

Supreme Court of Florida

THURSDAY, MARCH 26, 1987

CRAIG R. WILSON, etc., **
Appellant, **

vs. **

CASE NO. 69,565

PALM BEACH COUNTY HOUSING **
AUTHORITY, etc., Appellee. **

Circuit Court Case No. 86-6656 (CL) N
(Palm Beach County)

**

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ORDER ON REHEARING

On consideration of the petition for rehearing, the opinion filed February 6, 1987, is corrected and the motion for rehearing is denied.

A True Copy

JB

TEST:

cc: Hon. T. P. Poulton, Judge
Mr. John B. Dunkle, Clerk

Sid J. White
Clerk Supreme Court.

Craig R. Wilson, Esquire
Charles W. Musgrove, Esquire
E. Cole FitzGerald, III, Esquire
James Patrick Garrity, Esquire
Arthur Knudsen, Esquire

Supreme Court of Florida

CORRECTED OPINION

No. 69,565

CRAIG R. WILSON, etc.,
Appellant,

vs.

PALM BEACH COUNTY HOUSING
AUTHORITY, etc., Appellee.

[February 6, 1987]

OVERTON, J.

This is a direct appeal from a final judgment validating revenue bonds of the Palm Beach County Housing Authority. We have jurisdiction, article V, section 3(b)(2), Florida Constitution, and we affirm the final judgment validating the bonds.

The Palm Beach County Housing Authority was created pursuant to section 421.27, Florida Statutes (1985), and seeks to validate revenue bonds for financing the acquisition and construction of low income housing. The proposed bonds are payable solely from the housing projects' revenues and the bond proceeds investment earnings. Pledges of these revenues and earnings and of mortgages on the projects secure the proposed bonds.

The only issue before this Court is whether the housing authority's grant of a mortgage security interest mandates an election for bond approval. The trial court rejected the

argument that the bonds would be valid only with electorate approval.

Appellants contend that this Court's decisions in Boykin v. Town of River Junction, 121 Fla. 902, 164 So. 558 (1935), and Nohrr v. Brevard County Educational Facilities Authority, 247 So. 2d 304 (Fla. 1971), require an election to approve bonds secured by a mortgage on physical property. In Boykin, the local governmental entity issuing the bonds had ad valorem taxing authority. We deleted the mortgage provision from the bonds in Nohrr, noting that, although there would be no coercion to impose a tax for those particular bonds issued to benefit a private educational institution, there easily could be coercion if the bonds were for a public institution. In Nohrr, although the issuing authority did not have taxing power, we stated that the relationship with the county or the legislature could be such that those entities "would feel morally compelled to levy taxes or to appropriate funds to prevent the loss of those properties [public schools] through the process of foreclosure." 247 So. 2d at 311.

In the instant case, it is clear the Palm Beach County Housing Authority has no ad valorem taxing authority and, in issuing these bonds, there is no direct or indirect pledge of taxing power. We reject the applicability of Boykin and Nohrr, and conclude that under these circumstances the mortgage provisions do not constitute a debt, liability, or obligation of Palm Beach County, the state of Florida, or any political subdivision, nor do they pledge the full faith and credit of Palm Beach County, the state of Florida, or any political subdivision. Further, we reject the argument that those entities would experience coercion to levy a tax to prevent the foreclosure of the project. We recede from Nohrr to the extent it conflicts with this opinion.

Accordingly, we affirm the trial court's validation of the revenue bonds.

It is so ordered.

McDONALD, C.J., and EHRLICH, SHAW, BARKETT, GRIMES and KOGAN, JJ.,
Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED

An Appeal from the Circuit Court in and for Palm Beach County - Bond
Validations

T. P. Poulton, Judge - Case No. 86-6656 (CL) N

Craig R. Wilson, in proper person, West Palm Beach, Florida;
and Charles W. Musgrove, West Palm Beach, Florida,

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