OF FLORIDA AND THE SEVERAL PROPERTY OWNERS, TAXPAYERS AND CITIZENS OF BROWARD COUNTY, FLORIDA, INCLUDING NONRESIDENTS OWNING PROPERTY OR SUBJECT TO TAXATION THEREIN, AND OTHERS HAVING OR CLAIMING ANY RIGHT, TITLE OR INTEREST IN PROPERTY TO BE AFFECTED BY THE ISSUANCE OF THE BONDS HEREIN DESCRIBED, OR TO BE AFFECTED THEREBY,

Appellees.

ON APPEAL FROM THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

BRIEF OF APPELLEE

THE STATE OF FLORIDA

MICHAEL J. SATZ
State Attorney

PAUL H. ZACKS
Assistant State Attorney
(Bar No. 195632)
620 Broward County Courthouse
Fort Lauderdale, Florida 33301
Telephone: 357-7913

TABLE OF CONTENTS

	<u>PAGE</u>
PRELIMINARY STATEMENT	1
STATEMENT OF THE CASE AND FACTS	2
SUMMARY OF ARGUMENT	10
ARGUMENT	
POINT 1	
THE TRIAL COURT DID NOT ERR IN DENYING VALIDATION	11
CONCLUSION	25
CERTIFICATE OF SERVICE	26
TABLE OF CASES AND OTHER AUTHORITIES	ii

TABLE OF CASES AND OTHER AUTHORITIES

	<u>PAGE</u>
CASES	
<u>Blake v. Xerox Corporation</u> , 447 So.2d 1348 (Fla. 1984)	19
<u>State v. Broward County</u> , 468 So.2d 965 (Fla. 1985)	2, 3, 4, 12, 18 19, 20
<u>Broward County v. State of Florida</u> , 515 So.2d 1273 (Fla. S.Ct. 1987)	4, 5, 18
<u>Broward County v. Janis Development Corp.</u> , 311 So.2d 371 (Fla. 4 DCA 1975)	22
<u>Choctawhatchee Electric Corp. Inc. v. Green</u> , 132 So.2d 556 (Fla. 1961)	19
<u>Escarra v. Winn Dixie Stores, Inc</u> , 131 So.2d 483 (Fla. 1972)	19
<u>Mize v. County of Seminole</u> , 229 So.2d 841 (Fla. 1969)	13
<u>Nohrr Brevard County</u> , 242 So.2d 304 (Fla. 1971)	21
<u>State v. Town of Sweetwater</u> , 112 So.2d 852 (Fla. 1959)	11
<u>Wald v. Sarasota</u> , 360 So.2d 763 (Fla. 1978)	21
<u>West Palm Beach v. State</u> , 113 So.2d 374 (Fla. 1959)	21
STATUTES	
Section 166.111, <u>Fla. Stat.</u> (1983)	4, 10
Chapter 159, Part 2, <u>Fla. Stat.</u>	2, 3, 4, 11, 12, 13
Chapter 159, Part 6, <u>Fla. Stat.</u>	14, 15, 16 17,
FEDERAL LAWS	
Deficit Reduction Act of 1984, Pub. L. No. 98-369, §§ 621, 624, 98 Stat. 494 915-918, 922-924 (1984)	2, 3

PRELIMINARY STATEMENT

Appellant, Broward County, was the Plaintiff in the bond validation proceeding before the Circuit Court of the Seventeenth Judicial Circuit (the "Circuit Court") in and for Broward County, Florida. Appellees were the State of Florida and the several property owners, taxpayers and citizens of Broward County, who were the Defendants below. South Broward Citizens for a Better Environment, Inc. and Bruce Head joined the State as Intervenors. The parties will be referred to as the "County," the "State" and the "Intervenors," respectively. The transcript of the bond validation proceeding which was initiated on January 19, 1988, a copy of which is attached to the County's Appendix in Section No. 2, will be referred to by the designation "T" with the appropriate page reference thereafter.

STATEMENT OF THE CASE AND FACTS

The State does not accept the Statement of the Case and Facts as contained in the Brief of Appellant, as it is argumentative, slanted, and often unsupported by the record. In its stead, the State submits the more neutrally stated Statement of the Case and Facts as found below.

The initial portion of this Statement of the Case and Facts is taken from this Court's opinion in State v. Broward County, 468 So.2d 965 (Fla. 1985), which shall hereinafter be referred to as Broward I:

"Broward County has developed a plan for the proper disposal of solid waste in the area which requires the construction of two solid waste disposal plants at a cost approaching \$590,000,000. The County first intended to finance these plants through the issuance of industrial development revenue bonds under chapter 159, Florida Statutes (1983), and on April 19, 1984, the Broward County Board of County Commissioners held a public hearing and adopted, pursuant to published notice, Resolution 84-964 entitled:

Resolution declaring the intention of Broward County to provide financing by the proposed issuance of industrial development revenue bonds in an amount of up to \$590,000,000 for financing waste-to-energy facilities, land disposal facilities and the sites therefor to be leased to a private vendor.

This resolution, however, represented only an initial step in the process. In order to actually issue and market these revenue bonds, the County still had to perform the following: Select a company or companies and negotiate construction and waste disposal contracts; acquire the land required for the plants; obtain the necessary federal, state, and local permits to construct and operate the plants; enter into the necessary agreements with municipalities for their services; and prepare all the documentation required to issue the bonds.

While the County was proceeding under the above financing scheme, the United States Congress passed the Deficit Reduction Act of 1984 which contains volume cap limits on industrial development revenue bonds by which the County planned to finance the plants and which places limitations on the investment of such bond proceeds and reserves. Deficit Reduction Act of 1984, Pub.L. No. 98-369, §§ 621, 624, 98 Stat. 494, 915-918, 922-924 (1984). This act also provides, however, that such tax exempt bonds could be issued without

