IN THE SUPREME COURT OF FLORIDA

J. ROBERT ROWE,

Appellant,

vs. Case No. 65,322

PINELLAS SPORTS AUTHORITY, et al.,

Appellees.

PINELLAS RESORT ORGANIZATION, INC., etc., et al.,

Appellant,

vs. Case No. 65,420

PINELLAS SPORTS AUTHORITY, et al.,

Appellees.

ON APPEAL FROM THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY

ANSWER BRIEF OF APPELLEES PINELLAS SPORTS AUTHORITY, PINELLAS COUNTY AND CITY OF ST. PETERSBURG

Julian Clarkson
C. Lawrence Stagg
Dennis R. Ferguson
HOLLAND & KNIGHT
P.O. Drawer 810
Tallahassee, Florida 32302

Van B. Cook
Assistant County Attorney
315 Haven Street
Clearwater, Florida 33515

Michael S. Davis
City Attorney
175 - 5th St. N., Rm. 210
St. Petersburg, Florida 33731

Attorneys for Appellees

IN THE SUPREME COURT OF FLORIDA

J. ROBERT ROWE,

Appellant,

vs. Case No. 65,322

PINELLAS SPORTS AUTHORITY, et al.,

Appellees.

PINELLAS RESORT ORGANIZATION, INC., etc., et al.,

Appellant,

vs. Case No. 65,420

PINELLAS SPORTS AUTHORITY, et al.,

Appellees.

ON APPEAL FROM THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY

ANSWER BRIEF OF APPELLEES PINELLAS SPORTS AUTHORITY, PINELLAS COUNTY AND CITY OF ST. PETERSBURG

Julian Clarkson
C. Lawrence Stagg
Dennis R. Ferguson
HOLLAND & KNIGHT
P.O. Drawer 810
Tallahassee, Florida 32302

Van B. Cook
Assistant County Attorney
315 Haven Street
Clearwater, Florida 33515

Michael S. Davis
City Attorney
175 - 5th St. N., Rm. 210
St. Petersburg, Florida 33731

Attorneys for Appellees

TABLE OF CONTENTS

		Page
TABLE OF CITATIONS		ii
INTRODUCTION		1
STATEMENT OF THE CASE AND FACTS		2
ARGUMENT		7
I.	PINELLAS COUNTY PROPERLY ENACTED ORDINANCE 78-20 AND THE REFERENDUM WAS VALIDLY HELD.	10
II.	THE 1982 AMENDMENT TO ORDINANCE 78-20 FULLY COMPLIED WITH THE TOURIST DEVELOPMENT ACT.	15
III.	PINELLAS COUNTY'S TOURIST DEVELOPMENT TAX REVENUES MAY BE PLEDGED TO SECURE BONDS ISSUED BY THE PINELLAS SPORTS AUTHORITY.	18
IV.	FLORIDA STATUTE 125.0104 DOES NOT DENY EQUAL PROTECTION OF THE LAW.	23
V.	NEITHER PINELLAS SPORTS AUTHORITY, PINELLAS COUNTY NOR THE CITY OF ST. PETERSBURG VIOLATED THE FLORIDA SUNSHINE LAW.	30
VI.	THE FINAL JUDGMENT CONTAINS AMPLE FINDINGS AND CONCLUSIONS TO SUPPORT VALIDATION OF THE BONDS.	34
VII.	NO REFERENDUM WAS REQUIRED BECAUSE THE INTERLOCAL AGREEMENT DOES NOT REQUIRE IMPOSITION OF A MINIMUM AD VALOREM TAX.	37
CONCLUSION		40
CERTIFICATE OF SERVICE		41

TABLE OF CITATIONS

	Page
Bassett v. Braddock, 262 So.2d 425 (Fla. 1972)	34
Bennett v. Warden, 333 So.2d 97 (Fla. 2d DCA 1976)	34
B.M.Z. Corp. v. City of Oakland Park, 415 So.2d 735 (Fla. 4th DCA 1982)	33
Brandes v. City of Deerfield Beach, 186 So.2d 6, 12 (Fla. 1966)	1,2,8
City of Miami v. Berns, 245 So.2d 38, 41 (Fla. 1971)	32
City of Palatka v. State, 440 So.2d 1271 (Fla. 1983)	39
County of Volusia v. State, 417 So.2d 968 (Fla. 1982)	39
Daniel v. Fla. State Turnpike Authority, 213 So.2d 585 (Fla. 1968)	29
Duval v. Thomas, 114 So.2d 791 (Fla. 1959)	2
Gaulden v. Kirk, 47 So.2d 567 (Fla. 1950)	25,26,27
Hill v. Milander, 72 So.2d 796, 798 (Fla. 1954)	13,14
International Brotherhood of Electrical Workers v. Jacksonville Port Authority, 424 So.2d 753 (Fla. 1982)	8
Jacksonville Shipyards, Inc. v. Jacksonville Electric Authority, 419 So.2d 1092 (Fla. 1982)	39

Knight & Wall Company v. Bryant,
178 So.2d 5, 8 (Fla. 1965) 29

Louis K. Liggett Company v. Lee,
288 U.S. 517, 533; 77 L.Ed. 929,
936 (1932) 25

Loxahatchee River Environmental Control
District v. Mann,
403 So.2d 363 (Fla. 1981) 20

Matthews v. Lucas,
427 U.S. 495 (1976) 24

Miami Dolphins, Ltd., v. Metropolitan Dade County,
394 So.2d 981 (Fla. 1981) 3,7,14,25,
26

News Press Publishing Company, Inc. v. Carlson,
410 So.2d 546 (Fla. 2d DCA 1982) 33

Occidental Chemical Co. v. Mayo,
351 So.2d 336 (Fla. 1977) 33,34

Sallas v. State,
98 Fla. 464, 124 So. 27 (1929) 2

State v. Alachua County,
335 So.2d 554 (Fla. 1976) 39

State v. Andersen,
208 So.2d 814 (Fla. 1968) 25

State v. City of Daytona Beach,
431 So.2d 981 (Fla. 1983) 21,22,39

State v. City of Miami Beach,
234 So.2d 103 (Fla. 1970) 2

State v. Daytona Beach Racing and Recreational
Facilities District,
89 So.2d 34 (Fla. 1956) 2

State ex rel. Adams v. Lee,
166 So. 249 (Fla. 1935) 24

State ex rel. James v. Gerrell,
188 So. 812 (Fla. 1938) 25,28

State v. Halifax Hospital District,
159 So.2d 231 (Fla. 1963) 39

State v. Vizzini,
227 So.2d 205 (Fla. 1969) 19

Tolar v. School Board of Liberty County,
398 So.2d 427 (Fla. 1981) 33,34

Town of Medley v. State,
162 So.2d 257 (Fla. 1964) 39

Town of Palm Beach v. Gradison,
296 So.2d 473 (Fla. 1974) 33

Tribune Co. v. School Board of Hillsborough County,
367 So.2d 627 (Fla. 1979) 19

Wood v. Marston,
442 So.2d 934 (Fla. 1983) 30,33,34, 37,38

FLORIDA STATUTES

Section 75.02, Florida Statutes 21

Section 125.0104, Florida Statutes (1983) 3,13,18,19, 20,23,24,25, 28

Section 212, Florida Statutes 25,27,28

Section 218.23, Florida Statutes (1983) 37,38

Section 286.011, Florida Statutes 30

OTHER CITATIONS

Article I, Section 2, Florida Constitution	23
Article III, Section 8(a), Florida Constitution	17
Bullfinch's Mythology (Hamlyn Pblg. Group, Ltd., 1964 ed. at 79)	15
Chapter 12A, Florida Administrative Code	28
Chapter 77-209, Laws of Florida	2-3,20
Chapter 77-635, Laws of Florida	19
Fourteenth Amendment, U.S. Constitution	23
6 McQuillin, Municipal Corporations (3d Ed. 1980), §24.31	10

NOTE:

All emphasis is supplied unless otherwise noted. The following symbols are used in this brief:

"A"	for appellants' appendix
"AA"	for appellees' appendix
"Br."	for initial brief of appellant PRO et al.
"Rowe Br."	for initial brief of appellant Rowe

Introduction

> Admittedly, the provision of extensive recreational facilities is a recognized public purpose in a state which has devoted a substantial segment of its economy to the attraction of visitors, thousands of whom ultimately become permanent residents. . . . The Florida Development Commission tells us that there are presently 16 Major League baseball teams which train in our state in the spring of the year. There are 79 minor league teams which also train in Florida. The same source advises that baseball has become an estimated twenty-five million dollar a year business. . . .Brandes v. City of Deerfield Beach, 186 So.2d 6, 12 (Fla. 1966)(Thornal, C.J., dissenting from holding that proposed bond issue was not for a municipal purpose).

Although multiple issues concerning statutory construction and constitutional doctrine are raised by these appeals, the threshold issue litigated below and involved here is whether a bond issue to fund construction of a sports complex that would accommodate a major league baseball franchise falls within the ambit of "tourist promotion." Appellants argue it does not. Their myopic view ignores a 70-year history that tightly links Pinellas County tourism with major league baseball.

The primary thrust of appellants' challenge to the bond issue is that Pinellas County voters were not fairly apprised that tourist development tax proceeds might be used to finance construction of a sports stadium at the time they approved the tax. In the pages that follow, appellees will meet that challenge head-on.

STATEMENT OF THE CASE AND FACTS[1]

These consolidated appeals challenge the trial court's judgment validating revenue bonds to be issued for the purpose of financing construction of a multi-purpose stadium to be located within the city of St. Petersburg, Pinellas County. The proposed stadium is a 43,000 seat, domed, air conditioned facility capable of use for sporting and other events, including exhibits, trade shows, concerts and conventions. Its design will accommodate "almost any sport with the exception of outdoor track" (A 34).[2]

Genesis of this project, from the standpoint of funding, traces back to 1977, when the Florida Legislature enacted the "Local Option Tourist Development Act," Chapter

---

[1]Appellants' statements of the case and facts do not adequately describe the project to be financed by the revenue bonds or the progression of authorizing measures that preceded the bond resolution. Consequently, appellees provide their own statement of these matters.

[2]Appellees ask the Court to take judicial notice of the well-known efforts, still ongoing, of St. Petersburg and Pinellas County to attract a major league baseball franchise. See generally appellees' appendix at 1-16. Further, the Court historically has judicially noticed the relationship between Florida's economic interest and tourist attractions: Brandes v. City of Deerfield Beach, supra ("Florida's admitted ambitions to develop its recreational facilities as essential aspects of our vital tourist industry"); State v. City of Miami Beach, 234 So.2d 103 (Fla. 1970) (tourist industry is an important part of the industry of metropolitan areas in Florida); Duval v. Thomas, 114 So.2d 791 (Fla. 1959) (fishing and swimming are important items of entertainment to tourists); State v. Daytona Beach Racing and Recreational Facilities District, 89 So.2d 34 (Fla. 1956) ("The sand and the sun and the water are not sufficient to attract those seeking a vacation and recreation. Entertainment must be offered."); Sallas v. State, 98 Fla. 464, 124 So. 27 (1929) (during the summer season people flock to Atlantic and Jacksonville beaches for bathing and recreation purposes).

77-209, Laws of Florida, now codified as section 125.0104, Florida Statutes (1983) (AA 17). By that enactment, the legislature authorized Florida's counties, after referendum, to levy a tourist development tax, to be used for certain enumerated purposes, including construction of sports stadiums.[3]

In December, 1977, the Board of County Commissioners of Pinellas County adopted a resolution establishing a tourist development council, indicating an intention to consider enactment of a tourist development tax ordinance (AA 21-22, 42). Eight months later, after publishing legal notice, the commission held a public hearing to consider the proposed ordinance (AA 26). At the hearing the tourist development council presented its plan for tourist development (AA 27). After hearing public testimony from citizens representing diverse interests in the community and after debate, the board adopted a resolution (AA 40-41) submitting the proposed ordinance to a referendum of Pinellas County voters.[4] The referendum resulted in a vote of 42,670 for the ordinance, 32,205 opposed (A 966).

---

[3]Many Florida counties (e.g., Dade, Hillsborough, Orange, Osceola, Volusia), as well as the City of Jacksonville, have proceeded under the statute. This Court held the statute constitutional in Miami Dolphins v. Metropolitan Dade County, 394 So.2d 981 (Fla. 1981). The appendix filed in that case by Miami Dolphins, at pages 26-32, includes the forms of ballot used in the localities named above.

[4]The question on the ballot was worded as follows: "TOURIST DEVELOPMENT TAX Shall Pinellas County Ordinance No. 78-20 be approved? This ordinance levies and imposes a countywide two (2%) percent tourist development tax on each whole or major fraction of each dollar of the total rental charge for the lease or rental of any tourist accommodations or living quarters for a term of six (6) months or less. Such tax shall be used to

Ordinance 78-20 as approved by the electorate is reproduced in full in the appendix to this brief (AA 42). Essentially, section 2 of the ordinance set forth the "tourist development plan" whereby all receipts from the tax were to be placed in a trust fund "to be used exclusively for tourist advertising and promotion for Pinellas County and its communities." Section 3 further provided that all or any portion of the tax revenues might be pledged by the Board of County Commissioners to secure revenue bonds issued for certain projects, including "convention centers, sports arenas, sports stadiums, coliseums or auditoriums."

For a period of more than five years after the approving referendum vote gave life to Ordinance 78-20, there was no legal challenge -- either by the present appellants,[5] or by anyone else -- to the ordinance itself or to the election resulting in its approval.

In 1982, a public hearing was held (AA 51) to consider an amendment to the ordinance, expanding the tourist development plan to include purposes other than "tourist advertising and

---

promote and develop the tourist industry in Pinellas County.

"FOR the Tourist Development Tax _____

"AGAINST the Tourist Development Tax _____"

[5]James Gray, president of PRO (A 20), appeared at the public hearing on the ordinance and stated his support for capital improvements to be funded from the forthcoming tourist development tax (AA 29-30).

promotion." At that meeting, by a vote of 4-0,[6] the Board of County Commissioners amended the ordinance.

The amendment to Ordinance 78-20 is also reproduced in the appendix to this brief (AA 55). It enlarged the uses expressly authorized by the Pinellas County tourist development plan to include construction of "sports stadiums" or "sports arenas."[7] There was no legal challenge at that time -- either by the present appellants, or by anyone else -- to the ordinance as amended or to the absence of a referendum to approve the amendment.[8]

In November, 1983, some 16 months after the effective date of the amendment to the ordinance, the Board of County Commissioners adopted a resolution (A 1006) authorizing Pinellas Sports Authority to proceed with a bond issue to finance construction of a sports stadium. That was the event triggering legal action by PRO and affiliated plaintiffs in the form of an action filed December 29, 1983, seeking declaratory and injunctive relief (A 478). Their action was ultimately consol-

---

[6]The enabling statute requires that any amendment to such an ordinance be enacted "by an affirmative vote of a majority plus one additional member of the governing board." That requirement was met in this instance. All four county commissioners present voted in the affirmative. Commissioner Todd was absent.

[7]Comparison of the 1978 ordinance and the 1982 amendment demonstrates that subsection (a)1 of the amended tourist development plan was within the contemplation of section 3 of the original ordinance, being a project "hereinafter adopted by appropriate amendment to this ordinance."

[8]Subsection (4)(d) of the Tourist Development Act does not require a referendum to approve amendments to the ordinance. See discussion at pp. 14-17, infra.

idated (A 476) with the bond validation proceeding brought by Pinellas Sports Authority, Pinellas County and the City of St. Petersburg.

At the trial of the consolidated cases, the bulk of appellants' testimonial evidence (A 160-304) was offered in an effort to prove a violation of the Florida Sunshine Law. The trial judge, James B. Sanderlin, found no violations of the Sunshine Law, determined appellants' other challenges to the bond proceedings to be without merit and entered a final judgment of validation (A 740).

ARGUMENT

If the bond issue challenged here is indeed the product of a "continuing concerted effort to circumvent the public's participation" (Br. 41), perpetrated by Pinellas Sports Authority, Pinellas County and the City of St. Petersburg (or some or all of them), this Court has a right to expect that the illegality of this governmental joint venture be demonstrated by a "clarion clear" (Br. 11) single rifle shot, making a clean hole in the challengers' target.

Instead, in a remarkable display of appellate bobbing and weaving, the joint appellants have asserted, in shotgun fashion, that (1) the original 1978 ordinance does not comply with the Tourist Development Act (Br. 9), (2) the ordinance is impermissibly vague and conflicting (Br. 16), (3) the 1978 referendum was invalid (Br. 16), (4) tourist development tax revenues may not be spent on "stadium study" (Br. 13), (5) the 1982 amendment to the ordinance does not comply with the statute (Br. 24), (6) tourist development tax revenues may not be pledged to secure PSA bonds (Br. 27), (7) the Tourist Development Act is unconstitutional (Br. 30) (in the face of this Court's prior holding to the contrary in the Miami Dolphins case, supra, note 3), (8) the actions of all three governmental bodies are invalid because of violations of the Florida Sunshine Law (Br. 37), (9) the trial court's judgment of validation is deficient in its findings and conclusions (Br. 41) and (10) a referendum was required to authorize the city's pledge of certain non-ad valorem tax revenues (Rowe Br. 6).

This is an appeal from a final judgment validating bonds, not an original trial court proceeding, and the judgment rejecting appellants' myriad contentions comes to this Court with a presumption of correctness.[9] Appellants disserve both the appellate process and this Court's exercise of jurisdiction by merely parroting their unsuccessful trial court arguments at the appellate level.[10]

Before responding point by point to the arguments presented in appellants' two briefs,[11] appellees first will briefly discuss the background against which the subject matter of this controversy should be considered: the nexus between major league baseball and St. Petersburg. This background is crucial to any determination whether the construction of a sports stadium, after preliminary study, can constitute "tourist promotion" in St. Petersburg, a premise disputed by the appellants (Br. 13-14).

This Court's prior consideration of the Deerfield Beach case, see p. 1, supra, provides part of the historical basis[12]

---

[9]International Brotherhood of Electrical Workers v. Jacksonville Port Authority, 424 So.2d 753 (Fla. 1982).

[10]Compare PRO's Trial Memorandum (A 686-715), prepared before Judge Sanderlin heard the evidence upon which his judgment is founded, with its initial brief.

[11]Appellant Rowe has raised one narrow point on appeal and has otherwise elected to rely upon the PRO brief. Rowe's argument will be answered in this brief under Point VII. State Attorney James T. Russell opposed validation at the trial level but did not appeal from the final judgment.

[12]The facts and figures showing the impact of organized baseball on Florida's economy, 186 So.2d at 12, were judicially

for appellees' position that major league baseball and tourism are inextricably woven together in Florida's resort communities. It was this nexus that led Chief Justice Thornal to express his concern that the majority's decision would have "far-reaching adverse results upon Florida's admitted ambitions to develop its recreational facilities as essential aspects of our vital tourist industry." The circumstance that Justice Thornal was writing in dissent does not detract from the validity of the concern he expressed; the majority opinion reversing the decree of validation was based on the conclusion that lease of the Deerfield Beach proposed baseball stadium to a private corporation destroyed the required "municipal purpose," a factor not involved here.

As to St. Petersburg, this Court judicially knows that spring training baseball came to South Florida when Branch Rickey brought the St. Louis Browns there in 1914 (AA 11); that the New York Yankees and St. Louis Cardinals jointly trained in St. Petersburg[13] for many years before the Yankees moved to Ft. Lauderdale (AA 5,11); that the Cardinals and New York Mets presently train in St. Petersburg (AA 3); and that the height of the

---

noticed by Justice Thornal. Examination of the trial transcript and this Court's record does not otherwise reveal them.

[13]During the 1920s and 1930s, St. Petersburg was the indisputable spring baseball capital not only of Florida but of the world. That was the heyday of the Yankees' Murderers' Row (Combs, Koenig, Ruth, Gehrig, Meusel, Dugan, Lazzeri) and the Cardinals' Gashouse Gang (the Dean brothers, Leo Durocher, Frankie Frisch, Pepper Martin, Ducky Medwick, et al.). Between them, the two teams won seven world championships during the 1930s.

tourist season in Florida's resort communities precisely coincides with the spring training baseball season (AA 3). These known facts do not support appellants' insistence that a baseball stadium in St. Petersburg and tourist "promotion" are mutually exclusive.

Appellants' seven points on appeal will be answered in order.

I. PINELLAS COUNTY PROPERLY ENACTED ORDINANCE 78-20 AND THE REFERENDUM WAS VALIDLY HELD.

One can best understand the rival contentions litigated below and the interests of those asserting them by reviewing the sequence of events beginning in 1977 that led to the contested bond resolution adopted by the county in 1983.

The Tourist Development Act became law in June, 1977. Six months later the Board of County Commissioners adopted a resolution establishing and appointing the members of the Pinellas County Tourist Development Council (AA 21).[14]

The TDC held a number of meetings during the first half of 1978. By August 1, 1978, the council had reached a consensus that the question of a tourist development tax should be placed on the ballot of the second primary election in October (AA 23).

---

[14]That such a resolution was adopted is recited in the preamble to Ordinance 78-20 (AA 43). The recital is presumptively correct, see 6 McQuillin, Municipal Corporations (3d Ed. 1980), §24.31 ("Existence of facts justifying the enactment will be assumed"), and appellants presented no evidence to rebut it.

Consequently, the Board of County Commissioners advertised a public hearing to be held August 29.

The minutes of the public hearing are reproduced in full in appellees' appendix (AA 26-41). They reflect appearances by representatives of diverse interests expressing substantial support for the referendum but mixed views as to what use should be made of the tax revenues. Some wanted 100% of the money to be used for advertising. Others wanted a division of the money between advertising and capital improvements. Representative of this approach was Jim Gray, presently the president of PRO, who stated "that he agrees that certain capital improvements are needed 'to enhance the image for tourists'" (AA 29-30). A representative of Pinellas Sports Authority presented a resolution adopted by that body expressly stating its interest in development of a "multi-purpose sports complex" (AA 27).

During the public hearing the TDC presented its plan for tourist development as required by the enabling statute (AA 27). Bill Bond, TDC vice-chairman, explained the plan. When one commissioner moved an amendment to the plan as proposed, Bond objected, stating that the TDC wanted to study any capital improvement project before undertaking it and that "capital improvement projects can be addressed at a future time" (AA 30). He further pointed out that the plan as proposed was for two years and would be reviewed at the end of that time (AA 31).

The proposed amendment was defeated, and the board then approved the ordinance in the form proposed and advertised. At

the October election, the voters approved the ordinance by a vote of 42,670 to 32,205.

As approved by the electorate, Ordinance 78-20 essentially accomplished two purposes, both of which are consistent with the discussion held at the public hearing: (1) it ordained a tourist development plan projected over a two-year period, with anticipated gross revenue of $4.8 million to be placed in a trust fund "to be used exclusively for tourist advertising and promotion for Pinellas County and its communities"; (2) it further provided that "all or any portion" of the tax revenue might be pledged to secure and liquidate revenue bonds issued by the county for specified purposes, one of which was "sports stadiums." The latter contingency was authorized for any projects set forth in the ordinance (none were) or "hereinafter adopted by appropriate amendment to this ordinance." The method of amending the ordinance was also expressly stated.[15]

There could have been no question in the minds of Pinellas County voters in 1978 that the proposed ordinance contemplated the possibility of a subsequent pledge of tourist development tax revenues to stadium construction.

Review of the sequence of events leading to the referendum, as well as those following it, refutes appellants' arguments that the ordinance does not comply with the Tourist

---

[15]"The above and foregoing tourist development plan may not be amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the Board of County Commissioners."

Development Act and is impermissibly vague and that the referendum was invalid. The form of the ballot was exactly as required by the Act.[16] In addition to the statutory language required, the ballot advised voters that the proposed tax was to be used "to promote and develop the tourist industry in Pinellas County." Before the election, the full text of the ordinance had been advertised and debated at a public hearing called to consider it. There is no substance to appellants' charge (Br. 4) that "the citizens of Pinellas County never authorized the use of their revenues for the proposed stadium."

Florida law does not require that every substantive provision of a proposed ordinance be reflected on a referendum ballot. All that is required is that the voters be given fair notice of the question to be decided. This Court so stated in Hill v. Milander, 72 So.2d 796, 798 (Fla. 1954):

> It is a matter of common knowledge that many weeks are consumed, in advance of elections, apprising the electorate of the issues to be determined and that in this day and age of radio, television, newspaper and the many other means of communicating and disseminating information, it is idle to argue that every proposition on a ballot must appear at great and undue length.

---

[16] §125.0104(6)(b) provides: "The governing board of the County levying the tax shall arrange to place a question on the ballot at the next regular or special election to be held within the county, substantially as follows:

"_____ FOR the Tourist Development Tax

"_____ AGAINST the Tourist Development Tax."

In Miami Dolphins, Ltd. v. Metropolitan Dade County, supra, a case involving a challenge to a tourist development tax referendum held in Dade County under the statute here involved, this Court quoted the foregoing language from Hill v. Milander, with approval after first saying:

> While there certainly are many details of the plan not explained on the ballot, we do not require that every aspect of a proposal be explained in the voting booth.

394 So.2d at 987.

The Pinellas County ballot sufficiently complied with the express requirements of the Tourist Development Act and with this Court's holdings in the foregoing cases.

The 1982 amendment to Ordinance 78-20 will be discussed in the next section of this brief. Before passing to that issue, appellees stress that appellants have entirely failed to prove any improper expenditure of tourist development tax revenues under the plan approved in 1978 -- a plan which contemplated expenditure of tax revenues exclusively for tourist advertising and promotion during the initial two-year phase of the plan's existence and potentially to fund construction of a sports stadium upon future amendment of the plan.

II. THE 1982 AMENDMENT TO ORDINANCE 78-20 FULLY COMPLIED WITH THE TOURIST DEVELOPMENT ACT.

By June, 1981, the Tourist Development Council was engaged in discussions of funding construction of a baseball stadium. At a TDC meeting held June 10, 1981, the council recommended that $250,000 in tourist development tax revenues be used for "research and continued development of the financial package for the construction of a baseball stadium" (A 1010). The county attorney advised the council that the tourist development plan would have to be amended before tax revenues could be earmarked for that purpose.[17]

In July, 1982, a public hearing was held by the Board of County Commissioners to consider a proposed amendment to Ordi-

---

[17]If there is anything "absurd" (Br. 13) about any of the rival contentions made in this case, it is appellants' insistence (Br. 13-14) that tax revenues spent on preliminary studies of a stadium project were unauthorized prior to the 1982 ordinance amendment.

A multi-purpose sports stadium does not, like Minerva, daughter of Jupiter, "leap forth from his brain, mature, and in complete armor." Bullfinch's Mythology (Hamlyn Pblg. Group, Ltd., 1964 ed. at 79). The argument that funds spent to determine the wisdom of constructing a tourist attraction are not related to "tourist promotion" is not just absurd, it is preposterous. Even appellants' dictionary definitions refute their argument; "promote" is defined as "to further; to encourage; to advance."

The record demonstrates that Pinellas County officials proceeded with the stadium project in a responsible manner. When the tourist development council sought to move from "feasibility studies" into "development of a financial package for the acquisition and construction of a sports stadium," the county attorney properly advised that the ordinance should be amended (A 1010). The 1982 amendment followed.

nance 78-20. The amendment expanded the existing tourist development plan to include purposes other than tourist advertising and promotion. At the hearing one commissioner expressed concern that the ordinance as amended might curtail the use of funds for advertising. He moved to amend the proposal by deleting authorization for "sports stadiums and sports arenas." The motion died for lack of a second. After additional discussion, the four commissioners present voted unanimously in favor of the amendment, providing the "super-majority" required by both the Tourist Development Act and the ordinance itself.

Appellants argue (Br. 25-27) that the amendment is invalid because it was not submitted to a referendum of Pinellas County voters as was the initial ordinance. There is no requirement in the Tourist Development Act that a referendum be held to ratify an amendment. The statutory scheme is plainly evident from a sequential reading of the alternative methods prescribed for initial enactment of an ordinance levying the tourist development tax and subsequent amendments:

> Initial ordinance -- Subsections (4)(a)(b) and (c) of the Act govern procedures to be followed prior to levy of a tourist development tax. These include appointment of a tourist development council, consideration of a tourist development plan prepared by the council, adoption of a plan and submission of a proposed ordinance to the electorate. All of these steps were followed in the enactment of Ordinance 78-20.
>
> Amendments -- The statutory requirement for subsequent amendments to a tourist development plan is succinctly stated in subsection (4)(d) of the Act: "After enactment of the ordinance levying and imposing the tax, the plan of tourist development

> may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board."

Appellants' argument confuses the relationship between a referendum and (1) initial authority to levy a tax, on the one hand, and (2) use of tax revenues, on the other. The legislature provided that no tourist development tax could be levied in a particular locality until certain prerequisites had been met, including formulation of an initial tourist development plan and voter approval. Once the tax had been properly authorized, future use of tax revenues was entrusted to the county's governing body, subject to the legislative requirement that a "super-majority" of the county commission would be required to alter the initial plan and that expenditure of tax revenues would be limited to those purposes specified in subsection (5) of the Act. All of these conditions have been met in Pinellas County.

The record shows the true nature of the controversy below to involve use of tourist development tax revenues after the tax itself had been authorized in the manner provided by law. The legislature vested the power to determine subsequent uses of the tax revenues in the Board of County Commissioners of each county, not in the county's electorate. Appellants' desire to gain for their constituencies the power of veto by referendum over the county commission's decision how the tax revenues should be used may be understandable, but it is not authorized by law.[18]

---

[18]In Florida, only the Governor has line-item veto authority. Article III, section 8(a), Florida Constitution.

III. PINELLAS COUNTY'S TOURIST DEVELOPMENT TAX REVENUES MAY BE PLEDGED TO SECURE BONDS ISSUED BY THE PINELLAS SPORTS AUTHORITY.

Appellants contend that Pinellas County's pledge of tourist development tax revenues as security for bonds to be issued by the Pinellas Sports Authority (PSA) is invalid. Their contention is incorrect. The pledge is specifically authorized by the relevant legislative enactments, and the revenues are in fact pledged to secure the bonded indebtedness of the county.

Section 125.0104(5), Florida Statutes, controls the authorized uses of revenues derived from the tourist development tax and reads, in part, as follows:

> (a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:
>
> 1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county.... However, these purposes may be implemented through service contracts and leases with persons who maintain and operate adequate existing facilities;
>
> (b) In any county in which the electors of the county or the electors of the subcounty special tax district have approved by referendum the ordinance levying and imposing the tourist development tax, the revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in paragraph (a)(1).

The plain meaning of the statutory language refutes the contention that the pledging of tourist development tax revenues

is restricted to county bonds. When Section 125.0104(5) is construed in conjunction with the PSA Charter, it is further apparent that the pledging of tourist development tax revenues is not limited to county bonds. Section 8(c) of the PSA Charter[19] provides that the county is authorized

> to enter into cooperative agreements with the authority ... pledging non ad valorem moneys of county ... to the payment of ... debt service costs ... or any part thereof of the authority while bonds issued by the authority are outstanding.

Tourist development tax revenues are, of course, non-ad valorem moneys of the county. If Section 125.0104(5), Florida Statutes, standing alone, restricts the pledging of tourist development tax revenues to county bonds, then an exception to that restriction is provided by the PSA Charter, which empowers the county to pledge non-ad valorem moneys of the county, including tourist development tax revenues, to the payment of obligations issued by PSA.

When a special act and a general law conflict, the special act prevails. State v. Vizzini, 227 So.2d 205 (Fla. 1969). A later special act will control, when in conflict with an earlier general law, since the special act is the more specific expression of legislative intent. Tribune Co. v. School Board of Hillsborough County, 367 So.2d 627 (Fla. 1979). The rule that a special act takes precedence over a conflicting general law especially holds true when both laws are passed during the same

---

[19]Chapter 77-635, Laws of Florida.

legislative session. Loxahatchee River Environmental Control District v. Mann, 403 So.2d 363 (Fla. 1981).

Chapter 77-209, Laws of Florida, the general law which enacted Section 125.0104, Florida Statutes, became effective on June 13, 1977, while Chapter 77-635, Laws of Florida, which enacted Section 8(c) of the PSA Charter, did not become effective until filing with the Secretary of State on July 5, 1977. Because Section 8(c) of the PSA Charter was enacted by subsequent special act, the authority for the pledging of tourist development tax revenues by the county to secure obligations issued by PSA controls over any limitation imposed upon such a pledge by Section 125.0104(5), Florida Statutes.

Even assuming, for the sake of argument, that tourist development tax revenues may only be pledged to secure "revenue bonds issued by the county," the pledge of such revenues to secure the county's obligation to pay a portion of the debt service on obligations issued pursuant to the Interlocal Agreement fully satisfies that requirement.

The bonded indebtedness of the county secured by the tourist development tax is fixed by Section 4(c) of the Interlocal Agreement (A 824), including payments of specified amounts by the county beginning in the fiscal year ending September 30, 1985. Under the Interlocal Agreement, tourist development tax revenues are required to be deposited into a designated account for payment of the annual budgeted amount required to satisfy the county's obligations under the Interlocal Agreement. Excess tourist development tax revenues may be expended monthly by the

county for any lawful purposes. Section 4(E), Interlocal Agreement.

The county's obligations evidenced by the Interlocal Agreement "constitute revenue bonds issued by the County, secured by revenues derived from the Tourist Development Tax," sixth introductory finding, Interlocal Agreement (A 830). It is this bonded indebtedness of the county which is secured by "an irrevocable lien on the County's Excise Tax [tourist development tax]." Section 4(B), Interlocal Agreement. (A 837). Thus, the tourist development tax is pledged to secure "revenue bonds issued by the county."

In State v. City of Daytona Beach, 431 So.2d 981 (Fla. 1983), the City of Daytona Beach agreed in an interlocal agreement with Volusia County to provide the county a total of $29 million in payments (not to exceed $3,100,000 in any one fiscal year) to support certain county revenue bonds. The bonds in question had been validated and issued prior to the execution of the interlocal agreement, and the interlocal agreement was not a part of that validation proceeding. The city brought a second validation proceeding solely to test the validity of the interlocal agreement. This Court rejected the argument that the Daytona Beach interlocal agreement could not be validated outside of the original bond validation proceeding, holding that the interlocal agreement was "evidence of an indebtedness" of the city which could be validated under Chapter 75. 431 So.2d at 981. Since section 75.02, Florida Statutes, authorizes any governmental body to determine its authority to incur "bonded debt" by way of a

validation proceeding, the Court necessarily found that the Daytona Beach interlocal agreement constituted "bonded debt."

Appellants argue that the City of Daytona Beach case is inapplicable here because it involved the pledge of city revenues to satisfy county revenue bonds. Despite the factual distinction, the substantive result is identical to that presented in this case. The Interlocal Agreement was validated by the trial court as establishing the "bonded indebtedness" of the executing entity. In the same way that Daytona Beach undertook bonded indebtedness by its interlocal agreement with Volusia County, the county has undertaken the bonded indebtedness evidenced by the Interlocal Agreement and has pledged tourist development tax revenues to secure that bonded indebtedness, in accordance with the Interlocal Act and the PSA Charter. See fifth introductory finding, Interlocal Agreement, p. 1 (A 829-30).

Consequently, tourist development tax revenues have been pledged by the Interlocal Agreement to secure "revenue bonds issued by the county" within the meaning of the statute and ordinance. Except for the Interlocal Agreement, in order to further tourist development by the construction of the stadium, it would have been necessary for the county, acting alone, to issue revenue bonds to finance the stadium. However, through the Interlocal Agreement, the county chose to cooperate with PSA and the city in the construction and financing of the stadium by joint performance, or performance by one public agency on behalf of the other, of any of each agency's authorized functions. Thus, through the

Interlocal Agreement, the county has authorized PSA, on behalf of the county, to issue the bonds, the notes and other obligations to finance the construction of the stadium.[20] The bonds, the notes and other obligations issued by PSA pursuant to the Interlocal Agreement are, to the extent of the county's pledge, "revenue bonds issued by the county."

Tourist development tax revenues have been validly pledged by the county. The financing of the stadium is an authorized use of tourist development tax revenues. Neither section 125.0104(5), Florida Statutes, nor the ordinance prohibits use of such revenues to secure these obligations. Although PSA will issue the bonds in its name, tourist development tax revenues have been pledged to secure "revenue bonds issued by the county" because of the county's undertaking through the Interlocal Agreement.

IV. FLORIDA STATUTE 125.0104 DOES NOT DENY EQUAL PROTECTION OF THE LAW.

Appellants contend that the Local Option Tourist Development Act, section 125.0104, Florida Statutes, violates the equal protection clause of the United States Constitution, Fourteenth Amendment, and Article I, Section 2, of the Florida Constitution. They argue that the legislative enumeration in the

---

[20]Of course, in issuing the bonds, the notes and other obligations to finance the construction of the stadium, PSA is also performing its own functions and those of the city.

statute (section 125.0104(3)(a)) of classifications of accommodations subject to the tax (any hotel, apartment-hotel, motel, resort motel, apartment, apartment-motel, rooming house, mobile home park, recreational vehicle park, or condominium) arbitrarily and irrationally exempts certain other types of accommodations (i.e., cooperatives).

A party challenging a legislative classification as irrationally related to legislative purpose bears the burden of establishing that unreasonableness. Matthews v. Lucas, 427 U.S. 495 (1976). A legislative determination reflected in a state's statute is conclusive upon the courts if under any possible state of facts the act would be constitutional, assuming that state of facts to be true insofar as it is not overcome by contrary facts which the court judicially notices. State ex rel. Adams v. Lee, 166 So. 249 (Fla. 1935). It is not the judiciary's role to second-guess the legislature's assumptions underlying a classification, or to "hypothesize independently on the desirability or feasibility of any possible alternative basis of presumption." Matthews v. Lucas, supra at 515. Where the power to tax exists, a state does not deny equal protection merely by adjusting its revenue laws and its taxing system in such a way as to favor certain businesses or classes of business or industry, if there is any ground for the separate classification for taxation purposes. State ex rel. Adams v. Lee, supra.

This Court has broadly sanctioned distinctions in excise tax classifications. Such classifications may be based on differences in the cost of police protection, the modes of

conducting the affected business, the burden imposed upon the governmental entity in enforcing the licensed laws, or on other reasonable bases. State ex rel. James v. Gerrell, 188 So. 812 (Fla. 1938). Tax burdens may be unequal. Equal protection does not require identity of treatment, but only requires that the distinction have some relevance to the purpose for which the classification is made, and that the treatments not be so disparate as to be wholly arbitrary. Louis K. Liggett Co. v. Lee, 288 U.S. 517, 77 L.Ed. 929 (1932); State v. Andersen, 208 So.2d 814 (Fla. 1968).

The tourist development tax is an "excise tax." Section 125.0104(3)(a) specifically declares that owners renting specified accommodations for a term of six months or less are "exercising a privilege which is subject to taxation under this Section ...." Like Florida's transient rentals tax (sections 212.02 - 212.03, Florida Statutes), the tax is levied upon a privilege. The thing taxed is the privilege of engaging in the business of renting accommodations within the State of Florida. See, Gaulden v. Kirk, 47 So.2d 567 (Fla. 1950).

The tourist development tax has been specifically upheld against constitutional attack by this Court. Miami Dolphins, Ltd. v. Metropolitan Dade County, 394 So.2d 981 (Fla. 1981). The similar transient rentals tax (Section 212.02-212.03, Florida Statutes) was likewise upheld in Gaulden v. Kirk, supra. In the latter case, the tax was challenged because it exempted certain apartment buildings, i.e., duplexes, described as

"two-family apartment buildings." 47 So.2d at 576. This Court held:

> The Florida Revenue Act of 1949 levies a tax upon the privilege of engaging in certain businesses. Unquestionably the legislature determined that the owner of a two-family apartment building should not be considered as engaging in the business of renting apartments. This is a reasonable classification because the renting of accommodations in a two-family apartment building is engaging in the business of renting apartments in such a trivial and inconsequential manner as to be negligible.

47 So.2d at 576. The Court agreed that the exemption was justified because one who rents no more than two family units in a single building is not substantially engaging in a commercial enterprise--the privilege for which the tax is imposed. Similarly, the Florida Legislature could reasonably determine that the short-term rental of certain accommodations does not involve the owner in the rental business in a sufficiently consequential manner to require the application of the tourist development tax. Gaulden v. Kirk squarely holds that the transient rentals tax (and consequently the subsequently enacted tourist development tax) reasonably classified those businesses exercising the rental privilege according to the nature of that business.

Construction of the tourist development tax in pari materia with the transient rentals tax was approved by this Court in Miami Dolphins, Ltd. v. Metropolitan Dade County, supra. The Court rejected an equal protection challenge to the tourist development tax urged on the ground that the various classifications and exemptions applicable to the transient

rentals tax and the tourist development tax are not rationally connected to any legitimate state interest and are arbitrary. 394 So.2d at 989. The Court held, relying on Gaulden v. Kirk, supra, and quoting from the circuit court's opinion:

> [T]hat comprehensive enactment [chapter 212] and its component transient rentals tax have been incorporated in the statute laws of Florida for virtually 30 years and have withstood a number of court tests. With the state transient rentals tax as its base, the statute authorizing counties to enact similar tourist development taxes appears constitutionally firm.

The Court concluded that neither the Local Option Tourist Development Act nor the Dade County ordinance based thereon violated the equal protection clause of the Florida or United States Constitutions.

Furthermore, the tourist development tax is capable of interpretation and is in fact applied by the Department of Revenue in a manner that eliminates any distinction between apartments, condominiums and cooperatives. Section 125.0104, Florida Statutes, authorizes taxation of the privilege of renting, leasing, or letting living accommodations for consideration. The words "lease", "let", or "rental" are defined in Section 212.02, Florida Statutes, to mean the leasing or rental of accommodations in certain defined facilities, including "apartment houses." An apartment house is defined to be a building where separate accommodations for two or more families are supplied to transient or permanent guests or tenants.

"Apartment house" is distinguished by definition from "hotel" and "rooming house". The term includes various types of

facilities which are named in section 125.0104, Florida Statutes, and others which are not--cooperatives and duplexes, for example. Accommodations in those facilities are, however, subject to the tax because of the broad definition of the privilege of renting accommodations found in Section 212.02(6), Florida Statutes.

The statutory definition of lease, let, or rental covers both condominiums and cooperatives and is entirely consistent with the administrative interpretation of the Department of Revenue. Chapter 12A-3.03, Florida Administrative Code, provides:

> When the owner of a single family dwelling in a condominium apartment house, or the prime leaseholder (owner) of a single family dwelling in a cooperatively owned apartment house rents his apartment, the rental charge is not subject to tax, as such rentals are regarded as rentals of single family dwellings. However, when any owner offers more than one single family dwelling for rent in any one condominium or cooperative apartment house, all such rental charges made by such owner are taxable.

Likewise, Chapter 12A-1.161(15) provides:

> The rental of a duplex is taxable when the owner rents both units, subject to paragraph (1) of this rule. When the owner resides in one unit and rents the other unit, the rental is exempt.

These rules continue the department's longstanding construction of dwelling units in multi-family building "apartments" for taxation purposes. The rules demonstrate a consistent application of the tourist development tax with the transient rentals tax so that both taxes apply to those accommodations most appropriately subject to the privilege tax. The construction

given a statute by the administrative agency charged with its enforcement and interpretation is entitled to great weight, and courts generally will not depart therefrom except for the most cogent reasons and unless clearly erroneous. Daniel v. Fla. State Turnpike Authority, 213 So.2d 585 (Fla. 1968).

There is no basis for the argument that the Department of Revenue is "making law" with its interpretation. The Local Option Tourist Development Act is constitutional on its face and as applied by the administrative authorities.

The purpose of the Act is not simply "tourist development," as alleged by appellants, but in reality is to generate revenues to fund tourist-related programs. The legislative classification bears a rational relationship to the businesses affected by the privilege tax imposed and the administrative implications of the tax levy for the generation of tourist-related revenues. The legislative classifications accordingly have at least "some relevance" to the purpose for which the classifications have been made, and the statute does not violate the equal protection clause of either the Florida or United States Constitutions. See Knight & Wall Company v. Bryant, 178 So.2d 5, 8 (Fla. 1965) ("an act should not be toppled unless it be determined invalid beyond a reasonable doubt") (emphasis by the Court).

V. NEITHER PINELLAS SPORTS AUTHORITY, PINELLAS COUNTY NOR THE CITY OF ST. PETERSBURG VIOLATED THE FLORIDA SUNSHINE LAW.

Appellants argue that meetings between individual members and staff of the governmental bodies involved in the stadium project violate the Florida Sunshine Law. Appellants concede that no case has ever extended the application of the statute to the extent sought (Br. 39). They also fail to reference the applicable language of the statute itself, which provides:

> All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting.

Section 286.011(1), Florida Statutes.

This Court's recent decision in Wood v. Marston, 442 So.2d 934 (Fla. 1983), rests squarely upon the characterization of the search-and-screen committee involved as a decision-making "board or commission" of a state agency subject to the Sunshine Law. Yet, appellants make no attempt to demonstrate how the individual members and staff of different governmental entities could possibly be construed to constitute an "agency or authority" of a political subdivision. In fact, appellants argue vehemently that the Interlocal Agreement created no separate

entity capable of issuing the bonds for the stadium project (Br. 30).

Another problem with appellants' innovative contention is that there was no meeting of two individuals with any decision-making capacity. The individuals involved could only report back to the respective governmental bodies that they represented. The subsequent discussions and decisions of all governing bodies took place in open, public meetings.

The only non-public gathering possibly involving two members of the same governing body occurred February 16, 1982, between certain PSA members, staff, and consultants. The evidence establishes the limited scope and purpose of that meeting,[21] and there is no evidence that it had any relationship at all to the actions taken over 10 months later by the PSA or the stadium project.

Nor does the coincidence of membership on the tourist development council of both Councilman Bond and Commissioner Todd suggest that any meeting they attended was improper. All tourist development council action had been taken prior to any meetings referenced in trial testimony. Bond or Todd could act to impact the tourist development council only by virtue of their respec-

---

[21]The trial testimony establishes that the gathering, which may have contemporaneously involved two PSA members, related only to concerns regarding the content of a study on baseball feasibility released by a consultant to the Tampa Bay Baseball Group, a group competing with PSA to attract a major league baseball franchise to the Tampa-St. Petersburg area. The gathering did not relate at all to the financing of any specific stadium project (A 182-84, 191, 218).

tive positions as a city councilman and a county commissioner. Their membership on the tourist development council suggests no legal impropriety in the absence of any decision to be presented to that body as an outgrowth of the allegedly illegal meetings. No such tourist development council decision remained (A 291, 302-03).

No other discussions referenced by appellants (Br. 37) violate the Sunshine Law. That law prohibits secret meetings. The term "secret meeting" has been defined by this Court as follows:

> A secret meeting occurs when public officials meet at a time and place to avoid being seen or heard by the public. When at such meetings officials mentioned in Fla. Stat. Section 286.011, F.S.A., transact or agree to transact business at a future time in a certain manner they violate the Government in the Sunshine Law, regardless of whether the meeting is formal or informal.

City of Miami v. Berns, 245 So.2d 38, 41 (Fla. 1971). It is clear that any discussions indicated by the evidence in this cause do not rise to the level necessary to constitute a violation of the Sunshine Law. Any such general discussions (which were never specifically related to any subject relevant to the stadium project in issue) did not result in the transaction of or agreement to transact any public business.

Appellants' case at trial consisted largely of interrogating various members of the governing bodies in an effort to show Sunshine violations. The effort was totally fruitless. There were no illegal meetings. There is absolutely no proof that any of the transactions sought to be validated were accom-

plished as a result of non-public meetings. Recent Florida cases do not support a finding of violation upon evidence of non-specific, preliminary, or informational discussions followed in every instance by full, open and public consideration of matters involved. See, e.g., Tolar v. School Board of Liberty County, 398 So.2d 427 (Fla. 1981); Occidental Chemical Co. v. Mayo, 351 So.2d 336 (Fla. 1977); B.M.Z. Corp. v. City of Oakland Park, 415 So.2d 735 (Fla. 4th DCA 1982).

The Sunshine Law may apply to activities of members or committees outside of formal meetings resulting in agreements which render later discussions and acceptance by the governing body a "ceremonial sham." Town of Palm Beach v. Gradison, 296 So.2d 473 (Fla. 1974); News Press Publishing Company, Inc. v. Carlson, 410 So.2d 546 (Fla. 2d DCA 1982); Occidental Chemical Company v. Mayo, 351 So.2d 336 (Fla. 1977).

The instant situation does not involve the mere review by the governing bodies of a completed decision-making process. The evidence is sufficient to establish that decision-making was not intended or accomplished in any of the meetings referenced by appellants. The record establishes the requisite "first-hand observation" of the decision-making process by the public, and does not remotely suggest the action of any governing body to "insulate" itself from public scrutiny of any decision. See Wood v. Marston, supra. Rather, any meetings involved in this case accomplished only "certain exchanges of information which are not 'decision-making' in nature, and which were thus not official acts within the meaning of the law" of any governing body. 442

So.2d at 940. See also Occidental Chemical Co. v. Mayo, supra; Bennett v. Warden, 333 So.2d 97 (Fla. 2d DCA 1976).

For the reasons set forth above, no violations of the Florida Sunshine Law were established before the trial court. All of the actions taken by the public bodies involved constituted "independent, final action in the sunshine," and not perfunctory ratification of secret decisions. Tolar v. School Board of Liberty County, 398 So.2d 427, 429 (Fla. 1981). See also, B.M.Z. Corp. v. City of Oakland Park, 415 So.2d 735 (Fla. 4th DCA 1982); Bassett v. Braddock, 262 So.2d 425 (Fla. 1972). Consequently, no actions taken by the county, PSA, or the city in connection with the stadium project are invalid.[22]

VI. THE FINAL JUDGMENT CONTAINS AMPLE FINDINGS AND CONCLUSIONS TO SUPPORT VALIDATION OF THE BONDS.

Appellants finally complain that the trial judge did not enter a final judgment structured to their arguments and their theories of the case. There is no requirement that a judgment be entered in the form requested by a party.

---

[22]In light of the circumstance that the subject matter of these appeals has been fully reported in the media, it is significant that neither the Attorney General nor any media interest has joined appellants' attack on the integrity of the governmental deliberations involved here. Compare the lineup of amici participating in Wood v. Marston, supra, 442 So.2d at 936. It is further significant that State Attorney James T. Russell did not appeal Judge Sanderlin's ruling that no Sunshine Law violation occurred.

The order below consolidating appellants' earlier filed action for declaratory and injunctive relief with the bond validation proceedings was properly entered because of the common issues involved in the two cases. Because of the expedited timetable provided by statute and court rules for bond validation proceedings, the consolidation order effectively granted to the bond validation proceedings preemptive status over the other case to the extent common issues were involved. To hold otherwise would bring about an awkward result; appeal to the district court of appeal[23] of the trial court's adjudication in the declaratory action could hardly override this Court's disposition of the same appellate issues in the bond validation appeal.

Further argument on the form of judgment entered seems superfluous. This Court has reviewed countless bond validation judgments structured in precisely the manner involved here. The purpose of such a judgment, which sometimes is and sometimes is not the subject of appellate review, is to establish the integrity of the obligations being validated. That purpose was achieved here.

As to the one issue that was not common to both cases -- whether expenditures from tourist development tax revenues for preliminary study of the stadium project were authorized -- the final judgment disposes of appellants' contentions as follows:

---

[23]Appellants note in their brief (Br. 2) that they have filed a companion appeal to the Second District Court of Appeal "out of caution."

> 46. Expenditure of Tourist Development Tax revenues to help finance the acquisition and construction of the Stadium in the manner provided in the Interlocal Agreement is fully and lawfully authorized under Section 125.0104, Florida Statutes, the TDT Ordinance and the Amending Ordinance.
>
> 47. No expenditures of Tourist Development Tax revenues have been made for unauthorized projects or uses.
>
> 48. No expenditures of Tourist Development Tax revenues for purposes not authorized by the TDT Ordinance but authorized by the Amending Ordinance were made prior to the enactment of the Amending Ordinance.

Appellants' disagreement with those findings and conclusions does not emasculate them. The adversary arguments relating to those issues were fully developed in the trial court and have been argued here.[24] Nothing further remains but for this Court to affirm or reverse that part of the judgment below.

---

[24]Appellees' response on the merits to appellants' charge that expenditures for preliminary studies were unauthorized is made at p. 15, supra.

VII. NO REFERENDUM WAS REQUIRED BECAUSE THE INTERLOCAL AGREEMENT DOES NOT REQUIRE IMPOSITION OF A MINIMUM AD VALOREM TAX.[25]

Appellant Rowe contends that because the Interlocal Agreement imposes an obligation on the city to collect the city's excise taxes, and the city's eligibility to receive the city's excise taxes is dependent upon the levy by the city of a minimum ad valorem tax, the bonds are indirectly secured by ad valorem taxation and a referendum was required to approve their issuance.

No approving referendum was required. The premise for this argument, that the city's eligibility to receive the city's excise taxes is dependent upon the levy of a minimum ad valorem tax, is fallacious.

The city has pledged proceeds from its Guaranteed Entitlement Funds and Sales Tax to secure its obligations under the Interlocal Agreement. Section 218.23, Florida Statutes (1983), specifies the requirements which must be fulfilled by the city for it to be eligible to receive the Guaranteed Entitlement Funds in any fiscal year. Pertinent here is the requirement that the city shall have:

> Levied ... ad valorem taxes, exclusive of taxes levied for debt service or other special millages authorized by the voters, to produce the revenue equivalent to a millage rate of 3 mills on the dollar based on the 1973 taxable values ... or, in order to produce revenue equivalent to that which

---

[25]This point is raised in the separate brief filed by appellant Rowe.

> would otherwise be produced by such 3-mill ad valorem tax, to have received a remittance from the county pursuant to s. 125.01(6)(a), collected an occupational license tax or a utility tax, levied an ad valorem tax, or received revenue from any combination of these four sources.... This paragraph requires only a minimum amount of revenue to be raised from the ad valorem tax, the occupational license tax, and the utility tax. It does not require a minimum millage rate.

Section 218.23(1)(c), Florida Statutes (1983).[26]

Clearly, the statute merely requires a specified amount of revenue to be collected from any combination of utility tax, occupational license tax, or ad valorem tax. Under the current statute, the city has the option to establish its eligibility to receive the Guaranteed Entitlement Funds without regard to any ad valorem levy. The city's compliance with that eligibility requirement was admittedly established at trial (Rowe Br. 4). The covenant by the city to remain eligible to receive the Guaranteed Entitlement Funds in no way legally obligates the city to levy a minimum ad valorem tax. The city's covenant is merely to remain eligible to receive Guaranteed Entitlement Funds. No contractual obligation to levy an ad valorem tax exists.

The obligations of PSA, the city and the county sought to be validated in this action are revenue obligations, not payable from ad valorem taxation, and no approving referendum is

---

[26]Prior to 1982, the statute read "or received revenue from any combination of these three sources, in combination with the ad valorem tax" instead of "or received revenue from any combination of these four sources." As a matter of statutory construction, the change from a specific reference to the ad valorem tax in the prior statute virtually eliminates any argument that the City of St. Petersburg's ad valorem taxation is more than incidentally affected by the Interlocal Agreement.

required. City of Palatka v. State, 440 So.2d 1271 (Fla. 1983); Jacksonville Shipyards, Inc. v. Jacksonville Electric Authority, 419 So.2d 1092 (Fla. 1982); State v. Alachua County, 335 So.2d 554 (Fla. 1976); Town of Medley v. State, 162 So.2d 257 (Fla. 1964).

In State v. City of Daytona Beach, 431 So.2d 981 (Fla. 1983), this Court held that the city's pledge of Guaranteed Entitlement Funds under a similar interlocal agreement had only an incidental effect on ad valorem taxes and that no referendum was required.

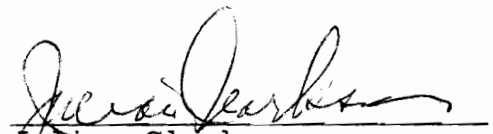
The holdings of State v. Halifax Hospital District, 159 So.2d 231 (Fla. 1963), and County of Volusia v. State, 417 So.2d 968 (Fla. 1982), were candidly summarized by appellant Rowe's brief as requiring a referendum

> ... where, under the controlling documents, a pledge of non-ad valorem revenues necessarily requires the imposition of an [sic] valorem tax even though the ad valorem tax revenue itself is not pledge for the payment of the bonds.

(Rowe Br. 9). Therein lies the distinction from the instant case. No levy of ad valorem taxes is "necessarily required" by the Interlocal Agreement's pledge of Guaranteed Entitlement Funds. All that is "necessarily required" is the collection of sufficient revenue from among the alternative sources permitted by statute. The city has complied with that requirement without regard to ad valorem revenues. No referendum was required.

CONCLUSION

The judgment validating the bonds and Interlocal Agreement was entered in full compliance with all statutory and constitutional requirements and should be speedily affirmed.



Julian Clarkson
C. Lawrence Stagg
Dennis R. Ferguson
HOLLAND & KNIGHT
Post Office Drawer 810
Tallahassee, Florida 32302
(904) 224-7000

Van B. Cook
Assistant County Attorney
315 Haven Street
Clearwater, Florida 33515
(813) 462-3354

Michael S. Davis
City Attorney
175 - 5th Street N., Rm. 210
St. Petersburg, Florida 33731
(813) 893-7401

Attorneys for Appellees

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to GERALD F. RICHMAN, ESQUIRE, Floyd, Pearson, et al., One Biscayne Tower, 25th Floor, Miami, Florida 33131; by United States Mail to GEORGE H. BAILEY, ESQUIRE, Jones & Foster, 601 Flagler Drive Court, Post Office Drawer E, West Palm Beach, Florida 33402; J. TERRELL WILLIAMS, ASSISTANT ATTORNEY GENERAL, Department of Legal Affairs, The Capitol, Tallahassee, Florida 32301; and to JAMES T. RUSSELL, STATE ATTORNEY, Post Office Box 5028, Clearwater, Florida 33518, this 11th day of July, 1984.

Julian Clarkson