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IN THE SUPREME COURT OF THE STATE OF FLORIDA

STATE OF FLORIDA, and the
Taxpayers, Property Owners
and Citizens of Sarasota
County, including nonresidents
owning property or subject to
taxation therein, et al.,

Appeal Case #73,912

Defendant/Appellant,

v.

Appeal from
Case No. 88-5873

SARASOTA COUNTY, FLORIDA, a
political subdivision of the
State of Florida,

Plaintiff/Appellee.

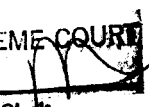
ON APPEAL FROM THE
CIRCUIT COURT
OF SARASOTA COUNTY

FILED

SID J. WHITE

APR 13 1989

CLERK, SUPREME COURT

By: 
Deputy Clerk

AMENDED BRIEF OF APPELLANT

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JURISDICTION

The Supreme Court of the State of Florida has appellate jurisdiction in this matter because this is an appeal from a final order validating bonds. Rule 9.030, Rules of Appellate Procedure states:

Rule 9.030(a) - JURISDICTION OF SUPREME COURT

(1) Appeal Jurisdiction

(B) When provided by general law, the Supreme Court shall review:

(i) by appeal, final orders entered in proceedings for the validation of bonds or certificate of indebtedness.

Consequently, the Supreme Court has jurisdiction in this cause.

STATEMENT OF THE CASE

This is an appeal from a Final Judgment of the Circuit Court in and for the Twelfth Judicial Circuit, in and for Sarasota County, Florida, rendered February 22, 1989 by the Honorable Gilbert Smith.

The case commenced when Sarasota County, a political subdivision of the State of Florida, filed a Complaint in the Circuit Court in and for Sarasota County against The State and the taxpayers, property owners and citizens of Sarasota County, including non-residents owning property or subject to taxation therein, and all others having or claiming any right, title, or interest in property to be effected by the issuance of Gas Tax Revenue Bonds, in an amount not exceeding \$37,000,000.00.

The Complaint alleged Sarasota County had the authority to issue the bonded indebtedness and other applicable provisions of law had been met for the issuance of said bonds to finance the cost of the acquisition and construction of certain road improvements in Sarasota County and for the levy and assessment of taxes and all other pertinent matters. Sarasota County additionally alleged in its complaint that the bonds would be payable solely from and secured by a prior lien upon and pledge of the County Gas Tax, the Voted Gas Tax, and the Local Option Gas Tax.

Finally, Sarasota County alleged that no approving referendum election was required under the provisions of §4.3.E of the

Sarasota County Charter because §4.3.E requires a referendum only in those instances where the concerned bonds are to be paid out of "tax revenues of the County". Sarasota County argued that the term "tax revenue of the County" has always been interpreted and construed by Sarasota County as applying only as to ad valorem tax revenues of the county.

The State of Florida, through its State Attorney for the Twelfth Judicial Circuit, Earl Moreland, answered Plaintiff's Complaint and objected to Sarasota County's attempt to validate the bonds because the County failed to obtain referendum approval as required by §4.3.E of the Sarasota County Charter. Appellant raised as an affirmative defense Sarasota County's failure to satisfy a condition precedent to the issuance of said bonds because it failed to cause a referendum to be held on the bonds as required by the County Charter.

The case was tried to the Court on February 22, 1989. At the conclusion of the trial, Judge Smith validated the bonds. Judge Smith construed §4.3.E to require a referendum only when ad valorem taxes were involved. Judge Smith also held that the gas taxes from which the bonds would be paid were not tax revenues of the County, within the meaning of §4.3.E of the County Charter. Finally, the Trial Court held that if §4.3.E of the Charter requires a referendum, it is inconsistent with general law §336.025, Florida Statutes.

STATEMENT OF THE FACTS

Sarasota County is a Charter County. The County Charter is the governing document for local government in Sarasota County. §4.3.E of the Sarasota County Charter specifically states that all bonds in excess of 10,000,00.00 payable out of the tax revenues of the county must be approved at referendum. The bonds in the instant case are in the amount of \$37,000,00.00 payable from the County Gas Tax, the Voted Gas Tax, and the Local Option Gas Tax.

Sarasota County has refused to call an election on the issuance of these bonds. The county's position is that §4.3.E of the County Charter only applies to ad valorem tax revenues of the County.

The Sarasota County Charter Review Board (CRB) exists by virtue of §2.11.A of the County Charter and is composed of ten elected members. The purpose of the Charter Review Board is to "review the operation of County Government, on behalf of the citizens and recommend changes for improvement of this Charter". (See Charter in Appendix) Any such recommendation must be approved at referendum.

In 1984, the Sarasota County Charter Review Board recommended and the voters passed at referendum §4.3.E as an amendment to the Charter. §4.3.E was added to limit the ability of Sarasota County to issue bonds payable from county tax revenues in excess of \$10,000,000 without first obtaining the approval of the voters.

At trial, former Chairman of the Sarasota County Charter Review Board, Samuel Wadhams, testified that he was personally

involved in placing §4.3.E on the ballot in 1984 and that §4.3.E was specifically designed to limit Sarasota County's ability to issue bonds payable from the tax revenues of the county without voter approval. Mr. Wadhams stated that the phrase "tax revenues of the County" was meant to apply to any and all forms of taxation and all tax revenues of the County, from whatever source. Mr. Wadhams testified that the idea was to give the voters an opportunity to say yes or no for obligations they would have to fund in the future. Mr. Wadhams also testified that the drafters intent behind §4.3.E was to include all forms of tax revenues and was never limited to ad valorem taxes only. Mr. Wadhams testified the only revenue which would not fall under §4.3.E would be user fees, such as from the sale of water, etc.

Maxine Holm, who was also a member of the Charter Review Board in 1984, testified that she was involved in placing §4.3.E on the ballot and that §4.3.E was never intended to be limited to ad valorem taxes, but was designed to apply to all tax revenues of Sarasota County.

Robert Siff, current Chairman of the Charter Review Board, who testified he was a member of the Sarasota County Charter Review Board in 1984 and was personally involved in placing §4.3.E on the ballot. Mr. Siff testified the intent of §4.3.E was to apply to all tax revenues of the county except for user fees. He also testified that §4.3.E was never limited to apply to ad valorem tax revenues only.

Appellant also called the Attorney for the Charter Review

Board in 1984, Daniel Joy, who testified he drafted the language that now appears in §4.3.E of the Sarasota County Charter. Mr. Joy testified that at no time was §4.3.E meant to apply only to ad valorem tax revenues. In fact, Mr. Joy testified that there was never any discussion of ad valorem tax revenues when 4.3.E was considered and adopted by the Charter Review Board and placed on the ballot for referendum approval. Mr Joy testified that §4.3.E was intended to apply whenever tax revenues of the county were being used to back bonds.

At trial, the County called Wayne Hartnip, who is the Finance Director of the county who testified that the county has issued bonds in excess of \$10,000,000.00 payable from the tax revenues of the county in the past without referendum approval. Mr. Hartnip also testified he considers all gasoline taxes State tax revenues.

Appellee next called County Commissioner Mabry Carlton who testified it was always his impression that §4.3.E would only apply to ad valorem tax revenues. Mr. Carlton conceded that interpretation of §4.3.E would render that section moot because the State Constitution already prohibits the issuance of any ad valorem backed bonds without a referendum.

Appellee then called the County Administrator in 1984, Edgar Maroney, who testified that it was his understanding §4.3.E would only apply to ad valorem tax revenues. He did not indicate what the basis was for his understanding.

Finally, Appellee called County Commissioner Robert Anderson who testified the County Commission always thought §4.3.E would

apply to ad valorem tax revenues only. He offered nothing concrete to support such a conclusion, other than his own interpretation of the Charter language.

In rendering his order, Judge Smith concluded that a common sense reading of the Charter Section 4.3.E would include any tax. However, the Court validated and confirmed the bonds for the following reasons: First, the County's intent of §4.3.E was that a referendum would be required only when ad valorem taxes would be used. Second, a gas tax is not a tax revenue of the County, but it is a tax revenue of the State. Finally, if Section 4.3.E of the Charter requires a referendum, then it is invalid as being inconsistent with the general law Section 336.025 of Florida Statutes.

The Circuit Court validated the bonds on February 22, 1989.

SUMMARY OF ARGUMENT

The Circuit Court erred by validating the bond in this case because the bond issue violates §4.3.E of the Sarasota County Charter. The Sarasota County Charter prohibits any issue of a bond payable from tax revenues of the County in excess of \$10,000,000.00 without holding a referendum. These bonds were issued without a referendum, in the amount of \$37,000,000.00, and they are payable from gas tax revenues. Therefore, these bonds should not have been validated until the people of Sarasota County approved same by referendum.

The Court also erred by admitting parol testimony to vary the clear and unambiguous language of §4.3.E of the Sarasota County Charter. The Court considered parol testimony from Sarasota County Commissioners; however, they were not the legislative body of this provision. The Sarasota County Charter Review Board is the legislative body which created §4.3.E and, therefore, if parol testimony was required to understand the legislative intent, it should have been limited to the legislative body, the Sarasota County Charter Review Board.

The lower Court held that these gas taxes were state gas taxes and not tax revenues of the county as defined by the Charter. If these taxes are not considered tax revenues of the county, it does not violate §4.3.E of the Sarasota County Charter. However, the County Gas Tax, the Voted Gas Tax and the Local Option Gas Tax are clearly county tax revenues. The county imposes the tax and spends the revenues. The state serves only as a collection agency for the

county and as a conduit for said funds. Therefore, these are tax revenues of the county and §4.3.E of the Sarasota County Charter would prevail.

The lower Court erred by interpreting the words "tax revenues of the county" in §4.3.E of the Sarasota County Charter to mean only ad valorem taxes. This is inconsistent with the clear reading of the Charter. In addition, the Court heard testimony from three members of the Charter Review Board and the attorney who drafted said provision that their legislative intent at the time was for this section to apply to all tax revenues, not merely ad valorem tax revenues. Therefore, looking at the legislative intent of the makers and the unambiguous language, it is clear that this provision was not limited to ad valorem taxes only.

The Trial Court found that the referendum requirement of §4.3.E is inconsistent with §336.025 of the Florida Statutes, and is therefore unconstitutional. However, there is no inconsistency nor conflict between these two provisions, rather they compliment each other. There is no provision under Florida Law which prohibits the bonding limitations and referendum requirement of §4.3.E and, therefore, the Section is constitutional.

The failure to obtain a referendum approval is a fatal defect and a condition precedent to validating the bonds in this case. This Court should reverse and set aside the trial court's validation of said bonds until such time as Sarasota County complies with the Charter and gives the voters of Sarasota County a chance to be heard.

ARGUMENT

POINT ON APPEAL

I.

THE LOWER COURT ERRED BY ENTERING AN ORDER VALIDATING \$37,000,000.00 GAS TAX REVENUE BONDS BECAUSE THE SARASOTA COUNTY CHARTER REQUIRES REFERENDUM APPROVAL FOR ALL BONDS IN EXCESS OF \$10,000,000.00 PAYABLE FROM THE TAX REVENUES OF THE COUNTY.

Sarasota County is a Charter County. The County Charter is the governing document for local government in Sarasota County. §4.3.E of the County Charter specifically states that all bonds payable out of the tax revenues of the county must be approved at referendum.

§4.3.E is well worth quoting in its entirety:

4.3.E Bonding Limitations Sarasota County, or any subdivisions of instrumentality thereof, shall not issue or cause to be issued any notes, bonds, or other instruments of indebtedness evidencing borrowing, obligating the county to pay off said indebtedness out of the tax revenues of the county, unless the principal indebtedness evidenced by said instrument is in an amount less than Ten Million Dollars (\$10,000,000.00), or the issuances approved by a majority vote at a referendum specifically authorizing the issuance of the notes, bonds, or other instruments indebtedness in excess of the Ten Million Dollars (\$10,000,000.00). The County may not avoid the requirements hereof by issuing or causing to be issued notes, bonds or other instruments of indebtedness which

reflect a single, simultaneous or concurrent undertaking, but which have been divided in such fashion so as to avoid the limitations as herein set forth.

Without any qualifications, §4.3.E requires Sarasota County to obtain referendum approval for any bonds "obligating the county to pay off said indebtedness out of the tax revenues of the County" if the bond is \$10,000,000.00 or greater.

The county admits in paragraph 7 of its Complaint and accompanying resolution and ordinances that the \$37,000,000.00 bonds are gas tax revenue bonds payable from the County Gas Tax, the Voted Gas Tax and the Local Option Gas Tax (See appendix). It is self evident these are tax revenues of the county. On what basis the Court concluded otherwise went unstated. The tax is imposed by the County, on sales of gasoline within the County, but collected by the State and then returned to the County.

Notwithstanding the County's Complaint and resolutions and ordinances, attached thereto, at trial, Appellee argued the County Gas Tax, the Voted Gas Tax and the Local Option Gas Tax were State taxes.

The above argument rings hollow. The phrase "tax revenues" is extremely broad. Under Florida law, there are two kinds of taxes, direct and indirect; "direct taxes" are ad valorem taxes based on the assessed value of property subject to taxation and "indirect taxes" are excise or occupational taxes such as taxes imposed on the manufacturer, sale, or consumption of commodities

within the state or on corporate franchises and privileges. Anchor Hocking Corp. v. Jacksonville Elec. Authority, 419 F.Supp 992 (D.C. Fla 1976).

Moreover, Florida Courts have defined the phrase "tax revenues" very broadly. The Supreme Court of Florida stated:

A "tax" is an enforced burden of contribution imposed by sovereign right for the support of the government, the administration of the law, and to execute the various functions the sovereign is called on to perform. City of Orlando v. State, 67 So.2d 673 (Fla. 1953)

Additionally, the word "taxation" is a generic term and is frequently construed to include both ad valorem and excise taxes when not qualified. American Can Company v. City of Tampa, 14 So.2d 203 (Fla. 1943).

By definition, a "tax" is a forced charge imposed by government and in no sense depends upon the will or contract of one on whom it is imposed. State ex rel. Gulfstream Park Racing Association v. Florida State Commission, 70 So.2d 375 (Fla. 1954)

Likewise, the label Sarasota County places on its revenues is irrelevant. The character of a tax is determined by the practical operation of the tax and not by the name applied to the tax. U.S. v. Lee, 13 So.2d 919 (Fla. 1943). Similarly, the nature of a tax must be determined by its operation rather than by its terminology. Owens v. Fostick, 13 So.2d 700 (Fla. 1943) Whether the gasoline tax is a state or county tax necessarily depends on which governmental level imposed the tax. This having been said, it is

beyond dispute that tax revenues of the county will be used to redeem the \$37,000,000.00 worth of bonds.

At trial, Sarasota County called two County Commissioners who testified that the phrase "tax revenues of the county" appearing in §4.3.E has always been interpreted and construed by the county as applying only to ad valorem tax revenues of the county. There are three responses to this position: First, the intent of the Sarasota County Board of County Commissioners is irrelevant because they were not the authors of §4.3.E. In 1984 the Sarasota County Charter Review Board proposed and the voters passed at referendum §4.3.E. The County Commissioner's understanding of the intent is not relevant to the meaning of the charter section where the language speaks for itself. The Court construes the meaning by reading the language and if the language is unambiguous it renders a construction based solely on the plain meaning of the words used. If anybody's subjective intent under these circumstances is pertinent to the construction placed on the section it is the intent of the Charter Review Board. The County Commission had virtually nothing to do with the process adopting the charter abandonment. In fact the very members who testified as to what the section meant to them opposed the amendment. The only duty the Sarasota County Board of County Commissioners performed regarding §4.3.E was a purely ministerial task of placing what the Charter Review Board adopted on the special election ballot.

The ballot summary that was placed before the voters should not be underestimated. The actual form of the ballot was as

follows:

Shall Article VI of the Sarasota County Charter be amended to add a Section 4.3(e) proposed by the Sarasota County Charter Review Board,

"To require voter approval before Sarasota County may issue a bond issue of more than Ten Million Dollars (\$10,000,000.00) which obligates the County tax revenues. The requirement would not apply when repayment comes exclusively out of user fees."

The above ballot question was overwhelmingly approved by the voters of Sarasota County.

Second, Sarasota County's interpretation of §4.3.E is nonsensical and redundant. The Florida Constitution already requires that any bonds payable from ad valorem taxation be approved at referendum. Fla. Const. VII, Art. Sec. 12.

Third, three members of the Charter Review Board who were directly involved in placing §4.3.E on the ballot in 1984, testified that as the authors and sponsors of §4.3.E they intended for it to apply to tax revenues of any kind. The only exclusion from §4.3.E would be bonds payable from user fees.

Finally, the Charter Review Board's Attorney, Daniel Joy, who drafted §4.3.E testified that when he was instructed to draft §4.3.E he was told to draft an amendment to include all tax revenues of the county, except for user fees. Mr. Joy and the Charter Review Board testified they were well aware of Article VII, §12, of the Florida Constitution which prohibits the issuance of bonds payable from ad valorem tax revenues without referenda

approval. He also testified that when the Charter Review Board's resolution was submitted to the County Commission for ballot placement he explained that as he understood it all county revenues, from whatever source of county imposed tax, would trigger the requirement for a public referendum when the County Commission wished to place a bond issue involving more than \$10,000,000. He said when questioned by members of the County Commission that the Charter Review Board, by using the phrase "tax revenues" intended to exclude only revenues from sources other than tax, such as from the sale of water.

In conclusion, the plain language of §4.3.E cannot be ignored. §4.3.E was designed to require Sarasota County to obtain referendum approval before issuing bonds in excess of \$10,000,000.00 whenever the tax revenues of the County would be pledged to redeem the bonds.

A.

THE LOWER COURT ERRED BY ADMITTING PAROL TESTIMONY TO VARY THE CLEAR AND UNAMBIGUOUS LANGUAGE OF §4.3.E OF THE SARASOTA COUNTY CHARTER.

At trial, the Trial Court allowed in evidence, over Appellant's objection, parol testimony from just about everybody. This parol testimony should not have been admitted because the language of the section was unambiguous.

One of the cardinal rules of statutory construction in Florida is as follows: Where the language of a statute is plain and

unambiguous and conveys a clear and definite meaning, there is no occasion to resort to the rules of statutory interpretation. Wagner v. Botts, 88 So.2d 611 (Fla. 1956). In Wagner, the Florida Supreme Court correctly held that where the intent is plain, the Courts may not apply their own construction or rearrange the words, or even add punctuation marks that would result in a departure from the natural meaning of the language used.

Put another way, ambiguity is a prerequisite to go beyond the four corners of the statute to be construed. Rules of Statutory Construction should be used only in cases of doubt and should never be used to create doubt, only to remove it. Englewood Water District v. Tate, 334 So.2d 626 (Fla. 2d D.C.A. 1976)

The language of §4.3.E is clear and admits of only one meaning. The legislature, in this case the Charter Review Board, clearly intended what the charter provision plainly expressed. The only proper function of the Court is to effectuate the legislative intent. The legislative intent was clearly expressed in the Charter. To permit parol testimony to vary the plain meaning of the Charter section was unnecessary and reversible error.

In a case like this, where the Charter section is both clear and reasonable and logical in its operation, the Trial Court should not have searched for excuses to give a different meaning to the words used in the Charter, nor should the Court have speculated as to what the Charter Review Board intended.

In summary, the Trial Court erred by construing an unambiguous

charter provision in a way which would modify or change its express terms or its reasonable and obvious implications.

B.

**THE LOWER COURT ERRED IN HOLDING THE GAS
TAX REVENUE BONDS WERE NOT PAYABLE FROM
TAX REVENUES OF THE COUNTY.**

Sarasota County caused a Complaint to be issued in the Circuit Court in and For Sarasota County, seeking to validate Gas Tax Revenue Bonds in the amount of \$37,000,000.00 and did so by virtue of a resolution and ordinance passed by the Board of County Commissioners. Paragraph 7 of Appellee's Complaint read as follows:

The Resolution provides that the bonds shall be payable solely from and secured by a prior lien upon the pledge of the County Gas Tax, the Voted Gas Tax, and the Local Option Gas Tax.

Notwithstanding the very resolution under which Sarasota County was operating, and further ignoring Paragraph 7 of its own Complaint, at trial, Sarasota County took the position that the County Gas Tax, the Voted Gas Tax, and the Local Option Gas Tax were state taxes, not county taxes.

The revenues from which the bonds are to be paid are county revenues. Chapter 336, Florida Statutes, is titled "County Road System". It is important to note that §336.021 Florida Statutes states, in pertinent part:

"(1) Any county in the state, in the discretion of its governing body and subject to a referendum, may impose, in addition to all other taxes required or allowed by law, 1-cent voted gas tax upon every gallon of motor fuel and special fuel sold in such county ... "

Additionally, §336.025 allows the county to levy a

"1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option gas tax upon every gallon of motor fuel and special fuel sold in a county."

Furthermore, §336.025(2)(a) states:

The tax shall be collected and remitted by any person engaged in selling at retail motor fuel or using or selling at retail special fuel within a county in which the tax is authorized and shall be distributed monthly by the Department of Revenue to the county where collected.

By any reasonable definition, the County Gas Tax, the Voted Gas Tax and the Local Option Gas Tax are clearly county "tax revenues" collected by the sellers of motor fuels, remitted to the Department of Revenue, and thereafter given back to the county. The County imposes the tax and spends the revenues. The state serves only as collection agency for the county and as a conduit for said funds.

In summary, the Trial Court erred by holding the pledged revenues for these bonds to wit: the County Gas Tax, the Voted Gas Tax, and the Local Option Gas Tax were tax revenues of the State, rather than tax revenues of the County.

C.

**THE LOWER COURT ERRED IN HOLDING §4.3.E
OF THE SARASOTA COUNTY CHARTER WAS INTENDED
TO APPLY ONLY TO AD VALOREM TAXES.**

At trial, three members of the Charter Review Board who were directly involved in placing §4.3.E on the ballot in 1984, all testified that as the authors and sponsors of §4.3.E it was always their legislative intent for it to apply to tax revenues of any kind. The only exclusion from §4.3.E would be bonds payable from user fees.

Likewise, the Charter Review Board's Attorney, Daniel Joy, who drafted §4.3.E testified that when he was instructed to draft §4.3.E he was told to draft an amendment to include all tax revenues of the county, except for user fees. Mr. Joy and the Charter Review Board testified they were well aware of Article VII, §12, of the Florida Constitution which prohibits the issuance of bonds payable from ad valorem tax revenues without referenda approval.

In summary, since Sarasota County was not the sponsor of §4.3.E any legislative intent expressed by the county is irrelevant. The Charter Review Board, as sponsors of §4.3.E clearly expressed their legislative intent at trial that §4.3.E was intended to apply to all tax revenues of the county other than user fees.

D.

**THE TRIAL COURT ERRED BY FINDING THAT
IF §4.3.E REQUIRES A REFERENDUM, IT
IS INCONSISTENT WITH §366.025 FLORIDA
STATUTES.**

At trial, Judge Smith found that if §4.3.E of the Charter requires a referendum, it would be inconsistent with §366.025, Florida Statutes. This finding was erroneous because there is no conflict between the charter and §366.025, rather they complement each other.

§366.025 is entitled: County Transportation System; levy of local option gas tax on motor fuel and special fuel." §366.025 allows the county to levy a local option gas tax, it certainly does not mandate that a county do so.

§366.025 states

(1)(a) In addition to other taxes allowed by law, there may be imposed as provided in this section a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option gas tax upon every gallon of motor fuel and special fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

* * *

(c) County and municipal governments shall utilize moneys received pursuant to this section only for transportation expenditures.

Accordingly, there is no inconsistency because §4.3.E of the Charter merely requires referendum approval before the County issues bonds payable out of the tax revenues of the county. It is

important to note that §4.3.E does not prohibit the county from pledging tax revenues for bonds, it merely requires the voters approve such a bond issue.

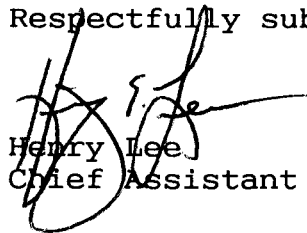
Consequently, the Trial Court erred by finding a conflict between the county charter and general law.

CONCLUSION

Sarasota County is a Charter County §4.3.E of the Sarasota County Charter is clear: Sarasota County is prohibited from issuing bonds in excess of \$10,000,000.00, payable from the tax revenues of the county unless said bonds have been approved at referendum.

The bonds in the instant case are for \$37,000,000.00. Sarasota County has failed to obtain referendum approval. The bonds are payable from the County Gas Tax, the Voted Gas Tax and the Local Option Gas Tax. These are obviously tax revenues of the County. Failure to obtain referendum approval is a fatal defect and the trial court erred when it validated the bonds. This Court should reverse and set aside the trial Court's validation of said bonds until such time as Sarasota County complies with the Charter and gives the voters of Sarasota County a chance to be heard.

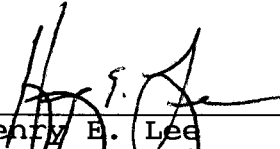
Respectfully submitted,


Henry Lee
Chief Assistant State Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by ~~U.S. Mail~~/hand delivery to Richard Nelson, Esquire, Nelson, Hesse, Cyril, Smith, Widman & Herb, 2070 Ringling Boulevard, Post Office Box 2524, Sarasota, Florida 34236 this 12 day of April, 1989.

EARL MORELAND, STATE ATTORNEY
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