IN THE FLORIDA SUPREME COURT

STATE OF FLORIDA,)

Defendant/Appellant)

vs.)

FRONTIER ACRES COMMUNITY DEVELOPMENT DISTRICT PASCO COUNTY, FLORIDA,)

Plaintiff/Appellee.)

Case No. 66,449

ANSWER BRIEF OF APPELLEE

Ken van Assenderp
Young, van Assenderp,
Varnadoe & Benton, P.A.
Post Office Box 1833
Tallahassee, Florida 32302
(904) 222-7206

Attorneys for Appellee

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INTRODUCTION

The Plaintiff/Appellee, Frontier Acres Community Development District, Pasco County, Florida, shall be referred to as "Frontier." The Defendant/Appellant, State of Florida, shall be referred to as "State." Frontier also acted as "Petitioner" before Pasco County (hereinafter "County") to get the community development district established by the county. The Uniform Community Development District Act of 1980, as amended in 1983 and as amended in 1984, shall be referred to where appropriate as "the Act." Citations to the record on appeal shall be designated as follows: Appellant's Appendix shall be referred to as (R-Exh.) and Appellee's Appendix shall be referred to as (A-).

STATEMENT OF THE CASE AND FACTS

Appellee Frontier adopts page 2 of Appellant's Statement of the Facts and the description of the capital improvement which ends on the top of page 3 thereof.

The "proposed timetable" and "estimated costs" for construction of the district services were submitted "based upon available data . . . in good faith," pursuant to Section 190.005(1)(a)6, Florida Statutes (1983). In paragraph 8, page 2, the petition refers to the "Pasco County Comprehensive Land Use Plan," the land use element of which designates that plan's public and private land uses, Section 190.005(1)(a)7, Florida Statutes (1983), a matter of public record, known to the county commissioners, and Petitioner did not duplicate and attach that element to the petition.

When petition was filed, the Act had not been amended. Pursuant to Section 190.005(2)(b), Florida Statutes (1983), referencing Section 190.005(1)(b), Florida Statutes (1983), notice of the county commission hearing on its nonemergency ordinance was published for four successive weeks immediately prior to the hearing on June 19, 16, July 3, and 10, 1984, in the Tampa Tribune, a newspaper of general circulation. [R-Exh.8(2)]. In the middle of this required notice period, on June 29, 1984, the amendments to Chapter 190, Florida Statutes, Ch. 84-360, Laws of Florida, became effective. Pursuant to Section 190.004(1) and (2), Florida Statutes (1984 Supp.), the new act shall not affect any district "existing on the effective date of this act." Since Frontier dis-

trict was not then in legal existence, the newly revised statute "affected" Frontier. Section 190.005(2)(a), Florida Statutes (1984 Supp.), which references Section 190.005(1)(a), Florida Statutes (1984 Supp.), requires a petition to contain an eighth element, specifically, an "economic impact statement in accordance with Section 120.54(2), Florida Statutes (1983)," which Petitioner "determined" under the highly unusual circumstances "was not necessary" to file. [R-Exh.6(47)].

The hearing on the ordinance, scheduled for July 17, 1984, was on that day continued to July 24, 1984. On July 23, 1984, the commissioners received the summary document of the staff review. (A-1).

At the resumed hearing on July 24, 1984, County Attorney Harrill explained the statutory special purpose of a community development district, summarizing the activities and powers of the district to implement its special purpose. [R-Exh. 8(3)]. Next, Mr. Clyde Hobby explained details not required to be in the petition, such as the number of acres [R-Exh.8(3)] and the "criteria" or "factors" in Section 190.005(2)(c), Florida Statutes (1983 and 1984 Supp.), referencing Section 190.005(1)(c), Florida Statutes (1983 and 1984 Supp.), designed to help the county make fair legislative determination. Section 190.002(1)(a), Florida Statutes (1984 Supp.).

The county staff reported its determination that factors 2, 3 and 5 were affirmative regarding Frontier. [R-Exh.8(3); A-1]. The staff reviewed the remaining substantive factors without

recommendation. [R-Exh.8(3)]. Analysis of these factors included identifiable economic impacts. Concerning discussion of factor 4 before the county commission, information included costs and benefits for such services as water and sewer, not only their physical availability but also costs and related considerations. [R-Exh. 8(3)]. There was discussion about approaching the City of Zephyrhills whereupon it was determined that there was a lack of either ability or capacity for the service. It was similarly determined that the county did not have those services. The report had indicated that alternative ways to provide the services had to be reviewed, including their costs and impact. A general discussion included aspects of better alternatives, the impact on residents of the area, and "cheaper rates." Mr. Hobby explained to the County Commission why for various reasons he believes the district is the best alternative. Concerning factor 6, he indicated primarily that since the property was contiguous and would be under the same ownership, it would therefore be amenable to separate district government. [R-Exh.8(3)].

Then, as summarized by the county minutes, Mr. Smolker discussed several additional economic matters such as "worst case scenarios," as loss of taxes, financial stature of the developer, and impacts on the county and others from various alternative ways to provide the services, [R-Exh.8(4)], including the "possible loss of ad valorem taxes from lands within a district if the development went under, taxes on the land were not paid or if no one redeemed the tax certificates." He indicated that in such a

a situation the "property could possibly be taken off the tax rolls." [R-Exh.8(4)]. He discussed why the district is the best alternative for such services and, as stated by the minutes, the matter of potential "proliferation of small-scale community development districts, especially in areas which might also be appropriately served by the county," [R-Exh.8(4)], dealing with political and competition factors.

Mr. Hobby then discussed what resulted if a property owner did not pay such ad valorem taxes and how the tax rolls are protected. [R-Exh.8(4)]. He indicated that the landowner/developer was willing to guarantee payment of any bonded indebtedness on the property and the efficacy, as re- flected in his financial statement, of the developer to maintain that guarantee was discussed. Concerning "proliferation," Mr. Hobby thought it best for the county commission to review each petition on its own merits. Commissioner Young then generated discussion on ownership, auditing and other financial and bond validation proceeding matters, procedural constraints on the district, and how long the property would remain rental.

The county attorney then discussed the rental requirement [R-Exh.8(4)] and the statute's mandatory referendum on whether to incorporate [R-Exh.8(5)] and specifically advised on the duty of the county concerning approval of recreational facilities. Section 190.012(2), Florida Statutes (1984 Supp.) He reminded the county commission that this independent district has authority to exercise such powers as to tax and to levy assessments to carry out its special purpose. [R-Exh.8(5)].

As part of its report to the commission (A-1), the staff had recommended a separate two-fold agreement with the developer: to operate the project as rental and personally to guarantee payment of any bonded indebtedness of the district. The hearing on the ordinance then concluded.

On September 7, 1984, at a duly noticed meeting, the county did consider its "record" and the "factors" required by statute, pursuant to Section 190.005(2)(c), Florida Statutes (1984 Supp.), and enacted Ordinance 84-11 [R-Exh.2(C)] establishing the special purpose district with its limited powers.

On September 4, 1984, the county and the landowner, The Village- Tampa, Inc., entered into the above-referenced agreement. (R-Exh.9).

On September 7, 1984, pursuant to notice on August 30, 1984, (A-2), the Frontier Acres Community Development District conducted its first meeting. Chairman Halprin signed the district bond resolution pertaining to issuance of Frontier "Special Assessment Capital Improvement Bond," Series 1984, in an amount not to exceed $16 million for the purpose of financing the cost of acquiring and constructing the system of drainage, water, sewer, streets, recreational hall and swimming pool facilities within the land serviced by the district, pledging the proceeds of special assessments for the payment of the bonds and provided for the rights of holders of the bonds. [See R-Exh.6(23-25) for a specific calculation of the legitimate total "cost" difference between

the total issue and the earlier "hard" cost estimates, as explained to the court below.]

In the Resolution [R-Exh.2(D)], note that:

1. It officially designates Chapter 190, Florida Statutes, in conspicuous references, in Section 1, pg. 1, and Section 11, pg. 10.

2. It contains several specific references clearly indicated to the "project" as "a system" or "the system" as quoted above in the Title, pg. 1; "Findings," Section 2 (C) and (D), pg. 2; Section 3, pg. 3; Section 12 (C), pg. 11; Section 13, pg. 11; and Section 14, pg. 12. Section 190.003(15), Florida Statutes (1984 Supp.), defines "project" as limited to "the provisions of this act."

3. Its section 23, pps. 13-14, makes the "Indenture of Trust" attached to, made a part of, incorporated in, and approved by the Resolution.

4. Its Section 16, pg. 12, provides for "no material modification or amendment" without the written consent of two-thirds of the bondholders outstanding.

In the Indenture of Trust [R-Exh.2(E)], note that:

1. It, too, has prominent references to Chapter 190, Florida Statutes, (in its "first "Whereas" clause, pg. 1 and in Section 101, pg. 4), and a definition of "project" on pg. 5 as the "system."

2. Its reference to special assessments levied against "all benefitted property" on pg. 5 and its authority, in Section

1101, pg. 32, authorizing the district and the Trustee "upon the request of the district to amend the Project and Project description to add to or change the Project."

On September 7, 1984, Frontier filed its Complaint for validation of the bonds, Case No. 84-2568, Division B, Pasco County. (R-Exh.2).

On September 7, 1984, the Honorable Ray E. Ulmer, Jr., Sixth Judicial Circuit, issued its Order to Show Cause (R-Exh.3), set for hearing on October 25, 1984, and continued.

On October 23, 1984, the State Attorney filed the Response to Order to Show Cause (R-Exh.4).

On December 20, 1984, the final hearing was held, continued from October 26, 1984. (R-Exh.7)

On December 21, 1984, the court issued its Final Judgment. (R-Exh.1).

It is this Order validating the bonds which the State has appealed.

ARGUMENT

POINT I: THE TRIAL COURT DID NOT ERR IN VALIDATING THE BONDS BECAUSE CHAPTER 190, FLORIDA STATUTES (1984 SUPP.) IS CONSTITUTIONAL.

A. When the district's powers are expressly limited to implement state and local general government statutes, ordinances and policies governing the special purpose of the district and when its costs fall disproportionately on landowners whose property benefits disproportionately from the district's special activities, then voting for district supervisors restricted initially to landowners, whether individuals or private corporations, is constitutional.

The Legislature has tied this land-ownership restriction on the right to vote directly to the Act's public purpose as a significant component of state land use and growth management policy, an analysis of which is required before discussing case law. Section 190.005(2), Florida Statutes (1984 Supp.) constitutionally provides for election of district board of supervisors by landowners during the critical initial years[1] of operation, based upon the vote per each acre or fractional acre owned. Such constitutionality derives in part from its general law purpose to

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[1]Pursuant to Section 190.006(3)(a), Florida Statutes (1983) and Section 190.006(3)(a)2, Florida Statutes (1984 Supp.) elections are one-person one-vote "elector" based, commencing six or ten years later, depending upon the total acreage of the development designated to be serviced by the district mechanism, after most infrastructure planning and initial installation are significantly completed; pursuant to Section 190.006(3)(a)1, Florida Statutes (1984 Supp.) an "elector" based election must occur even earlier if the district proposes to exercise its ad valorem taxing power under Section 190.021, Florida Statutes (1984 Supp.) to implement its service delivery purpose, even though Section 190.021(1) mandates no levy of ad valorem taxes without referendum approval unrelated to board election. Please note also that the change in election basis in the Act (1984) does not alter the special purpose and limited powers of the district which endure as attributes of a special government until and unless it "outlives its usefulness" or otherwise terminates. Sections 190.002(1)(b), 190.003(3) and 190.046, Florida Statutes (1984 Supp.).

function as "a . . .way" [Section 190.002(1)(a), Florida Statutes (1984 Supp.)] or "an alternative method" [Section 190.002(3), Florida Statutes (1984 Supp.)] to "deliver" the "basic services" for "community development," [Section 190.002(1)(a), Florida Statutes (1984 Supp.)].

The Legislature had already found such a purpose valid in 1980 when it substantially revised the New Communities Act of 1975 [Chapter 163, Part V, Florida Statutes (1975)] to establish such an alternative mechanism for new development service delivery [Section 190.002(1)(d) and (e), Florida Statutes (1983)]. The 1980 revision tailors and coincides its "findings" over the intervening years of the important interrelationship between the "special" needs and functions [Section 190.002(1)(b) and (f), Florida Statutes (1983)] of the private and public sectors. The revision singled out "timely management of critical factors and sequential events in providing major infrastructures" in a coordinated manner [Section 190.002(1)(g), Florida Statutes (1983)], as to which the "proper use of the independent special purpose district" lends itself and is "found to be in the public interest," [Section 190.002(1)(c) and (h), Florida Statutes (1983)]. The Act (1983) designed a uniform way to determine when use of such a district is "proper," with strict limitations and specifications. [Sections 190.002(2) and (3), 190.003(6), 190.004, 190.046, Florida Statutes (1983)]

In 1984, after four years of experience, the Legislature refined and fine-tuned the 1980 statute, confirmed its basic findings, statements of intent, purpose and policy and its concept of limited specialized function. [Section 190.002, Florida Statutes

(1984 Supp.)] The Legislature found that basic service delivery for community development, "managed and financed" by this special independent district mechanism, "can" be "timely, efficient, effective, responsive and economic" [Section 190.002(1) (a), Florida Statutes (1984 Supp.)] if the statute's "uniform, focused and fair" process to decide whether to establish such a service delivery mechanism is followed. Sections 190.002(1)(a), 190.002(2)(d) and 190.002(3), Florida Statutes (1984 Supp.)]. This legislative finding emphasizes a uniform fact-based way to decide whether to create such a district, [Sections 190.002(2) and 190.005, Florida Statutes (1984 Supp.)] by either state agency "rulemaking" or by local general purpose government "ordinance" legislation. Information "material" to the "factors" set forth in the statute, [Sections 190.002(2)(d) and 190.005(1)(e), Florida Statutes (1984 Supp.)], is used in deciding whether to establish such a limited special purpose government. On the face of the statute, the service delivery purpose of a district, exercised through a set of "general powers" [Section 190.011, Florida Statutes (1984 Supp.)] and "special powers" [Section 190.012, Florida Statutes (1984 Supp.)] is severely and rigidly limited. It is stripped of any general purpose government authority or power. That is, to accomplish its purpose, the district may use its "powers" only to implement both the procedural and substantive law, ordinances, regulations and policies made applicable by state government, regional agencies, and all applicable local general purpose governments. [Sections 190.004(3), 190.003(6), 190.002(3),

190.002(2)(c), 190.002(2)(b), 190.002(1)(b), 190.002(2)(a), 190.012, 190.011(15) and (16), 190.006(9), 190.046, and 190.047, Florida Statutes (1984 Supp.)]. Simply put, no landowner can use this district to do anything that law or policy prohibits being done if the landowner used a service delivery mechanism alternative to, and other than, this district, such as private agency management and equity or public services (city or county, either directly or through MSTU's or dependent districts.)

The unique purpose and important efficacy of this independent district mechanism, therefore, can be summarized as follows, as stated in the Florida Environmental and Urban Issues, published by the Joint Center for Environmental and Urban Problems, Florida Atlantic University and Florida International University:

> "The district provides a highly specialized grouping of public and private procedures and characteristics that focus on the details of providing basic services. One example is that the district, like a government but unlike a private company, must abide by laws requiring competitive bidding, 'government-in-the-sunshine,' public notice, disclosure, accountability, ethics and conflicts of interest. A different example is that the district, like the private sector but unlike government, can efficiently perform limited and specialized functions without having to deal simultaneously with completely unrelated economic, legal and political duties and pressures. This highly specialized characteristic of the district tends to produce economic integrity, an important aspect of quality growth management. Accordingly, some of the benefits of the community development district are:
>
> 1. A propensity to enhance the market value for both present and future landowners of the property;
>
> 2. A propensity to enhance whatever might be the net economic benefit such as a well maintained tax base,

a benefit to all present and future taxpayers from the local, regional and statewide perspective;

3. The assurance that the governmental plans, policies and regulations will be attained, maintained and even enhanced over the years; and

4. A propensity that the costs for providing these basic services will be shared exclusively by those within the development serviced by the district." van Assenderp, "Community Development Districts: An Alternative Way for the Private and Public Sectors to Finance Growth," Florida Environmental and Urban Issues, October 1983, Vol. XI, No. 1.

The constitutionality of Chapter 190, Florida Statutes, is, in these times of alarming and heightened concerns about land use and growth management, bottomed therefore, not only in its statutory purpose but also in the legislative policy it expresses.

That policy is to provide for a timely, precedent-setting, innovative and practical "solution" through its alternative district mechanism to the "state's needs for delivery of capital infrastructure in order to service projected growth," [Section 190.002(1)(a), Florida Statutes (1984 Supp.)]. The policy's key is "planning, managing and financing" such capital infrastructure "without overburdening other governments and their taxpayers" [Section 190.002(1)(a), Florida Statutes (1984 Supp.)] and without "needless and indiscriminate proliferation, duplication and fragmentation of local general purpose government services by independent districts," [Section 190.002(2)(a), Florida Statutes (1984 Supp.]. Further, the policy is to ensure that such an independent special district "created pursuant to state law not outlive its usefulness and that the operation of such a district and the exer-

cise by the district of its powers be consistent with applicable due process, disclosure, accountability, ethics and government-in-the-sunshine requirements which apply to both the governmental entities and to their elected and appointed officials." Section 190.002(1)(b), Florida Statutes (1984 Supp.)] This policy is moreover designed to ensure compliance by the district with all applicable substantive law and policy, ascribing no such power or authority to the district, mandating its legal status as a special, flexible but severely limited "tool" [van Assenderp, Florida Environmental and Urban Issues, Id. at 15; Sections 190.002(2)(c) and (d), 190.003(6) and 190.004(3), Florida Statutes (1984 Supp.); van Assenderp, "Uniform Community Development District Act of 1980 and Local Government Home Rule," The Florida Bar Journal, April 1982].

Accordingly, the statutory restriction of the Act (1984) on the right to vote (during the initial years of district operation) to land ownership is tied by the Legislature directly both to the innovative public purpose and a compelling state growth management policy.

Case law sets out the principles to be applied. First, the fundamental point of law announced in Baker v. Carr, 369 U.S. 186, 82 S.Ct. 691, (1962) as referenced in Reynolds v. Simms, 377 U.S. 533, 555, 84 S.Ct. 1362, 1378 (1964), is that the federal Equal Protection Clause provides discoverable and manageable standards to determine constitutionality of state elections and determinations of whether apportionment of a state legislature's seats is

unconstitutional, in the face of a debased, diluted and effectively impaired right to vote, is justiciable. All qualified citizens have a constitutionally protected right to vote in state and federal elections. Reynolds, supra at 1377 Any debasement of the weight of a vote can deny the right to vote just as much as an outright prohibition thereof. Reynolds, supra at 1378. Further, seats in both houses of a bicameral state legislature must be apportioned on a population basis, Reynolds, supra at 1385, because there is no "constitutionally cognizable" principle to justify violating the "basic standard of equality among voters in state legislatures," Reynolds, supra at 1381, which are the "bedrock of our political system," Reynolds, supra at 1382. Finally, concerning local governments, the "groundrule" is "a requirement that units with general governmental powers over an entire geographic area not be apportioned among single-member districts of substantially unequal population," Avery v. Midland, 390 U.S. 474, 485, 88 S.Ct. 1114, 1121 (1968).

Note the important corollaries. First, the constitution protects the vote in "the exercise of state power however manifested, whether exercised directly or through subdivisions of the state." Avery, supra at 1117. However, neither the constitution nor the Supreme Court are "roadblocks in the path of innovation, experiment and development among units of local government," Avery, supra at 1121. Second, the Supreme Court will not "bar" that which is termed "the emergence of a new ideology and structure of public bodies, equipped with new capacities and motiva-

tions." Avery, supra at 1121. Third, "political subdivisions of states--counties, cities or whatever... have been traditionally regarded as subordinate governmental instrumentalities, created by the state to assist in the carrying out of state governmental functions;...'created as convenient agencies for exercising such of the governmental powers of the state as may be entrusted to them.' The number, nature and duration of the powers conferred upon them...and the territory over which they shall be exercised rests in the absolute discretion of the state." Reynolds, supra at 1388.

It is precisely in this context over a ten year period of time that Florida's Legislature, exquisitely apportioned, carefully derived the special purpose limited powers, structure, duration, ideology and innovative policy of Chapter 190, Florida Statutes (1984 Supp.) in the light of our state's challenges and opportunities concerning the increasingly visible relationship of local government, taxpayer, landowner, private developer and state regulatory agency to our serious land use and growth management challenges. van Assenderp, Florida Environmental and Urban Issues, supra at 15.

The remaining progeny of Baker, Reynolds, and Avery case law, instructive to demonstrate why the Act (1984) is constitutional, is two-pronged, depending upon whether the election under scrutiny is of general or special interest. Though the cases under these two prongs sometimes reach seemingly opposite results,

they demonstrate the two different bases to determine constitutionality on the facts.

One prong derives from elections of "general interest" and is cogently discussed in Hill v. Stone, 421 U.S. 289, 95 S.Ct. 1637, 1643 (1975):

> The basic principle...is that as long as the election in question is not one of special interest, any classification restricting the franchise on grounds other than residence, age or citizenship cannot stand unless the district or state can demonstrate that the classification serves a compelling state interest.

There is an impressive littany of cases which follow this prong, even if with different results. In Kramer v. Union Free School District No. 15,. 395 U.S. 621, 89 S.Ct. 1886 (1969), a school board election was deemed of general interest and the New York statute's franchise limitation unconstitutionally excluded some persons with direct interests while including others with no substantial interest. The statute did not promote a compelling state interest. In Ciprano v. City of Houma, 395 U.S. 70, 89 S.Ct. 1897 (1969), dealing with revenue bond elections to extend a city utility system, the Louisiana statute unconstitutionally restricted the franchise to "property taxpayers" because, in the absence of proof that those excluded from voting were substantially less interested or affected, the election was "general" and unconstitutional without any compelling state interest. In City of Phoenix v. Kolodziejski, 399 U.S. 204, 90 S.Ct. 1990 (1970), a property based restriction on a general obligation bond issue election was unconstitutional because, absent a compelling state

interest, the state could not prove that the interest of landowners were special and sufficiently disparate to justify excluding others. In Stewart v. Parrish School Board, 310 F.Supp 1172 (E.D. La. 1970), aff'd, 400 U.S. 884, 91 S.Ct. 136 (1970), the court invalidated the offending Louisiana constitutional and statutory provisions limiting suffrage in school board elections for generally the same reasons. Police Jury of the Parrish of Vermilion v. Hebert, 404 U.S. 807 (1971), involved a bond and tax election for roads benefiting property owners who would pay the costs and to whom the franchise was limited (except that the statute provided for all electors to participate contingent upon the particular property classification being declared unconstitutional). The U.S. Supreme Court reversed the Louisiana Supreme Court's decision (that the election was "special", reported at 245 So. 2d 349, so that the election under the statutory provision was invalid) but rendered no opinion, merely citing the Ciprano, and Stewart cases.

The other prong of the Baker, Reynolds and Avery progeny, eminating primarily from Avery, is succinctly summarized in Ball v. James, 451 U.S. 355, 101 S.Ct. 1811 (1981). If "the purpose of the district is sufficiently specialized and narrow" and if "its activities bear on landowners so disproportionately as to distinguish the district from those public entities whose more general governmental functions demand application of the Reynolds principle," Id at 1816, then a property-based "voting scheme for the district is constitutional." Id. at 1821.

In Ball, the district was created primarily for agricultural improvement but also produced and sold electrical power. Only the landowners could vote for the board and voting strength was based on acres owned. The court based its decision on the following points. First, even the "diverse" and far-reaching "services" of that district, upon "a careful examination...do not amount to a constitutional difference." Id. at 1818. Second, its "sort of governmental powers" do not "invoke the strict demands of Reynolds." Third, "the volume of business or the breadth of economic effect of a venture undertaken by a government entity as an incident of its narrow and primary government function" does not "of its own weight subject the entity" to Reynolds. Id. at 1820. Fourth, the "voting scheme" constitutionally "bears a reasonable relationship to its statutory objectives" so that, regarding the landowners, the state "could rationally make the weight of their vote dependent upon the number of acres they own, since that number reasonably reflects the relative risks they incurred as landowners and the distribution of the benefits and the burdens of the district water operations." Id. at 1821. Fifth, a stipulation in the record that the district might never have existed "had not the subscribing landowners been assured a special voice in the conduct of the district's business" so that "the state could rationally limit the vote to the landowners." Id. at 1821.

In Chapter 190, Florida Statutes, the limited set of special powers, some requiring specific county approval, are not "diverse" or "far-reaching;" they are compact and territorially

confined. The economic effect of the powers, to be reviewed in advance, is not the same thing as the economic effect of the development to be serviced by the district. The voting scheme is directly related to, and rationally consistent with, the needs of district operation, especially during the critical initial years. Moreover, Chapter 190, Florida Statutes (1984 Supp.), as discussed at length above, itself reflects in part an intent to meet the private landowners' need for flexibility in the face of the risks of timing and management of critical events involved in infrastructure delivery to quality new developments. As stated in Florida Environmental and Urban Issues, supra at 15, "a district is, for all practical and legal purposes, a management tool with pinpointed responsibility to provide timely, efficient, reliable, and flexible services to large acreage over several decades. Furthermore, it is a financing tool that, within the boundaries of the designated land area, can substitute for either purely public or purely private payments. Simultaneously it can provide incentive for long-range, quality service to initial and subsequent landowners, without financially burdening the landowners and taxpayers outside of the territorial jurisdiction." See also, van Assenderp, "Uniform Community Development District Act of 1980 and Local Government Home Rule," The Florida Bar Journal, April 1982; Rhodes, "The 1980 Uniform Community Development District Act," Home Builder, January, 1981. Even though the community development district has such "governmental" powers, as discussed in Ball at 1818, as "ad valorem property tax...maintenance of streets...or

sanitation services," they have been stripped of any general government policymaking authority and power, as described above, rendering such a district, with the residue, a severely limited special purpose "tool" or "mechanism." No district under Chapter 190, Florida Statutes (1984 Supp.) may enact "laws" or "ordinances" of any type, nor may such a district "administer...normal functions of government, other than as a mechanism to implement policy derived by a popularly elected state or local general purpose government, and it may not impose ad valorem taxes unless it is first properly elected. Therefore, in the terminology of Ball at 1818, it does not "invoke the demands of Reynolds."

The Ball case relies significantly on two other cases constituting this "special interest" approach or prong. One such case is Hadley v. Junior College District of Metro Kansas City, 397 U.S. 50, 90 S.Ct. 791 (1970). In Hadley, the court extended the one-person one-vote franchise requirement to the election of a community college district's trustees because the district was found to exercise "important" and "general" government functions with "significant effect on all citizens residing in the district." Id. at 53. Notwithstanding this particular result on the facts, the Hadley court at 56, in discussing the "special interest" prong also said:

> "It is of course possible that there might be some case in which a state elects certain functionaries whose duties are so far removed from the normal governmental activities and so disproportionately affect different groups that a popular election in compliance with Reynolds...may not be required...."

This language precisely sets forth what Chapter 190, Florida Statutes (1984 Supp.) as discussed above, contemplates in the election of its district supervisors during the critical initial years of district existence.

The other case is Salyer Land Co. v. Tulare Lake Basin Water Storage District, 410 U.S. 719, 93 S.Ct. 1224 (1973). Here the Supreme Court answers a question it posed in the Hill case at 1642, "whether a state might in some circumstances limit the franchise to those primarily interested in the election." The Salyer answer, as in both Hadley and Ball, is affirmative. The court held a vote to elect directors based upon assessed valuation for a water district to be constitutional because of "the district's special limited purpose and...the proportionate effect of its activities on landowners as a group," Id. at 728, in that the election had "special interest" sufficiently related to a single group. In a similar case, Associated Enterprises Inc. v. Toltec Watershed Improvement District, 410 U.S. 743, 93 S.Ct. 1237 (1973), a statute authorizing only landowners to vote in creation of the watershed district with votes weighted according to acreage, was found not to violate the equal protection clause. The court found the district to be "a governmental unit of special or limited purpose whose activities have a disproportionate effect on landowners within the district" with its "operations...conducted through projects and the land is assessed for any benefit received,...constitute a lien on the land until paid." Id. at 1237. In Wright v. Town Board of the Town of Carlton, Orleans County,

342 N.Y.S.2d 577 (1973), the New York court said that the property-owning basis of the franchise was unconstitutional primarily because those not included in the franchise would be "substantially affected by the results of the election." Id. at 580. This conclusion is consistent with the reasoning in this prong of cases.

By the Baker, Reynolds and Avery progeny, Chapter 190, Florida Statutes (1983 and 1984 Supp.), withstands constitutional muster. Notwithstanding the number of special powers authorized by the statute for use by the district in implementing its community development service-delivery purpose, these powers are residual. They consist of mechanical, severely limited and non-policymaking activities and do not constitute "normal" or "general" government powers. As explained above, the district, in the exercise of its powers, exists legally to implement the policies and regulations of statutes and ordinances enacted by popularly elected state and local general governments. Within such limitations, control by the landowners over the board of supervisors by a property-based election for the initial years of district operations is necessary to make the practical and flexible timing, management and financing decisions about service delivery within the procedural and substantive constraints or "umbrella" of general governments. Neither the landowner nor the district board may exercise any district power if it violates or is inconsistent with, for example, government-in-the-sunshine procedures or such a substantive requirement as a condition in the applicable develop-

ment order. The object is for the private landowner to use this independent district as a "tool." Despite the "umbrella" of severe substantive and procedural constraints, it is still independent to effect the day-to-day delivery of special services in such a way flexibly to manage both "the market pressures and public regulatory requirements essential to quality growth management and planning,...delivering basic services throughout the useful life of the service system." Although the private landowner might incur "higher initial costs," the "higher quality" of infrastructure "combined with the longer life expectancy of the system, would constitute a desirable long-run planning decision." van Assenderp, Florida Environmental and Urban Issues, at 16. Or, by the same token, an increase in the cost and quality of a service facility, amortized over a long time frame, may or may not result in an increase in rent but will through the district reasonably be expected to be managed and maintained at sustained high quality. These are economic factors which are contemplated by the statute. It is through this concept that Chapter 190, Florida Statutes, has been able flexibly and with specialized management to combine the critical interests of the private sector with the genuine interests of public policy and regulation, with the practical potential for better service delivery in the long run. Accordingly, given this innovative public purpose, since no ad valorem taxation is contemplated during the initial years of district operations, it makes little difference whether the election for the board of supervisors is deemed "general" or "special interest." The elec-

tion is a special interest election substantially and disproportionately affecting the landowners as the interested parties. During the early developmental period when there are either no or few residents or renters, there simply are no "common interests." At such a time when new residents, renters or purchasers move into the land serviced by the district, and even though the state has provided for one-person one-vote elections, the election and the district's duties and powers nevertheless remain special and the burdens and benefits on the landowners disproportionate. Most significantly, the state has already found that, when properly established, this mechanism operates in the public interest allowing concerted development operations at an economically sound price with long-term benefits. [Section 190.002(17)(a), Florida Statutes (1984 Supp.)]

If on the other hand, the election were to be viewed as "general," notwithstanding the continued disproportionate cost and benefit to all the landowners, the statute is replete with many years of experience-based findings of a "compelling state interest," the "solution to the state's planning, management and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers." [Section 190.002(1)(a), Florida Statutes (1984 Supp.)]. Nothing, however, in the law prohibits such a special purpose mechanism from serving a compelling state interest while remaining special and limited.

Therefore, by either or both "general" or "special" prongs of the constitutional standards, Chapter 190, Florida Statutes, is constitutional. It authorizes no general government powers. Its special purpose is implemented through severely limited powers bound to follow all state and general government laws, ordinances, rules and policies. There is no delegation of lawmaking or policy decisionmaking power to the district; rather, there is the mandate only to implement policy made by other governments. Its benefits and costs apply specially and disproportionately to the landowners under the statutory scheme. It serves a timely and paramount compelling state interest and its innovative motivation, structure, capacity and duration, as well as its economic efficacy, are found and enunciated by general law in a uniform procedure.

Finally, within the statutory context, it is constitutional for a privte corporation to be a landowner because the district does not possess the general governmental powers which invoke Reynolds. A developmental and growth management tool, it is stripped of any policy-making authority, the quintessential feature of a general purpose government: it is strictly subordinated to the will of the popularly elected state legislature and local commission. The benefits and burdens allocated in such a district, bear so disproportionately on any and all landowners as to make it both reasonable and essential that they be allowed an increased voice in its management in order to be able to meet the public need found by the Legislature. The fact that the landowner in this instance may be a corporate entity, tritely portrayed by

the appellant as the anthesis of all that is virtuous in our political system, is irrelevant in connection with the constitutionality of the voting scheme of such a special purpose district. When such a compelling special public purpose is served, where the purpose and powers of a district are so limited, and the risks and benefits are so disproportionately borne by the landowners, the Supreme Court has emphatically stated that a state may rationally limit the vote to the landowners. Ball at 1821, 371. Without any rational, equitable or practical basis to eliminate corporate landowners, there is no violation of the due process nor the equal protection clause.

B. When it authorizes issuance of special assessment bonds for capital improvements specifically to finance a system of activities directly authorized and defined by general law as a project to promote a public purpose and to meet a public need, consistent with statutorily expressed intent, purpose and policy, even when the private landowner benefits from issuance of the bonds, it is constitutional.

Pursuant to the Act (1984), the purpose of the bonds is public even though the proposed development is a private venture. The authorized uses of capital proceeds are valid under Article VII. No pledging of public credit or use of ad valorem taxes to amortize the bonds is contemplated so that the burden is only to show service of a public purpose. Linscott v. Orange County Industrial Development Authority, 443 So. 2d 97 (Fla. 1983). That the Linscott case deals with private economic development through revenue bonds does not mean that use of assessment bonds by Frontier is unconstitutional and the fact that Frontier may not be

a "tourist facility" is not condemning. State v. Orange County Industrial Development Authority, 417 So. 2d 959 (Fla. 1982). As stated in Linscott, Chapter 159, Part II, Florida Statutes (1981), the statute contained a determination "that private economic development serves a public purpose and that it is in the public interest to facilitate the financing of capital projects...by the issuance of non-recourse revenue bonds. This legislative determination is entitled to great weight, particularly since it is consistent with the implicit recognition in 10(c) that the public interest is served by facilitating private economic development." Linscott at 101.

Chapter 190, Florida Statutes, is direct and does not merely imply consistency with the public interest. In Section 190.002(1)(a), Florida Statutes (1984 Supp.), the Legislature finds that its managing and financing of basic services to community developments "thereby" provides "a solution to the state's planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and other taxpayers." (emphasis supplied) Also, Section 190.002(2)(b), Florida Statutes (1984 Supp.) enunciates state policy that such "districts are a legitimate alternative method available for use by the private and public sectors, as authorized by state law, to manage and finance basic services for community developments." (emphasis supplied) Moreover, Section 190.011(9), Florida Statutes (1984 Supp.), authorizes the district to "borrow money and issue bonds...as herein-

after provided; to levy such tax and special assessments as may be authorized; and to charge, collect, and enforce fees and other user charges as part of its powers authorized to implement its purpose." More specifically, Section 190.016(1), Florida Statutes (1984 Supp.) directly authorizes that "special assessments and revenue bonds may be delivered by the district as payment for the purchase price of any project or part thereof, ...or as the purchase price or exchange for any property,...or services..., in such manner and upon such terms as the board in its discretion shall determine." The specific procedural requirement is the authorizing "resolution" pursuant to Section 190.016(2), Florida Statutes (1984 Supp.) and the specific validation proceedings in Section 190.016(12), Florida Statutes (1984 Supp.), both of which have been complied with by the district and the court below on the record.

The Resolution [R-Exh. 2(D)] and supporting Trust Indenture are sufficient to state and describe the public purpose to which the proceeds from the assessments bonds will be applied, Rianhard v. Port of Palm Beach District In and for County of Palm Beach, 186 So. 2d 503 (Fla. 1966); [R-Exh. 2(E)].

Appellant has misread Section 190.005(1)(a)7, Florida Statutes (1984 Supp.) in that the petition needed only to designate the "future general distribution, location and extent of public and private uses of land proposed for the area within the district" as designated by the land use plan element of the Pasco County comprehensive plan, not as designated or proposed for the

private development site plan (a matter subject to laws governing development approval). The Legislature determined the public purpose and the district, which was duly established, has specifically found the public purpose on the particular proposed assessments which in turn the court below confirmed pursuant to the requirements of law.

In Zedeck v. Indian Trace Community Development District, 428 So. 2d 647 (Fla. 1983), once it was determined that the district had been duly constituted and established, the expansion of a water and sewer system project to be implemented and financed by a bond issue was found by this Court to be within the purposes of the Act (1983) and within its powers. As stated in Zedeck at 648, "the primary purpose of the bond issue is to benefit private property. The expansion of water and sewer systems contemplated by the ITCDD and the bond issue for implementing that expansion are within the purposes of chapter 190 and within the powers given community development districts to implement these purposes. §§ 190.002, 190.011, 190.012, 190.016." There is nothing in the referenced sections of the statute, even as amended in 1984, or in the opinion of the court, which limits the determination by this court of public purpose to the mere "expansion" of such systems, the statutory terminology embraces projects and systems in part or in total. Finally, as stated in Zedeck at 648 "A legislative declaration of public purpose is presumed valid and should be considered correct unless patently erroneous. (cite omitted) Even though the system expansion affects primarily land owned by Arvida, the

public interest in this project is present and sufficiently strong to overcome Zedeck's claim." There is nothing in the wording of Chapter 190, Florida Statutes, which is either erroneous or "patently erroneous," and the finding of public purpose is clear and direct.

POINT II: THE TRIAL COURT DID NOT ERR IN VALIDATING THE BONDS BECAUSE:

A. The economic impact of establishing the district was timely and adequately considered by the county in the exercise of its legislative ordinance enactment function and the consequence of not attaching a formal economic impact statement to the petition, when the revised statute became effective after the petition was filed, is deminimis and harmless error.

In 1984, the Legislature amended Section 190.005(1)(a), Florida Statutes, to require that an economic impact statement, in accordance with Section 120.54(2), Florida Statutes, be attached to the petition to the Florida Land and Water Adjudicatory Commission for establishment of a community development district in excess of 1,000 acres. The economic impact statement is a guideline for that agency, giving definition to the delegation of powers from the Legislature to a such quasi-legislative body as the Florida Land and Water Adjudicatory Commission. The object is to "promote agency introspection in administrative rulemaking" through the evaluation of the economic impact statement and "ensure a comprehensive and accurate analysis of economic factors." Florida-Texas Freight Inc. v. Hawkins, 379 So. 2d 944 (Fla. 1979). While Section 190.005(1), Florida Statutes (1983), implicitly required the economic impact statement already, stating that the rule establishing the district must be made "pursuant to a rule adopted under Chapter 120," the 1984 amendments made this requirement express.

The sole and uniform method for the establishment of a community development district under 1,000 acres according to either

the 1983 or the 1984 version is "pursuant to an ordinance adopted by the county commission of the county having jurisdiction over the majority of the land in the area in which the district is to be located." Section 190.005(1), Florida Statutes (1984 Supp.). In exercising this power and establishing a community development district, the county commission is functioning not as a quasi-legislative, administrative agency but as a legislative body, City of Miami Beach v. Schauer, 104 So. 2d 129 (3d DCA Fla. 1958), a body which has been granted "a full measure of proper legislative discretion in the enactment of ordinances." South Daytona Restaurants, Inc. v. City of South Daytona, 186 So. 2d 78 (1st DCA Fla. 1966). Requirements such as that of an economic impact statement in accordance with Section 120.54(2), Florida Statutes (1984 Supp.), which the Legislature has determined to be necessary for the guidance of quasi-legislative bodies are inapplicable to the legislative body of a county exercising its essential function of promulgating ordinances. City of Opa Locka v. State ex rel Tepper, 257 So. 2d 100 (3d DCA Fla. 1972). The rule is well settled that when an act of the Legislature is challenged, the courts will not inquire into "expediency, the motives of legislators or the reasons which were spread before them to induce the passage of the act." Angle v. Chicago St. P., M. & O.R. Co., 151 U.S. 1, 14 S.Ct. 240, 247 (1894) (emphasis supplied). Chapter 120, Florida Statutes, is inapplicable to counties and municipalities unless specifically made otherwise by general or special laws or judicial decisions. Sweetwater Utility Corp. v. Hillsborough County, 314

So. 2d 194 (2d DCA Fla. 1975); 1975 Annual Rep. of Att'y Gen. 244. Although Section 190.005(2)(a), Florida Statutes (1983), was not amended, its continued reference to Section 190.005(1)(a), Florida Statutes (1983) allows the technical argument that county petitions should contain an economic impact statement, the position taken by Appellant. Had Frontier filed its petition after the effective date of the 1984 amendments, it might well have attached an economic impact statement, notwithstanding the inappropriateness of such an attachment to petitions to a legislative body. In this case, the technical and procedural requirement for an attachment if, arguendo, one existed, did not become law until half way through the notice period for adoption of the county ordinance. It would be unreasonable and harsh to require Frontier Acres to begin the process all over again for the sake of such a technical requirement as attaching a formal economic impact statement. Where a statute is susceptible to more than one interpretation, one imposing an unreasonable or harsh result should be avoided. Austin v. State ex rel Christian, 310 So. 2d 289 (Fla. 1975); Leach v. State, 293 So. 2d 77 (1st DCA Fla. 1974).

Even if a technical attachment to the petition of a formal economic impact statement is required by Section 190.005(2)(a), Florida Statutes, notwithstanding this unusual timing circumstance, failure to attach one in this instance does not leave the county commission without authority to consider the petition as Appellant contends. The Florida Supreme Court will not require

adherance in matters concerning the economic impact statement to form over substance and has demanded not perfection but substantial compliance with the statutory procedures in such cases. Dept. of Health & Rehabilitative Services v. Wright, 439 So. 2d 937 (1st DCA Fla. 1983). Section 120.68(8), Florida Statutes (1984 Supp.), establishes a statutory harmless error rule, which provides that in the event of a procedural error, such as the preparation of an economic impact statement, the court must affirm the action taken unless the error "impairs the fairness of the proceeding or the correctness of the action taken." Id. at 940; Polk v. School Board of Polk County, 373 So. 2d 960 (2d DCA Fla. 1979); School Board of Broward County v. Gramith, 375 So. 2d 340 (1st DCA Fla. 1979).

In this instance, however, there is abundant evidence showing that the county commission consisent with its natural legislative function gave full and adequate consideration to the economic factors involved in the establishment of the Frontier Acres Community Development District, and, therefore, the absence of attaching a formal economic impact statement did not impair the fairness of proceeding or the correctness of the action taken.

The record reflects the required elements for a formal economic impact statement, set out in Section 120.54(2)(a), Florida Statutes (1983), were considered by Petitioner, the county staff, and the County Commission even though no document styled an economic impact statement was attached to Frontier Acres'

petition. Refer to the Statement of the Case and Facts for a discussion of such elements of econmic impact on the record.

The absence of an economic impact statement is harmless error in instances where it can be shown that the economic factors and their impact were fully considered by the county commission. Florida-Texas Freight, Inc. v. Hawkins, supra; Polk v. School Board of Polk County, supra.

The Pasco County Commission, therefore, retained the authority to consider the petition for and established the Frontier Acres Community Development District pursuant to Section 190.005(2), Florida Statutes (1984 Supp.), as the absence of an economic impact, even if, arguendo, one was required, was harmless error.

B. The material change in the Project and Resolution, at the request of the district is statutorily authorized and limited specifically to a set of enumerated community development special systems and powers so that the court is able to validate the legality of the purpose of the bonds within the scope of those enumerated powers.

The court did not err in validating the bonds for the Project and Resolution which can be changed, at the request of the district, with or without the consent of the bondholders [R-Exh. 2(E), §1102] because such potential change was reviewed by the trial court and on the record found limited to the stated scope of work for use of assessments bond proceeds.

Chapter 75, Florida Statutes (1983), is silent on such changes in the Resolution. Section 190.016(11), Florida Statutes (1984 Supp.), specifically states that "any resolution authorizing

the issuance of bonds may contain covenants which may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues;...the procedure for amending or abrogating covenants with the bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders." (emphasis supplied) The bond Resolution [R-Exh.2(D)] and its Trust Indenture (which by section 23 of the Resolution is attached to, incorporated and made a part of the Resolution), contain prominent and specific references to Chapter 190, Florida Statutes, both by generic name and statute number, constituting a direct disclosure of and reference to Chapter 190, Florida Statutes, to apprise all parties and the court that Chapter 190, Florida Statutes, not only authorizes and describes the bond resolution but also sets forth authority for covenants.

Whereas the above-quoted language constitutes notice about flexibility in covenant provisions, the Act also limits the scope of possible uses. Specifically, Sections 190.011 and 190.012, Florida Statutes (1984 Supp.), limit the exercise of district powers so that the entire array of possible uses is statutorily disclosed. In fact, Sections 190.006-.041, Florida Statutes (1983 as amended), as a composite, constitute the "district charter" with ample, simple and direct disclosed limits on the purposes for which assessment bonds shall be used. Sections 190.005(2)(d) and 190.011(9), Florida Statutes (1984 Supp.) If streets, water, sewer, drainage and two recreational facilities [approved by the

county under Section 190.012(2)(a), Florida Statutes (1984 Supp.)] constitute one set of uses chosen from those specifically listed by the Act, then, as facts may arise consistent with statutory purpose, a different set of uses is authorized and available within that same scope. Chapter 190, Florida Statutes, is unequivocal that the district is severely "limited" only to those uses. No person or entity may alter or change that or any other portion of the charter, except the Florida Legislature itself, [Section 190.005(2)(d), Florida Statutes, (1984 Supp.)]. As discussed earlier, the Legislature set up an innovative and flexible mechanism for the delivery of capital infrastructure for community developments [Section 190.002, Florida Statutes (1984 Supp.)] so long as the "security of the bondholders" is protected. Section 190.016(11), Florida Statutes (1984 Supp.)] There is no failure on the record to explain this point, which, as noted on page 55 of the October 26 transcript (R-Exh. 6), is discussed between the Assistant State Attorney and the attorney representing the district before the trial court. Following a lengthy discussion on the Resolution and Indenture, Mr. Williams stated that the purpose of the referenced language (on page 32 of the Indenture) that:

> -- the project being as defined by Chapter 190 and has to remain.
>
> I would submit we're within the purview of the requirements or the rights and powers that are granted by 190." [R-Exh. 6(55)] (emphasis supplied)

In 1977, in Dade County, concerning the "Decade of Progress" General Obligation Bonds used primarily to implement construction of a unified mass transit system, opponents sought to prevent the sale and closing of the bonds alleging that circumstances had substantially changed. Stop Transit Over People, Inc., v. Board of County Commissioners of Dade County, 347 So. 2d 842 (3d DCA Fla. 1977). Among several points, they said the system as it was currently planned differed "substantially from the originally proposed project, and that the bond sale would therefore constitute a fraud on the public." Id. at 843. (Since the Supreme Court had already affirmed the validity of those bonds, the trial court, citing Section 75.09, Florida Statutes, prohibited collateral review.) However, the court also "specifically found that the proposed use of the bond proceeds was 'within the scope of the project authorized by the voters and is therefore a proper and legal use.'" Id. The Third District Court of Appeal said it "will not deign to question the County Commission's legislative expertise in light of the fact that we agree with the trial court's conclusion that the proposed system is within the scope of the project" which was authorized by the voters of Dade County and affirmed by the Supreme Court. Id. at 844. Moreover, the court indicated that since the opponents made no claim that the county did not have the power to build the rail system there was no showing or arbitrary or unreasonable activity by the county.

On December 12, 1977, in Stop Transit Over People, Inc. v. Board of County Commissioners of Dade County, 354 So. 2d 986 (Fla.

1977), the Supreme Court dismissed the appeal from the Third District Court.

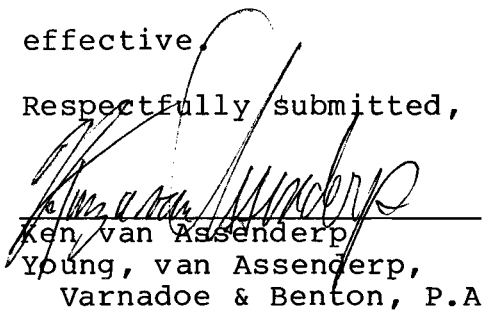
Regarding the Frontier bonds, since they provide for assessment, there was no need for a referendum and the district was found to have authority to issue the bonds as derived specifically from the wording of Chapter 190, Florida Statutes. Because, as specifically indicated on the record, the bondowners know or have reason to know that the use of the assessment bonds could change, but only within a limited and fully delineated scope, there is no issue of subterfuge or fraud. In Stop Transit, supra, the court reviewed a post-validation and substantial change which had already occurred whereas before this court is a clear delineation of the noticed limits of scope of possible project changes, none substantially different, singly, or in combination, than that specifically selected. The court is enabled to review purpose with finality. Accordingly, using the rationale and terminology of Stop Transit, supra, there is no basis therefore upon which to "deign to question" the state's "legislative expertise," the county's establishment of the district by ordinance on a complete record, and the duly adopted resolution of the district pursuant to such general legislative authorization.

CONCLUSION

The trial court did not err in validating the bond issue because the district is legally established by general law with specific authority to issue the bonds. The trial court on the record had adequate and sufficient information upon which to determine conclusively that the purpose of the bond obligation is not subject to change because any possible general-law authorized powers or activities, which may change under the Indenture of Trust, are within a clearly defined and described scope of specialized community development service delivery. The trial court had sufficient and adequate basis of record to determine that the purpose of the obligation is both public and legal.

The proceedings authorizing the obligation were proper. The Act (1984) as applied is also constitutional on the facts of record. Chapter 190, Florida Statutes, constitutionally restricts the right to vote because it provides for severely limited special powers and a highly specialized public growth management purpose and because the benefits and costs of the project disproportionately affect the landowners. Economic impact was adequately and sufficiently considered by the county with cognizable evidence thereof on the record so that there was no harm from not attaching a formal assessment document to the petition half-way through the notice period once the petition had been earlier filed before the new law was passed and before it became effective.

Respectfully submitted,



Ken van Assenderp
Young, van Assenderp,
Varnadoe & Benton, P.A.
Post Office Box 1833
Tallahassee, Florid 32302
(904) 222-7206

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer Brief of Appellee has been furnished to C. Marie King, Assistant State Attorney, Post Office Box 5028, Clearwater, Florida 33518, and Robert L. Williams, Suite B, 2100 S. Tamiami Trail, Venice, Florida 33595, by United States mail this 28th day of February 1985.

Ken van Assenderp