

IN THE SUPREME COURT OF FLORIDA

CASE NO. 73,206

BENJAMIN E. PARTRIDGE and  
BEVERLY MERRITT,

Appellants,

v.

ST. LUCIE COUNTY, ETC.

Appellee.

FILED  
JAN 13 1989  
CLERK OF THE SUPREME COURT  
FLORIDA

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APPELLANTS RESPONSE TO APPELLEE'S ANSWER BRIEF

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BENJAMIN E. PARTRIDGE  
7301 Georges Road  
Ft. Pierce, Florida 34951

BEVERLY MERRITT  
6601 Ocala Avenue  
Ft. Pierce, Florida 34951

  
by: Beverly Merritt

## STATEMENT OF THE CASE

1. The County claims that they made no errors in the Court case when the bonds were validated but they do not explain why they did not include in the evidence the County Ordinance 88-45. This ordinance attempted to cover the fact that the County erred in advertising for a Taxing Unit and then creating a Benefit Unit. The County is attempting to gloss over this by stating that it is just a matter of semantics but the fact of the matter is that the Taxing Unit is governed by the Florida Legislature.

2. The trial Court could only rule on the evidence presented and could not rule on anything not in evidence. The State Attorney did not properly prepare himself for this case or he would have known what should and what should not be in evidence.

3. The Commissioners of St. Lucie County cannot properly decide whether or not a project is worth the cost until they first determine the cost. An estimate isn't a true indication of cost. Until bids are received the cost cannot be determined. Therefore they could not say that the benefit of this project exceeds the cost.

4. The Court has ruled that vacant lots and lands do receive special benefits from construction of sewers, F.S.A.170.02; Sp. Acts 1959,C.59-1622. This same principle would apply to paving and drainage benefits. As we have shown many properties were arbitrarily dropped from the tax roll. Even though the County is picking up the cost the money the County spends comes from the same source, the taxpayers. This would represent double taxation on those assessed.

5. Restrictive covenants have been used to justify dropping others from the assessment rolls. Covenants can be broken and ignored, there is no reasonable way to enforce them.

## CONCLUSION

Appellants realize that they are very limited in their arguments because of lack of knowledge of the law. Appellants have tried continuously to find a lawyer to represent them. They have failed but not from lack of ability to pay. No one will take on a case in the middle and even fewer are willing to fight against a local government. We have gone as far south of our area as Coral Gables and as far north as Melbourne.

St. Lucie Board of Commissioners ignored the fact that Lakewood Park is chartered under Florida laws and that to transfer any property owned by them a vote of the membership of the Association is required. Simple courtesy would have allowed this vote. They have since given this courtesy to another group of property owners in the County. We agree they have the power but that does not mean they have right to abuse that power.

Lakewood Park property owners can and will take care of their own roads without outside help. We could do it without the County spending the \$2 million plus and the County could spend that money on something else the County needs. Money is too frequently spent to solve a problem before the problem is fully thought out. The solution is very simple, allow the property owners to solve their own problems.

The County will contend that the property owners asked them to step in but this is simply untrue. A petition by a few cannot be the voice of the majority. They will also contend that 2000 have paid the assessments. According to the Tax Collector of St. Lucie as of December 30, 1988 only about 1100 have paid. There is no way to determine how many of these payments were from escrow accounts in which the property owner has no choice, the bank determines when the payments will be made.

The people of Lakewood Park request that the Court allow us to take care of our own problems without interference from the County.

Appellants feel they have shown that the County acted arbitrarily in this matter and without finding the real facts of the situation before taking action. If the County had come into this situation with an open mind they could have solved these problems without going before the Court. The only real solution will be to start over with a binding referendum.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following: Robert Freeman, 2100 Florida National Bank Tower, Jacksonville, Fl. 32202, Daniel McIntyre 2300 Virginia Avenue, Fort Pierce, Florida 33482, and James Alderman 300 South Sixth Street, Fort Pierce, Florida 34950, this 5th day of January, 1989, by U.S. Mail.

*Beverly Merritt*  
Beverly Merritt