

DA 9-4-84

IN THE SUPREME COURT OF FLORIDA

J. ROBERT ROWE,

CASE NO.: 65,322

Appellant,

vs.

PINELLAS SPORTS AUTHORITY, PINELLAS COUNTY, FLORIDA and CITY OF ST. PETERSBURG, FLORIDA, THE STATE OF FLORIDA, THE TAXPAYERS, PROPERTY OWNERS AND CITIZENS OF PINELLAS COUNTY, OR SUBJECT TO TAXATION THEREIN, THE TAXPAYERS, PROPERTY OWNERS AND CITIZENS OF THE CITY OF ST. PETERSBURG, FLORIDA, INCLUDING NONRESIDENTS OWNING PROPERTY OR SUBJECT TO TAXATION THEREIN, PINELLAS RESORT ORGANIZATION, INC. a Florida Not-For-Profit Corporation, HOLIDAY HOUSE MOTEL-APTS.INC., a Florida Corporation, HAROLD E. SLAUGHTER, WILLIAM A. TOLLIVER AND STATE OF FLORIDA, DEPARTMENT OF REVENUE, PINELLAS RESORT ORGANIZATION, INC.,

Appellees,

FILED
SID J. WHITE
AUG 8 1984
CLERK, SUPREME COURT
By [Signature]
Chief Deputy Clerk

PINELLAS RESORT ORGANIZATION, INC., a Florida Corporation, not-for profit, HOLIDAY HOUSE MOTEL-APTS., INC., HAROLD E. SLAUGHTER, and, WILLIAM A. TOLLIVER,

CASE NO.: 65,420

Appellants,

vs.

PINELLAS SPORTS AUTHORITY, PINELLAS COUNTY, FLORIDA, CITY OF ST. PETERSBURG, FLORIDA, THE STATE OF FLORIDA, THE TAXPAYERS, and, J. ROBERT ROWE,

Appellees.

REPLY BRIEF OF APPELLANT, J. ROBERT ROWE

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A REFERENDUM WAS REQUIRED BECAUSE
THE INTERLOCAL AGREEMENT CONTAINS
A CONTINGENT CONTRACTUAL COMMITMENT
BY THE CITY TO IMPOSE A MINIMUM
AD VALOREM TAX

Appellees' Answer Brief (p.39) concedes that the Interlocal Agreement and Bond Resolution include a contractual commitment by the City to collect a minimum amount of revenue from three alternate sources, one of which is ad valorem taxes. Hence, Appellees admit that the controlling documents contain a contractual commitment, albeit contingent, to levy an ad valorem tax.

Appellees' Brief (p.38) seeks to justify the making of this ad valorem commitment, without referendum, on the basis that the alternate sources of revenue are presently sufficient to avoid the imposition of ad valorem taxes. This Court, however, has never permitted, without referendum, a commitment of non-ad valorem revenue coupled with a supporting commitment of ad valorem taxes. State v. Halifax Hospital District, 159 So.2nd 231, 233 (Fla. 1963). This, regardless of the apparent present sufficiency of the non-ad valorem revenue to meet the contractual commitment.

Appellees' Brief (p.39) also seeks to justify the ad valorem tax commitment, without referendum, on the ground that the Interlocal Agreement and the Bond Resolution pledged only Guaranteed Entitlement Funds and argues that therefore the commitment has only an "incidental effect" on ad valorem taxes.

This Court has already ruled, however, that the ad valorem tax revenue need not itself be pledged to service the bonds. All that is needed to require a referendum is that the ad valorem tax power might be directly or indirectly compelled. State v. Halifax Hospital District, supra.

Appellees' Brief (p.39) cites State v. City of Daytona Beach, 321 So.2nd 981 (Fla. 1983) for the proposition that a pledge of Guaranteed Entitlement Funds without referendum is permissible because the pledge has only an incidental effect on ad valorem taxes. In Daytona Beach, however, this Court focused on a provision in an interlocal agreement stating that the payments required to be made by Daytona Beach "may be made from any funds of the City derived from sources other than ad valorem taxation". (431 So.2nd at 983). The taxpayer argued that that provision obligated Daytona Beach to use all its non-ad valorem funds to make the payments. This Court disagreed as to the meaning of this language and therefore approved the validation of the interlocal agreement. Appellants' contention on this appeal is entirely different and apparently was not considered in Daytona Beach.

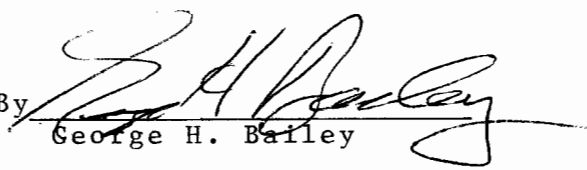
CONCLUSION

The Final Judgment validating the Bond Resolution and the Interlocal Agreement should be reversed because they contain a contingent contractual commitment to impose a minimum ad valorem tax.

Respectfully submitted,

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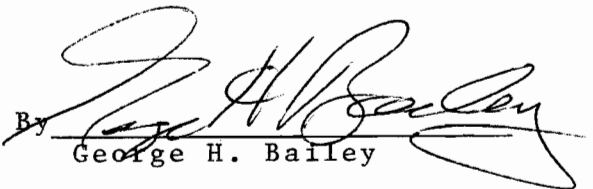
By


George H. Bailey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by United States mail on this 6th day of August, 1984 to Julian Clarkson, Esq., Holland & Knight, P.O. Drawer 810, Tallahassee, Florida 32302; Jim Smith, Esq., Attorney General and J. Terrell Williams, Esq., Assistant Attorney General, Department of Legal Affairs, The Capitol, Tallahassee, Florida 32301; Gerald F. Richman, Esq., Floyd, Pearson, Stewart, Richman, Greer, Weil & Zack, P.A., One Biscayne Tower, 25th Floor, Two Biscayne Blvd., Miami, Florida 33131; and to James T. Russell, Esq., State Attorney, P.O.Box 5028, Clearwater, Florida 33518.

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