IN THE SUPREME COURT

OF FLORIDA

CASE NO. 66,187

STATE OF FLORIDA,

Appellants, et al,

vs.

BROWARD COUNTY,

Appellee.

APPEAL FROM THE CIRCUIT COURT OF
THE 17TH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

APPELLANTS' BRIEF

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INTRODUCTION

This brief constitutes appellants' initial brief on appeal from a final order of the Broward County Circuit Court validating Broward County's $590 million revenue bonds for a solid waste disposal facility.

In this brief, the parties will be referred to as they stand in this Court and as they appear below. Broward County, the Appellee, will be referred to as "The County".

The Appellant, the State of Florida, will be referred to as "The State of Florida."

The other Appellants, South Broward Citizens for a Better Environment, representing over 3,000 persons, Bruce Head, Sylvia Clemmets, Phillip Beck, Steve Simmons, and Toby Miller, will be collectively referred to as the "The Appellants."

The lower Court is the Circuit Court and will be referred to as the "Circuit Court" or "Trial Court".

An Appendix is filed simultaneously with this Brief. The Appendix constitutes certain principal documents which were before the Trial Court on consideration of the bond validation Complaint.

The following symbols will be used for the purposes of clarity and identification of the record:

"Fla. App." stands for the comprehensive Appendix which constitutes the principle documents before the Trial Court and which has been filed with the State of Florida's Brief.

"Sup. App." stands for the Appendix of these Appellants that have been filed with this Brief and supplements the State of Florida's Appendix.

STATEMENT OF THE CASE AND STATEMENT OF THE FACTS

This is an Appeal from the Broward Circuit Court validating $590,000,000.00 of revenue bonds to be issued by Broward County.

The County intends to finance a solid waste disposal facility by issuing industrial development bonds. (I.D.B.'s) The County has no intend to develop this project alone but will contract with a private vendor requiring the vendor to acquire, construct, and install solid waste disposal and conversion facilities.(Fla. App. p. 1, 10, 304, 349, 350). The idea of the project is basically to convert garbage to electricity and any unprocessable garbage and residue from the processing such as ash will be stored in landfills. (Fla. App. p. 28).

The County, in its first resolution with regard to this matter, 84-964, clearly indicated that they would be using industrial development bonds (IDB's) to finance this project.(Fla. App. p. 1). The resolution specified that IDB's would be issued pursuant to the Florida Industrial Development Financing Act, Part II, Chapter 159 of the Florida Statutes (hereafter referred to as the IDB Act). (Fla. App. p. 1).

On September 4th, 1984, the County adopted its second resolution on this matter, 84-2053, stating that it would finance the project with IDB's, and alleged compliance with the IDB Act by making certain findings of fact and

conclusions.(Fla. App. p. 10). The resolution specified that the IDB's would be payable solely from revenues derived from the sale, operation or leasing of the project and further specified that in accordance with Section 166.111 the County would issue special obligation bonds secured by the half-cent sales tax in order to guarantee payment on the IDB's. (Fla. App. p. 10, 11).

The County stated that the special obligation bonds would "induce the purchasers of the bonds to purchase the bonds and to induce any insuror or financial institution which may provide bond insurance or a credit facility for the bonds based upon the assurance that there will a source of monies available to pay any deficiency amount and accordingly such covenant and agreement will be deemed by the County to create a contractual obligation to such bond purchasers and to any such insurer or financial institution which may provide bond insurance or a credit facility entitled to protection and enforcement under the United States Constitution". (Fla. App. p. 22).

The County's Resolution 84-2053 further specified that they had met all criteria and requirements of the IDB Act, Section 159.29 by specifically finding that the project would be sold to a financially responsible corporation, and that adequate provision will be made for said financial arrangements for the operation, repair and maintenance of the project at the expense of the company. (Fla. App. p. 14, 15).

Following the adoption of resolution 84-964 and 84-153, the County filed a bond validation complaint asking the Court to approve issuing IDB's and the issuance of special obligation bonds. (Fla. App. p. 32). State of Florida as well as other residents and tax payers and the appellants in this proceeding filed an answer opposing the bond validation complaint. Among the affirmative defenses raised by the defendants were 1. the County failed to comply with the IDB Act by failing to select a vendor and 2. the County pledged credit to a private corporation contrary to the Florida Constitution, Article VIII Section 10. (Fla. App. p. 84, 94).

The evidence at the bond validation hearing disclosed that no vendor had been selected by the County. Without a vendor, the County could not have acted in accordance with the IDB Act 159.29. Specifically, the County could not find that the vendor is financially responsible and fully capable and willing to fulfill its obligations under the financing agreement, including the obligation to make payments in the amounts and at the times required and was capable of operating, repairing and maintaining the project at its own expense. In determining financial responsibility of the vendor the County could not have given any consideration to a party's ratio of current assets and current liabilities, its net worth, earnings trends, coverage of all fixed charges, the inherent stability of the company, any guarantee of the obligations by some other

financially responsible corporation, firm or person and other factors determinative of the capability of the party to financially or otherwise fulfill its obligations consistent with the purposes of the IDB Act.

The evidence discloses that the financial agreement between the County and the proposed vendor would obligate the County to deliver 1,095,000 tons of garbage to the vendor at the sites. (Fla. App. p. 250, Sup. App. p. 13, 14). The County, at the present time, only has capacity to deliver 160,000 tons of garbage per year.(Sup. App. p. 14). The current deficit between what the County can deliver and what it is obligated to deliver is 935,000 tons of garbage. If the County does not deliver the required tonnage under the agreement, the County will be obligated to pay the vendor a tipping fee.(Fla. App. p. 250; Sup. App. 15, 22). This has been called the "put or pay obligation". (Fla. App. p. 250, Sup. App.) In other words, if the County cannot <u>put</u> the garbage at the site, then the County will be obligated to <u>pay</u> a tipping fee. (Fla. App. p. 250; Sup. App. 15, 22.) The tipping fee has not been determined, however, it can range up to $25.00 or $30.00 or more per ton. (Sup. App. p. 22.) At the current deficit of 935,000 tons with a tipping fee of $25.00 per ton the unincorporated County residents could be required to pay over 23 million dollars. (Fla. App. p. 251; Sup. App. p. 18, 19, 21, 22.) The County will require residents in the

unincorporated area of the County to pay the tipping fees by assessing the residents annually. (Fla. App. p. 250, 251; Sup. App. p. 16.)

During the course of the proceedings, and at the conclusion of the evidence, the County abandoned its position seeking validation of IDB's but contended that revenue bonds could be issued in accordance with Section 166.111 Florida Statutes. (Fla. App. p. 326, 327, 364.)

The Court found that the revenue bonds could be financed by the County and issued pursuant to Section 166.111. (Fla. App. 252.)

ISSUE ON APPEAL

WHETHER THE COUNTY CONTRARY TO ARTICLE VII, SECTION 10 OF THE 1968 CONSTITUTION UNLAWFULLY PLEDGED ITS CREDIT TO A PRIVATE CORPORATION.

A.

WHETHER THE "PUT A PAY OBLIGATION" OF THE COUNTY TO A PRIVATE CONTRACTOR IS AN UNLAWFUL PLEDGE OF CREDIT.

B.

WHETHER THE COUNTY'S SPEICAL OBLIGATION BONDS SECURED BY A HALF CENT SALES TAX IS AN UNLAWFUL PLEDGE TO A PRIVATE CORPORATION.

ARGUMENT

THE COUNTY CONTRARY TO ARTICLE VII, SECTION 10, OF THE 1968 CONSTITUTION HAS UNLAWFULLY PLEDGED ITS CREDIT TO A PRIVATE CORPORATION.

An appropriate place to begin an analysis of the prohibition of a County's pledge of credit to aid a private corporation is with Article VII, sections 10, of the 1968 Florida Constitution. This prohibition in its present form reads as follows:

> Neither the state nor any county, school district, municipality, special district, or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership or person; but this shall not prohibit laws authorizing:
> (a) the investment of public trust funds;
> (b) the investment of other public funds in obligations of, or insured by, the United States or any of its intrumentalities;
> (c) the issuance and sale by any county, municipality, special district or other local governmental body of (1) revenue bonds to finance or refinance the cost of capital projects for airports or port facilities, or (2) revenue bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants to the extent that the interest thereon is exempt from income taxes under the then existing laws of the United States, when, in either case, the revenue bonds are payable solely from revenue derived from the sale, operation or leasing of the projects. If any project so financed, or any part thereof, is occupied or operated by any private corporation, association, partnership or person pursuant to contract or lease with the issuing body, the

> property interest created by such contract or lease shall be subject to taxation to the same extent as other privately owned property.
> (d) a municipality, county, special district, or agency of any of them, being a joint owner of, giving, or lending or using its taxing power or credit for the joint ownership, construction and operation of electrical energy generating or transmission facilities with any corporation, association, partnership or person.

The origin of this organic law was preceded by Article IX, Section 10 of the 1885 Florida Constitution and prior to that it was adopted as an Amendment in 1875 to Section 7 of Article XIII of the Constitution of 1868.

Mr. Justice Terrell in Bailey v City of Tampa, 92 Fla. 1030, 111 So.119, 120 (1926) very eloquently stated the reasoning of our astute forefathers when this section was originally adopted:

> The reason for this amendment was that, during the years immediately preceding its adoption, the state and many of its counties, cities, and towns had by legislative enactment become stockholders or bondholders in, and had in other ways loaned their credit to, and had become interested in the organization and operation of, railroads, banks, and other commercial institutions. Many of these institutions were poorly managed, and either failed or become heavily involved, and, as a result, the state, counties, and cities interested in them became responsible for their debts and other obligations.***Hence the amendment, the essence of which was to restrict the activities and functions of the state, county, and municipality to that of

> government, and forbid their engaging directly or indirectly in commercial enterprises. (Emphasis added.)

This Court, in State v Town of North Miami, 59 So.2d 779 (Fla. 1952) reaffirmed the principle that the expenditure of public money for a private purpose whether from ad valorem taxes, by gift or otherwise is prohibited and appropriately stated:

> Our organic law prohibits the expenditure of public money for a private purpose. It does not matter whether the money is derived by ad valorem taxes, by gift, or otherwise. It is public money and under our organic law public money cannot be appropriated for a private purpose or used for the purpose of acquiring property for the benefit of a private concern. It does not matter that such undertakings may be called or how worthwhile they may appear to be at the passing moment. The financing of private enterprises by means of public funds is entirely foreign to a proper concept of our constitutional system. Experience has shown that such encroachments will lead inevitably to the ultimate destruction of the private enterprise system.

The overall intent of this section, to avoid any entanglement of the State's credit with private enterprise, was made clear in Dade County v Michigan Mutual Liability Company, 174 So.2d 3, 5 (Fla. 1964) when the Court said that "reading the whole section, it is patent that the design of it was to keep the State out of private business; to insulate State funds against loans to individual corporations or associations and to withhold the State's credit from entanglement in private enterprise." (Emphasis added.)

Prior to the 1968 Constitution, Article VII, section 10, industrial revenue development bonds had been proscribed as an invalid lending of public credit for private purposes. See State v Manatee County Court Authority, 193 So.2d 162 (Fla. 1966); State v Town of North Miami, 59 So.2d 779 (Fla. 1952), City of West Palm Beach v State of Florida, 113 So.2d 374 (Fla. 1959); State v Clay County Development Authority, 140 So.2d 576 (Fla. 1962). Only if the project to be financed was of paramount public importance and the private benefit waas strictly incidental did this court approve such financing. See Panama City v State, 93 So.2d 608 (Fla. 1957); State v Daytona Beach Racing and Recreational Facilities District, 89 So.2d 34 (Fla. 1956). Following adoption of the 1968 Constitution, article VII section 10(c) permits counties, municipalities or other local governmental bodies to finance capital projects for industrial or manufacturing plants by revenue bonds. The revenue bonds must be payable solely from revenue derived from the sale, operation or leasing of the projects.

"To implement this new exception, the legislature passed Chapter 69-104, Laws of Florida, in 1969. See State v County of Dade, 250 So.2d 875, 877 (Fla. 1971). See also section 159.26 Fla. Stat. (1981). Codified as Part II of Chapter 159, Florida Statutes, the 'Florida Industrial Development Financing Act' specifically permitted, as does the Constution, financing

of 'industrial or manufacturing plants.'" Orange County Industrial Development Authority v State, 427 So.2d 174, 177. (Fla. 1983).

However, if the "contested project does not fall within that authorized type, then the project must 'run the gauntlet' and pass scrutiny under the cases decided prior to the 1968 Constitutional change to see if it is permissible under article VII, section 10's general rule requiring a paramount public purpose. Only then can the project be validated." Orange County Industrial Development Authority v State, supra. 177.

Before determining whether this project has a paramount public purpose, the County must first hurtle the issue of whether they have improperly pledged their credit to a private enterprise.

A.

THE "PUT AND PAY OBLIGATION" OF THE COUNTY TO A PRIVATE CONTRACTOR IS AN UNLAWFUL PLEDGE OF CREDIT.

In Nohrr v Brevard County Educational Facilities Authority, 247 So.2d 304, 309 (Fla. 1971), the court attempted to define the term "credit" as applied to revenue bonds and as used in article VII, section 10;

> The word 'credit' as used in Fla. Constitution art. VII, § 10 (1968), implies the imposition of some new financial liability upon the state or a political subdivision which in effect results in the creation of a state or political subdivision debt for the benefit of private enterprises.

> In order to have a gift, loan or use of public credit, the public must be either directly or contingently liable to pay something to somebody. Emphasis added.

In Betz v Jacksonville Transportation Authority, 277 So.2d 769, (Fla. 1973), this court narrowed the scope and meaning of the term "credit". The City of Jacksonville established an authority to purchase and operate a bus service. Revenue bonds were to be issued to finance the project. A private management corporation was employed. The corporation's mangement fee would be payed solely from the operational revenues of the project and not from any charges against the tax payers of the city or revenues or the taxing authority of the city. The court in finding no scheme, device or artifice would be employed either indirectly or contingently to obligate the citizens or city to pay the private corporate fee the court appropriately held:

> If the management contract either directly, indirectly, or contingently bound the City of Jacksonville or the citizens thereof to pay the deferred management fees from ad valorem revenues instead of from the operational revenues and the funds heretofore appropriated and allocated to the Authority for the acquisition and operation of the bus system, the same would be invalid in the absence of a requisite approving referendum vote. See Nohrr v Brevard County Education Fac. Auth., supra, 247 So.2d at 309.
> We do not find anything in the management or purchase contracts that constitutes a scheme or device of the kind denounced in Kathleen Citrus Land Co. v City of Lakeland, 124 Fla. 659, 169 So.356, to pledge the public credit or taxing power.

In State v Florida Keys Aqueduct Commission, 4 So.2d 662 (1941) this Court examined the financial arrangements between the City and a private corporation to determine if the City's obligation to purchase water was a "bond" that constituted and unconstitutional lending of the City's credit. The City under a lease agreement was obligated to purchase an amount of water that it wanted or saw fit to purchase. The agreement was not a requirement's contract obligating the City to buy more than it needed. If the contract were for more than what was needed, then it would be an unlawful extention of the City's credit to a private corporation. The Court on the facts of that case appropriately stated that the "lease creates no debts on the part of the City, nor is there any obligation on the part of the City to subscribe or to be furnished or to pay for any water supply, except that for which the City may see fit to contract." State v Florida Keys, supra at 671.

The facts in this case disclose the County will contract with a private vendor to construct, operate and maintain this project. The terms of the financing contract provides the City under a "put or pay obligation" will be obligated to supply a minimum of 1,095,000 tons of garbage per year to the private contractor. For every ton of garbage not delivered, the County will pay a tipping fee and in addition the County will pay the contractor's lost share of energy revenues that would have been derived from the energy produced from the garbage. The tipping

fee has not been established but could be any figure or could be as little as $25.00 per ton. The County presently controls about 160,000 tons of garbage per year. The County has a current deficit of 935,000 tons of garbage that it cannot presently deliver to the contractor. The County will be obligated to pay the contractor a tipping fee on each of the 935,000 tons of garbage plus the loss of energy revenues. If the tipping fee were $25.00 per ton, the County's obligation on the tipping fee alone could cost over $23,000,000 dollars annually to the County and its tax payers.

The corportion obviously needs a certain amount of garbage, 1,095,000 tons to produce electricity which will in turn generate energy revenues. The energy revenues are necessary to produce a profit for the company as well as service the debt on the revenue bonds. If the contractor does not receive the required 1,095,000 tons of garbage, he may default on the bonds or lose a profit. The "put or pay obligation" is a guarantee to the contractor that the County will financially support this company through thick or thin.

This "put or pay obligation" is exactly the type of requirements contract that the Court in State v Florida Keys, supra, condemned. In that case, the City was only obligated to buy what it needed. The City in Florida Keys had a quid pro quo contract. The City purchased and received water as was needed in exchange for payment. This case is just the

opposite. In this case, the "put or pay obligation" requires the County to pay for nothing in return. Here, the County is obligating itself and its tax payers to pay a contractor for every ton of garbage not delivered by the County.

The "put or pay obligation", is a scheme, a device, a sham, and an artifice that was denounced in Betz v Jacsonville Transportation Authority, supra. In Betz, the Court stated that no public monies could be used directly or indirectly or contingently to bind the City or its tax payers to pay from any funds other than the project revenues the private contractors management fee. In this case, the financing arrangements or the "put or pay obligation" is a mask for a public subsidy of a private company.

The "put or pay obligation" in this financing arrangement is exactly the type of evil public entanglement of public monies with a private corporation that our Constitution was designed to avoid. Article VII, Section 10 is designed to insulate public monies from the obligations of private corporations as stated in Dade v Michigan Mutual, supra. No matter how the private company derives the money from a public entity whether by ad valorem taxes, from gifts, or otherwise, such expenditure of public funds to aid a private corporation is clearly contrary to the article VII, §10. In this case, the County has crossed the line by guaranteeing and entering into a requirement contract obligating itself to over a 1,095,000 tons

of garbage or in excess of $23 million dollars a year annually to a private corporation. Without the obligation of the County, this corporation could go out of business and default on the debt.

The "put or pay obligation" requires the tax payers of Broward County in unincorporated areas to pay through assessments the tipping fee and loss of energy revenues for a private corporation. If allowed to stand, will the "put or pay obligation" render "meaningless" article VII §10? Surely this Court will not give carte blanche authority to this County to write a blank check to a private corporation and receive nothing in return.

ISSUE B.

THE COUNTY'S OBLIGATION TO REPAY THE REVENUE BOND BY ISSUING SPECIAL OBLIGATION BONDS SECURED BY A ONE HALF CENT SALES TAX IS AN UNLAWFUL PLEDGE OF CREDIT.

The Florida Industrial Development Act, Part Two, 159.25 F.S. 1983 (hereafter referred to as the IDB Act) was enacted in response to Article VII, §10c of the 1968 Constitution. The legislature at 159.26(4) stated the purpose and intent of the Act.

> The purposes to be achieved by such projects and the financing of them in compliance with the criteria and requirements of this part are predominantly the public purposes stated in this section, and such purposes implement the governmental purposes under

> the State Constitution of providing for the health, safety and welfare of the people, including implementing the purpose of §10(c) of Art. VII of the State Constitution.

As required by Article VII §10(c), the Industrial Development Bonds (IDB's) can only be payable from "revenues derived from the sale, operation or leasing of the projects." The definition of Bonds as appears in the Act carries forth this constitutional restriction. The definition reads as follows:

> 'Bonds' or, 'Revenue Bonds' means the bonds authorized to be issued by any local agency under this part, which may consist of a single bond. The term 'bonds' or 'revenue bonds' also includes a single bond, a promissory note or notes or other debt obligations evidencing an obligation to repay borrowed money together with any security instruments or agreements securing repayment of such borrowed money and payable solely from the revenue from the sale, operation or leasing of any project or other payments received under financing agreements with respect thereto. 159.27(1) F.S.1983.

In contrast to IDB Bonds, Chapter 166 municipal revenue bonds do not carry the same restrictions and is much broader in scope and power than IDB's. 166.101 (4) F.S. (1983). Chapter 166 bonds may be payable from any revenues other than ad valorem taxes provided that property, credit or general tax revenue of the government entity is not pledged. The definition of 166 Revenue Bonds makes this plain:

> The term 'revenue bond' means obligation of the municipality which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit or general tax revenue of the municipality.

In contrasting 166 Revenue Bonds against IDB's, it becomes apparent that an industrial development project financed under 166 Revenue Bonds may be unconstitutional if revenues derived from sources other than the sale, lease or operation of the project are used to repay the revenue bonds. In order to save the constitutionality of 166 Revenue Bonds when financing an industrial development project, 166 Revenue Bonds must be limited and contain the same restrictions as IDB Bonds. In other words, the 166 Bonds when financing an industrial development project must be payable solely from revenue derived from the sale, operation or leasing of the project to comply with Article VII §10(c) of the Constitution.

The fact that the project in this case is an industrial development project is without question. The definition of project in the I.D.B. Act specifically includes a "solid waste facility".

The County resolution in 84-964 both in the heading and in the body clearly intended that this was an IDB Project. The heading of the resolution of 84-964 reads as follows:

The County plainly intended to finance this project by IDB's in Section 1(c) of Resolution 84-2053 by stating the "County further proposes as a part of such arrangements that the revenue bonds issues by the County (the "Industrial Development Bonds") to finance in whole or in part the project will be payable solely from revenues derived by the Company from the operation of the project and pledged as such payment under such finance agreements to be entered into between the County and the Company".

Furthermore, the County specifically intended these to be industrial development revenue bonds as appears in their definition of bonds in Section 2 of Resolution 84-2053. "'Bonds' means the not exceeding $590 million Broward County resource recovery bonds authorized pursuant to Section 3 of this resolution". The County in that same section further defined Act as the Florida Industrial Development Financing Act, being part 2 of Chapter 159, Florida Statutes as amended. In Section 3 of the same resolution in which the County defines the issuance of bonds, it states that the "issuance in sale of revenue bonds of the County (herein called the "Bonds") under the authority of the act,... is hereby authorized." The obvious language in Section 3 makes plain that the County was issuing industrial development revenue bonds under the Florida Industrial Development Act.

The County also made clear that these were industrial revenue bonds when it stated in Section 6 of this Resolution 84-2053 that it was complying with the criteria and requirements of Section 159.29 of the Act. (Florida Industrial Development Act.)

The County, in attempting to secure payment of these IDB's and to induce purchasers to buy the IDB's, in Section 4 of Resolution 84-2053, pledged to pay the bonds with special obligation bonds under Chapter 166 which would be secured by pledging a half cents sales tax distributed pursuant to Chapter 218, part IV, of the Florida Statutes. The County stated that "the covenant and agreement contained in this Section 4 to issue the Special Obligation Bonds secured as described is intended to induce the purchasers of the bonds to purchase the bonds and to induce any insuror or financial institution which may provide bond issuance or a credit facility for the bonds based upon the assurance that there will be a source of money available to pay any deficiency amount and accordingly such covenant and agreement will be deemed by the County to create a contractual obligation to such bond purchasers and to any such insurer or financial institution which may provide bond insurance or credit facility entitled to protection and enforcement under the United States Constitution.

The County, in making this pledge to issue special obligation bonds secured by the half-cents sales tax, impermissibly is now guaranteeing payment on revenue bonds from sources other than the sale, operation or leasing of the project.

Even though the Court's decision finding that these were 166 revenue bonds which is clearly not supported by the resolution nor the plain reading of the resolutions, the 166 revenue bonds must be restricted to being paid not from any revenue but only from revenues derived from the sale, operation or leasing of the project. Only in this manner, by restricting these 166 revenue bonds to being payable solely from revenues derived from the sale, operation or leasing of the project could this project not run a foul of Article VII, Section 10c. Accordingly, the attempt of the County to pledge special obligation bonds secured by half-cents sales tax was an impermissible pledge of credit to the industrial revenue development bonds in this case.

CONCLUSION

The County without question intended to issue industrial development bonds. Never, did the County intend to issue 166 revenue bonds. Only after the appellants demonstrated to the Court that the County had not complied with the IDB Act did the County then attempt to come within Chapter 166.

The "put or pay obligation" is clearly an attempt of the County to pledge and to give aid, support, comfort and totally subsidize a private corporation. Should the tax payers of the County be obligated to pay for this type of financing scheme? This Court must recognize that this is an indirect device to obligate the tax payers monies to a private corporation, is a violation of article VII, Section 10, and should declare the bond issue void.

The pledge of the County to guarantee these IDB's by issuing special obligation bonds to be secured by the half-cent sales tax is the use of other revenues other than revenues from the sale, operation or lease of the project. These other revenues violate article VII, section 10 of the Constitution and the bonds accordingly must be held as void.

Respectfully submitted,

J. ROBERT MIERTSCHIN, JR.
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was mailed this 10th day of December, 1984, to CHRISTINA SPUDEAS, Esq., Assistant State Attorney, Economic Crime Unit, 200 S. E. 6th Street, Ft. Lauderdale, Florida and to SUSAN F. DELEGAL, Esq., General Counsel, Suite 423, Governmental Center, 115 South Andrews Avenue, Ft. Lauderdale, Florida 33301 and to MARVIN QUITNER, Esq., 4330 West Broward Boulevard, Plantation, Florida.

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