

IN THE SUPREME COURT OF FLORIDA

CASE NO.: 86,291

**HERBERT M. JOHNSON, TOMMY HARRISON
and JEAN SWITZER, Private Citizens,
Individually, and as REPRESENTATIVES
for TACO, an Unincorporated Association,
AND OTHERS,**

Appellants,

vs.

**ST. JOHNS COUNTY, a political
subdivision of the State of Florida,**

Appellee.

FILED

SID. J. WHITE

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CLERK, SUPREME COURT

By

Chief Deputy Clerk

**ON APPEAL FROM THE
CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT
IN AND FOR ST. JOHNS COUNTY, FLORIDA**

ANSWER BRIEF OF APPELLEE

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I. STATEMENT OF THE CASE AND FACTS

A. Procedural History.

This is an appeal from a Final Judgment entered as a result of a proceeding under Chapter 75, Florida Statutes, as amended, for the validation of revenue bonds of St. Johns County, Florida (the "County"), designated as the "St. Johns County, Florida, Taxable Convention Center Revenue Bonds, Series 1995," in an aggregate principal amount not to exceed \$18,000,000 (the "Bonds"). (Appellants' Appendix-Exhibit ("App.") B). The Final Judgment was entered after a full, evidentiary hearing that was held on July 18, 1995. (App. B). At the time of the entry of the Final Judgment, the trial court had heard several hours of testimony and had the benefit of the Plaintiff's Memorandum of Law, which addressed all of the issues to be determined by the trial court. Thus, the Final Judgment was based upon substantial competent evidence and should be affirmed.

Elmanuel A. "Bubba" Rowe, a party to the action below, filed a timely Notice of Appeal (Appellee's Appendix 1). Although Mr. Rowe was the party to appear below and to file the Notice of Appeal, Mr. Rowe did not submit the Appellants' Initial Brief on appeal. Instead, the Initial Brief was filed by Jeffrey Grainger on behalf of Herbert M. Johnson, Tommy Harrison and Jean Switzer, individually, and as representatives for TACO, an unincorporated association, and others (collectively, the "Appellants").

In the interest of an expeditious resolution of the issues presented in this appeal and to avoid any negative impact of a delay pending submissions by the proper parties, the County requests that the Court treat Mr. Rowe's Notice of Appeal as that of the Appellants and that the Court rule upon the issues presented by the Appellants' Initial Brief pursuant to the

Motion for Expedited Relief filed contemporaneously herewith. As set forth in the Motion, any delay in the resolution of this matter will prejudice the County.

B. Factual Background.

The County is a noncharter county. On May 23, 1995, pursuant to the County's home rule power, the Board of County Commissioners (the "Board") of the County enacted Ordinance No. 95-21 (the "Ordinance") for the purpose of providing for the acquisition, construction, renovation, improvement, furnishing and equipping of public convention center facilities within the County. (App. E). In the Ordinance, the Board found and determined that it is necessary and desirable for the economy and general welfare of the County and its citizens and of the businesses and industries which operate within the County that provisions be made in the County for the acquisition, construction, renovation, improvement, operation, furnishing and equipping of public convention center facilities and for the financing and refinancing of such facilities. (App. E, Pg. 3). The Board also found and determined that the provisions for financing and refinancing the cost of the facilities with the proceeds of bonds in the manner provided in the Ordinance is in the best interest of the County and its citizens and of the businesses and industries which operate within the County and is necessary for the economic and general welfare of the County. (App. E, Pg. 3).

Under the Ordinance, the County is authorized, among other things, to enter into contracts to purchase convention center facilities, finance the cost of the facilities with the proceeds of bonds of the County and to enter into agreements to operate the convention center facilities, all in the manner provided in the Ordinance. (App. E). The Ordinance also provides that any bonds issued pursuant to its authority will not be deemed to constitute a general

obligation debt of the County or a pledge of the faith and credit of the County, but will be payable solely from any specifically pledged funds, which may include only certain legally available non-ad valorem funds, as described in the Ordinance, or any combination of such funds as designated by the Board for payment of the principal of, premium, if any, and interest on the bonds. (App. E, Pg. 5-6).

On June 13, 1995, pursuant to Chapter 125, Part I, Florida Statutes, as amended, the Ordinance and other applicable provisions of law (collectively, the "Act"), the Board adopted Resolution No. 95-117 (the "Resolution") for the purpose of providing for the acquisition by the County of certain public convention center facilities (the "Convention Center Facilities") to be located in the World Golf Village (as defined in the Resolution) and authorizing the issuance of the Bonds. (App. F, G and H). In the Resolution, the County provided for the terms of the Bonds. (App. F). The Bonds will be payable solely from and secured by a lien upon and pledge of (a) the Pledged Revenues (as defined in the Resolution), none of which consist of ad valorem tax revenues or tourist development tax revenues, (b) moneys derived from certain limited lawfully available Non-Ad Valorem Funds (as defined in the Resolution) that have been budgeted and appropriated in the annual budget of the County specifically for the payment of the Bonds pursuant to Section 4.3 of the Resolution and (c) until applied in accordance with the provisions of the Resolution, the proceeds of the Bonds and all moneys, including investments thereof, in the funds and accounts established under the Resolution, all in the manner and to the extent described in the Resolution (collectively, the "Pledged Funds"). (App. F, Pg. 15, 35-36).

The Resolution provides that neither the faith and credit nor the taxing power of the County is pledged to the payment of the principal of or interest on the Bonds and that no

holder or owner of the Bonds will have any right to compel any exercise of the taxing power of the County to enforce payment. (App. F, Pg. 28, 35). The Bonds will not constitute a lien upon the Convention Center Facilities or any other property of the County, except the Pledged Funds, and will be payable solely from the Pledged Funds in accordance with the terms of the Resolution. (App. F, Pg. 28-29).

The proceeds from the sale of the Bonds will be used to finance the cost of acquiring the Convention Center Facilities, funding capitalized interest and a debt service reserve fund for the Bonds and paying certain costs of issuance incurred with respect to the Bonds. (App. F, Pg. 22-23). Under the Resolution, the County also (a) authorized the acquisition of the Convention Center Facilities in the manner provided in the Resolution and that certain Purchase and Sale Agreement by and between the County and John Q. Hammons Hotels Two, L.P., a Delaware limited partnership ("JQH-LP"), to be executed prior to the issuance of the Bonds (the "Purchase Agreement") and the operation of the Convention Center Facilities in the manner provided in the Resolution and that certain Operating Agreement by and between the County and JQH-LP to be executed prior to the issuance of the Bonds (the "Operating Agreement") and (b) approved the form of the Purchase Agreement and the Operating Agreement, substantially in the forms attached to the Resolution as "Exhibit B" and "Exhibit A," respectively. (App. F, G and H). The County is authorized to enter into the Purchase Agreement and the Operating Agreement with JQH-LP under the Act and the Resolution.

The trial court found that all requirements of the Constitution and laws of the State of Florida pertaining to the Bonds, the security therefor, the proceedings relating thereto and all other matters connected therewith have been complied with and strictly followed. (App.

B, Pg. 6). The Appellants' sole contention on appeal is that the County does not have the authority to issue the Bonds under the laws of the State of Florida. This contention is not supported by the facts or the law. As a result, the Final Judgment validating the Bonds should be affirmed.

II. SUMMARY OF ARGUMENT

THE TRIAL COURT'S VALIDATION OF THE COUNTY'S TAXABLE CONVENTION CENTER REVENUE BONDS, SERIES 1995, SHOULD BE AFFIRMED BECAUSE THE COUNTY HAS THE AUTHORITY TO ISSUE THE BONDS UNDER ITS HOME RULE POWERS.

The trial court's validation of the Bonds should be affirmed because the County has full authority under the Constitution and laws of the State of Florida to issue the Bonds to finance the acquisition of the Convention Center Facilities. The County has the authority to issue the Bonds pursuant to its broad home rule powers by the enactment of the Ordinance. No general or special law precludes the issuance of the Bonds. The issuance of the Bonds is not inconsistent with any general or special law applicable to the County. Thus, the County has full authority to enact the Ordinance, adopt the Resolution and issue the Bonds to finance the acquisition of the Convention Center Facilities in the manner provided in the Resolution. Accordingly, the trial court's validation of the Bonds should be affirmed.

III. ARGUMENT

WHETHER THE TRIAL COURT'S VALIDATION OF THE COUNTY'S TAXABLE CONVENTION CENTER REVENUE BONDS, SERIES 1995, SHOULD BE AFFIRMED BECAUSE THE COUNTY HAS THE AUTHORITY TO ISSUE THE BONDS UNDER ITS HOME RULE POWERS.

The trial court's validation of the Bonds should be affirmed because the County has the authority under the Constitution and laws of the State of Florida, particularly Article VIII, Section 1(f) of the Constitution ("Article VIII, Section 1(f)"), Chapter 125, Part I, Florida Statutes, as amended ("Chapter 125"), and the Ordinance, to issue the Bonds to finance the acquisition of the Convention Center Facilities. Article VIII, Section 1(f) and Chapter 125 secure to the County broad home rule powers to carry on county government. These broad home rule powers provide the authority for (a) the enactment of the Ordinance, (b) the adoption of the Resolution, (c) the issuance by the County of the Bonds pursuant to the Ordinance to finance the acquisition of the Convention Center Facilities in accordance with the provisions of the Resolution, (d) the acquisition of the Convention Center Facilities in the manner provided in the Resolution and the Purchase Agreement and (e) the operation of the Convention Center Facilities in the manner provided in the Resolution and the Operating Agreement. Thus, the issuance of the Bonds by the County to finance the acquisition of the Convention Center Facilities in the manner provided in the Resolution is fully authorized by law.

In several validation cases, the Florida Supreme Court has held noncharter counties have the authority to issue bonds pursuant to home rule ordinance. See e.g. Taylor v. Lee County, 498 So. 2d 424 (Fla. 1986) (affirming validation judgment of transportation facility revenue bonds issued pursuant to home rule ordinance and secured by a pledge of bridge tolls);

Speer v. Olson, 367 So. 2d 207 (Fla. 1979) (affirming validation of general obligation bonds issued pursuant to home rule ordinance and secured by a pledge of both ad valorem tax revenues and non ad valorem tax revenues); State v. Orange County, 281 So. 2d 310 (Fla. 1973) (affirming validation of capital improvement revenue bonds issued pursuant to home rule ordinance and secured by a pledge of racetrack and jai alai funds). In Taylor, Speer and Orange County, the Court recognized that the grant of authority to issue revenue bonds pursuant to home rule ordinance originates from the home rule powers granted to noncharter counties under Article VIII, Section 1(f), which states in pertinent part:

Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law.

The unquestioned object of Article VIII, Section 1(f) is to grant noncharter counties broad home rule powers. Orange County, 281 So. 2d at 312.

The home rule powers granted to counties by Article VIII, Section 1(f) are implemented by Chapter 125. Speer, 367 So. 2d at 210. Section 125.01(1), Florida Statutes, as amended ("Section 125.01(1)"), provides in pertinent part:

"The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

- (c) Provide and maintain county buildings.
- (r) Borrow and expend money; issue bonds, revenue certificates, and other obligations of indebtedness...
- (t) Adopt ordinances and resolutions necessary for the exercise of its powers...

(w) Perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law. (Emphasis Added.)

Moreover, Section 125.01(3), Florida Statutes, as amended ("Section 125.01(3)"), states that:

(a) The enumeration of powers herein shall not be deemed exclusive or restrictive, but shall be deemed to incorporate all implied powers necessary or incident to carrying out such powers enumerated, including specifically, authority to employ personnel, expend funds, enter into contractual obligations, and purchase or lease and sell and exchange real or personal property.

(b) The provisions of this section shall be liberally construed in order to effectively carry out the purpose of this section and to secure for the counties the broad exercise of home rule powers authorized by the State Constitution. (Emphasis Added.)

Thus, Article VIII, Section 1(f) and Section 125.01, Florida Statutes, as amended ("Section 125.01"), generally provide that counties have the authority to perform any act not inconsistent with law and exercise all powers and privileges not specifically prohibited by law. As stated in the first sentence of Section 125.01(1) and in Section 125.01(3), a county's home rule powers include, but are not restricted to, the powers specifically enumerated in Section 125.01. As stated in Section 125.01(3), the provisions of Section 125.01 are to be liberally construed to secure to the counties the broad exercise of home rule power authorized by the Constitution. This Court stated in Speer that unless a particular subject has been pre-empted by either special or general law, a county has full authority to act through the exercise of home rule powers. Speer, 367 So. 2d at 211.

Based upon this broad grant of power, the Florida Supreme Court has consistently concluded that counties have the authority to issue bonds pursuant to their home rule powers by

the enactment of home rule ordinances. Section 125.01(1)(r), Florida Statutes, as amended ("Section 125.01(1)(r)"), authorizes the issuance of county bonds. Section 125.01(1)(t), Florida Statutes, as amended, authorizes the adoption of ordinances and resolutions necessary for the exercise of county powers. The Court stated in Orange County that "[t]here is little need for Section 125.01(1)(r) if a county still has to go to the Legislature to get special enabling legislation each time it wishes to issue bonds." Orange County, 281 So. 2d at 311. See also Speer, 367 So. 2d at 211. Additionally, the Court has noted that a great many capital projects have been financed throughout the State of Florida by using the device of a home rule ordinance. Speer, 367 So. 2d at 211. Accordingly, unless there is a general or special law to the contrary, the County clearly has the authority to issue the Bonds pursuant to the Ordinance.

No general or special law precludes the issuance of the Bonds. The issuance of the Bonds is not inconsistent with any general or special law. In this context, the term "inconsistent" means "contradictory in the sense of legislative provisions which can not coexist." State ex rel. Dade County v. Brautigam, 224 So. 2d 688, 692 (Fla. 1969); See also Orange County, 281 So. 2d at 312.

Nevertheless, the Appellants argue that the issuance of the Bonds by the County is invalid because there are alternate methods available to counties to issue revenue bonds to finance convention center facilities. In support of this argument, the Appellants direct the Court's attention to certain statutory provisions contained in Section 125.0104, Florida Statutes, as amended (relating to the Local Option Tourist Development Act); Sections 125.011 and 125.012, Florida Statutes, as amended (relating to certain authorized charter county projects); and Chapter 159, Florida Statutes, as amended (relating to the Revenue Bond Act of 1953). The

issuance of the Bonds by the County pursuant to its home rule powers is not in any manner prohibited by or inconsistent with any of these statutory provisions.

Section 125.0104 and Chapter 159, Florida Statutes, as amended, are expressly stated to be supplemental and additional to any other powers conferred upon counties by law. §125.0104(5)(c), Fla. Stat. (Supp. 1994); §159.14, Fla. Stat. (1993). That language is not a limitation or prohibition of any power otherwise conferred upon a county but is instead an added grant of power. Speer, 367 So. 2d at 212; Taylor, 498 So. 2d at 426. Supplemental and additional statutory provisions may be rejected in their entirety by a county and any other applicable law may be used in its place. Speer, 367 So. 2d at 213. The County is not prohibited from issuing the Bonds pursuant to Section 125.0104, Florida Statutes, as amended, or Chapter 159, Florida Statutes, as amended. Moreover, the issuance of the Bonds by the County pursuant to the Ordinance is not inconsistent with those statutory provisions. Therefore, the County is authorized to issue the Bonds pursuant to its home rule powers in the manner provided in the Ordinance.

Sections 125.011 and 125.012, Florida Statutes, as amended, are expressly stated to be applicable only to certain charter counties. §125.011(1), Fla. Stat. (1993). Because the County is a noncharter county, those statutory provisions are totally unrelated and irrelevant to any exercise of the County's home rule powers. Because those provisions are not applicable to the County, they do not prohibit and are not inconsistent with the exercise of the County's home rule powers. Thus, the issuance of the Bonds by the County pursuant to the Ordinance is not prohibited by or inconsistent with those statutory provisions.

The County duly enacted the Ordinance pursuant to its home rule powers granted by Article VIII, Section 1(f) and Chapter 125. The Ordinance authorized the County to issue revenue bonds pursuant to resolutions adopted by the County in order to acquire convention center facilities. The County duly adopted the Resolution pursuant to and in compliance with the Ordinance. Pursuant to the Resolution, the County authorized the issuance of the Bonds to finance the acquisition of the Convention Center Facilities in accordance with the Ordinance. The trial court specifically found that all requirements of the Constitution and laws of the State of Florida pertaining to the Bonds, the security therefor, the proceedings relating thereto and all other matters connected therewith were complied with and strictly followed. The County has full authority pursuant to the Act and the Resolution to enact the Ordinance, adopt the Resolution, issue the Bonds pursuant to the Ordinance to finance the acquisition of the Convention Center Facilities in the manner provided in the Resolution, acquire the Convention Center Facilities in the manner provided in the Resolution and the Purchase Agreement and operate the Convention Center Facilities in the manner provided in the Resolution and the Operating Agreement. Therefore, the trial court's validation of the Bonds should be affirmed.

IV. CONCLUSION

For the foregoing reasons, this Court should affirm the trial court's validation of the Bonds.

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FOLEY & LARDNER

By: 

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Tracy S. Carlin
Florida Bar No.: 0797390
200 Laura Street
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(904) 359-2000

Attorneys for Appellee,
St. Johns County, Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a copy of the foregoing has been submitted by HAND DELIVERY this 28th day of September, 1995, to JEFFREY GRAINGER, Esquire, 211 N. Liberty Street, Suite 3, Jacksonville, Florida 32202.


Attorney

Appendix

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
ST. JOHNS COUNTY, FLORIDA

CASE NO.: CA 95-928

DIVISION: 55

ST. JOHNS COUNTY, a political
subdivision of the State of Florida,

Plaintiff,

vs.

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

Defendants.

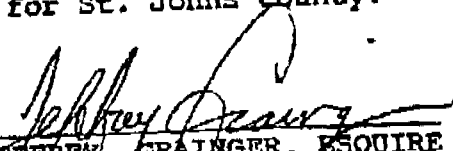
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CLERK OF CIRCUIT COURT
ST. JOHNS COUNTY, FLA.

FILED

NOTICE OF APPEAL

NOTICE IS GIVEN that ELMANUEL A. ROWE, Defendant/
Appellant, appeals to the SUPREME COURT OF FLORIDA, the
order of this Court dated July 18, 1995. The order is a
final order validating bonds of indebtedness. A copy of the
order is attached.

I HEREBY CERTIFY that a copy of this document has been
furnished, by hand delivery, on the 17th day of August, 1995,
to JAMES SISCO, Attorney for St. Johns County, and to The
Offices of the State Attorney in and for St. Johns County.


JEFFREY GRAINGER, ESQUIRE
Florida Bar No. 345903
211 N. Liberty St., S-3
Jacksonville, FL 32202
(904) 358-9818

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT IN AND FOR ST. JOHNS COUNTY, FLORIDA

CASE NO.: CA 95-928
DIVISION: 55

ST. JOHNS COUNTY, a political subdivision of the State of Florida,

Plaintiff,

vs.

STATE OF FLORIDA, et al.,

Defendants.

FILED
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Clerk of the Court
ST. JOHNS COUNTY

FINAL JUDGMENT

The above and foregoing cause having come on for final hearing on the date and at the time and place set forth in the Amended Order to Show Cause heretofore issued by this Court and in the notice addressed to the State of Florida and the several property owners, taxpayers and citizens of Plaintiff, including nonresidents owning property or subject to taxation therein and all others having or claiming any right, title or interest in property to be affected by the issuance by Plaintiff of not exceeding \$18,000,000 of its Taxable Convention Center Revenue Bonds, Series 1995 (the "Bonds"), or to be affected in any way thereby, and as heretofore issued against the State of Florida, and the State Attorney for this Circuit having filed an answer herein; and the Court, having considered said answer and heard the evidence and being fully advised in the premises, finds as follows:

Recorded in Public Records- St. Johns County, FL
Clerk# 95021569 O.R. 1120 PG 4 ...07:50AM 07/24/95
Recording \$0.00 Surcharge \$0.00

1. Plaintiff is, and at all times hereinafter mentioned was, a political subdivision of the State of Florida, created and existing under the provisions of the Constitution and the laws of the State of Florida.

2. Pursuant to and in accordance with the provisions of the Constitution and laws of the State of Florida, particularly Chapter 125, Part I, Florida Statutes, as amended, St. Johns County Ordinance No. 95-21 (the "Ordinance") and other applicable provisions of law (collectively, the "Act"), Plaintiff's Board of County Commissioners by Resolution No. 95-117 adopted on June 13, 1995 (the "Resolution"), authorized Plaintiff to (a) issue the Bonds to finance the cost of the acquisition of certain public convention center facilities within St. Johns County (the "Facilities"), (b) acquire the Facilities pursuant to and in accordance with that certain Purchase and Sale Agreement (the "Purchase and Sale Agreement"), to be executed by and between Plaintiff and John Q. Hammons Hotels Two, L.P., a Delaware limited partnership ("JQH-LP"), substantially in the form attached as "Exhibit B" to the Resolution, as more particularly described in the Purchase and Sale Agreement and (c) operate the Facilities pursuant to and in accordance with that certain Operating Agreement (the "Operating Agreement"), to be executed by and between Plaintiff and JQH-LP, substantially in the form attached as "Exhibit A" to the Resolution, as more particularly described in the Operating Agreement. In and by the Resolution Plaintiff made all findings and determinations required by the Act; fixed the details of the Bonds; provided that the interest on the Bonds shall not exceed the legal rate; provided that the principal of and interest on the Bonds shall be payable solely from and secured by a lien upon and a pledge of the Pledged Revenues (as defined in the Resolution), including certain revenues received by Plaintiff in connection with the Facilities, certain moneys specifically

budgeted and appropriated by Plaintiff for payment of the Bonds pursuant to the Resolution, and, until applied in accordance of the provision of the Resolution, the proceeds of the Bonds and all moneys, including investments thereof, in certain of the funds and accounts established pursuant to the Resolution, all in the manner and to the extent described in the Resolution (collectively, the "Pledged Funds").

3. The Ordinance was duly enacted in accordance with law and is legal and valid in every respect. The Resolution was duly adopted in accordance with law and is legal and valid in every respect.

4. Authority is conferred upon Plaintiff by the Constitution and laws of the State of Florida, particularly the Act, to issue revenue bonds to finance the cost of acquiring the Facilities and to pledge the Pledged Funds in the manner provided in the Resolution.

5. All of the Bonds shall rank equally as to lien on and source and security for payment from the Pledged Funds. The Bonds shall be payable as to both principal and interest solely from the Pledged Funds. The Bonds will not constitute a general indebtedness of Plaintiff, and no holder or holders of any of the Bonds shall ever have the right to compel the exercise of any ad valorem taxing power of Plaintiff to pay the Bonds or the interest thereon. The Bonds shall not constitute a lien upon the Facilities or any other property of Plaintiff, except the Pledged Funds.

6. Plaintiff, pursuant to the Constitution and laws of the State of Florida, has the power and is authorized to pledge the Pledged Funds to the payment of the principal of and interest on the Bonds. Said pledge is legal and valid in all respects and does not violate any provisions of the Constitution or laws of the State of Florida.

7. The Bonds are not "bonds" within the meaning of the Constitution of Florida and are not required to be approved by vote of Plaintiff's qualified electors.

8. Authority is conferred upon Plaintiff by the Constitution and laws of the State of Florida, particularly the Act, to acquire the Facilities in the manner provided in the Resolution and the Purchase Agreement and operate the Facilities in the manner provided in the Resolution and the Operating Agreement. The acquisition and successful operation of the Facilities will substantially increase tourism and other business activities within St. Johns County, thereby providing jobs and other economic benefits to the citizens of Plaintiff. The Facilities will be operated at all times as a public convention center and will be designed in such a manner so that the Facilities may be used by the public in the event of a public emergency. The primary and paramount benefit of the Facilities will be to Plaintiff and its citizens. Any private benefit to JQH-LP or any other person will be incidental to the paramount public purpose of the Facilities. Plaintiff is authorized to enter into the Purchase Agreement and the Operating Agreement with JQH-LP under the Act, the Resolution and the Purchasing Section of the Administrative Code of Plaintiff. The Purchase Agreement and the Operating Agreement are an integral part of the financing of the Facilities. The financing, acquisition and operation of the Facilities in the manner provided in the Resolution, the Purchase Agreement and the Operating Agreement are valid and constitutional under the laws of the State of Florida, including particularly Article VII, Section 10 of the Constitution of Florida.

9. The Bonds are of the character and the proceedings preliminary to the issuance thereof are of the nature as entitled Plaintiff to proceed within the provisions of Chapter

75, Florida Statutes, as amended, for the purpose of having Plaintiff's right to issue the Bonds determined.

10. Due and proper notice addressed to the State of Florida and the several property owners, taxpayers and citizens of Plaintiff, including nonresidents owning property or subject to taxation therein, and all others having or claiming any right, title or interest in property to be affected by the issuance by Plaintiff of the Bonds was duly published by the Clerk of this Court in a newspaper of general circulation in St. Johns County once each week for two consecutive weeks, the first publication being at least twenty days prior to the date of said hearing, as required by law; all as more fully appears from the affidavit of the publisher of The St. Augustine Record filed herein.


11. The Answer of the State Attorney for and on behalf of the State of Florida has been carefully considered by this Court. Such Answer shows no cause why the prayer of Plaintiff should not be granted and discloses no irregularity or illegality in the proceedings set forth in said Complaint, and the objections contained in said Answer be and the same are hereby overruled.

12. One or more property owners, taxpayers, citizens or other persons have intervened or made application to become a party to these proceedings for the purpose of interposing objections to the granting of the prayers set forth in said Complaint as provided by law. The objections of such persons have been carefully considered by this Court. Such objections show no legal cause why the prayer of Plaintiff should not be granted and disclose no irregularity or illegality in the proceedings set forth in said Complaint, and such objections be and the same are hereby overruled.

13. This Court has found that all requirements of the Constitution and laws of the State of Florida pertaining to the Bonds, the security therefor, the proceedings relating thereto and all other matters connected therewith have been complied with and strictly followed.

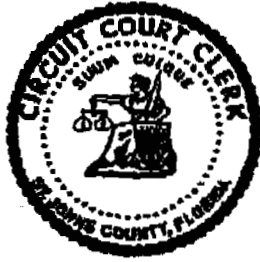
NOW, THEREFORE, IT IS ORDERED AND ADJUDGED, that the issuance of not exceeding \$18,000,000 principal amount of the Bonds, bearing interest at not exceeding the legal rate, is for a proper, legal and public purpose and is fully authorized by law, and that the Bonds are to be issued to finance the cost of acquiring the Facilities, as is more particularly described in the Resolution, and as and when so issued will be payable solely from the Pledged Funds, in the manner and under the terms and conditions contained in the Resolution. Upon delivery of the Bonds to the purchaser or purchasers thereof and receipt by Plaintiff of the purchase price thereof in full, the Bonds shall be legal and valid in every respect.

DONE AND ORDERED at the Courthouse in St. Augustine, St. Johns County, Florida, this 18th day of July, 1995.


Circuit Judge

Copies to: 7/18/95 *off*

Mr. Elmanuel A. "Bubba" Rowe
James G. Sisco, Esq., County Attorney
Stephen Alexander, Esq., State Attorney



CARL "BUD" MARKEL

Clerk of the Circuit Court

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STATE OF FLORIDA

COUNTY OF ST. JOHNS

I, **CARL "BUD" MARKEL**, Clerk Circuit Court, Seventh Judicial Circuit of Florida, in and for St. Johns County, Florida, **DO HEREBY CERTIFY** that the above and foregoing is a true and correct copy of **NOTICE OF APPEAL ON BOND VALIDATION**

ST. JOHNS COUNTY, a political
subdivision of the State of Florida,

Plaintiff,

IN RE:

v.

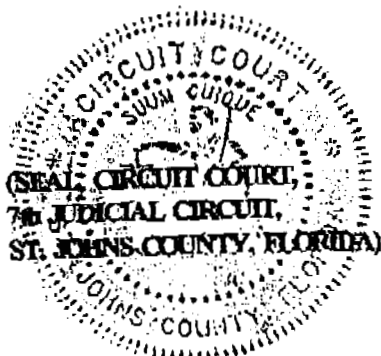
STATE OF FLORIDA, and the Taxpayers, Property
Owners and Citizens of St. Johns County,
including nonresidents owning property or
subject to taxation therein, et al.,

Defendants.

CASE NO.: CA95-928

as the same appears on record in the office of the Clerk of the Circuit Court, St. Johns
County, Florida, in **CIRCUIT COURT MINUTE BOOK** number 156,
PAGE 938-944 of the public records of St. Johns County, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this
17 Day of AUGUST, A.D. 19 95.



CARL "BUD" MARKEL
CLERK CIRCUIT COURT

By *Jessie L. DeHonde*
Deputy Clerk