

IN THE SUPREME COURT
STATE OF FLORIDA

Case No. SC 00-1555

CITY OF NORTH LAUDERDALE,

Appellant,

v.

SMM PROPERTIES, INC., et al.,

Appellees.

BRIEF OF AMICUS CURIAE, THE GROUP CITY EMERGENCY MEDICAL
SERVICE COALITION OF BROWARD COUNTY, FLA., INC.

ON APPEAL FROM A DECISION OF THE
FOURTH DISTRICT COURT OF APPEAL

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CERTIFICATE OF TYPE SIZE AND STYLE

The type size and style used in this brief is proportional New Times Roman,
14 point.

STATEMENT OF FACTS AND CASE

The Group City Emergency Medical Service Coalition of Broward County, Fla., Inc., (“Coalition”), is a Florida non-profit corporation in Broward County, Florida. The Coalition is comprised of seventeen (17) municipalities in Broward County, Florida.

For many years (if not decades), most of the members of the Coalition have provided fire, rescue and emergency medical services (“EMS”) to their residents, citizens and visitors through *integrated* fire-rescue departments, which means that all firefighters are cross-trained as paramedics or emergency medical technicians. For several years, several municipal members of the Coalition have funded all or a portion of its *integrated* fire-rescue budget through special assessments, relying upon, among other things, previous court decisions, including this Court’s decision in *Lake County v. Water Oak Management Corporation*, 695 So. 2d 667 (Fla. 1997), and the earlier decision of the Fourth District Court of Appeal in *City of Pembroke Pines v. McConaghey*, 728 So. 2d 347 (Fla. 4th DCA 1999).

Given the historical integration of fire and rescue services by the municipal members of the Coalition, and the historical use of special assessments for funding the *integrated* fire-rescue departments, the Coalition’s members would be substantially and adversely affected if the decision of the Fourth District in this case were upheld.

This Court granted the Coalition leave to file an amicus curiae brief on September 25, 2000. The Coalition also adopts the Statement of the Case and Facts of the Appellant, City of North Lauderdale.

SUMMARY OF ARGUMENT

The appeal of the City of North Lauderdale (“City”) should be granted and the decision of the Fourth District Court of Appeal reversed for the reasons

contained in the City's Initial Brief. The Coalition further contends and wishes to emphasize to the Court that the decision of the Fourth District must be reversed because the Florida Legislature has specifically authorized municipalities to impose special assessments for emergency medical services. This legislative act constitutes a factual finding by the Florida Legislature that emergency medical services can provide a special benefit to real property. The Fourth District failed to accord proper deference to this legislative finding, and instead substituted its judgment as to special benefit, thereby violating the separation of powers doctrine.

ARGUMENT

THE ASSESSMENT IS PROPER NOT ONLY FOR THE REASONS SET FORTH IN THE CITY'S INITIAL BRIEF, BUT ALSO BECAUSE THE FLORIDA LEGISLATURE IN SECTION 170.201(1), FLA. STAT., NECESSARILY FOUND THAT EMERGENCY MEDICAL SERVICES CAN PROVIDE A SPECIAL BENEFIT TO REAL PROPERTY.

The Fourth District analogized the City's emergency medical services to the county health units and hospitals previously held not to provide special benefit. See *SMM Properties, Inc., et al. v. City of North Lauderdale*, 760 So. 2d 998, 1001 (Fla. 4th DCA 2000), quoting *Collier County v. State*, 733 So. 2d 1012, 1018 (Fla. 1999). However, the type of services provided by the City, as well as the *integrated* fire-rescue departments of the seventeen municipal members of the Coalition, are quite different.

The Fourth District overlooked that the Florida Legislature has expressly authorized, at least in some circumstances, the use of special assessments to fund emergency medical services.

Section 170.201(1) states:

- (1) In addition to other lawful authority to levy and collect special assessments, **the governing body of a municipality may levy and collect special assessments**

to fund capital improvements and **municipal services**, **including**, but not limited to, fire protection, **emergency medical services**, garbage disposal, sewer improvement, street improvement, and parking facilities. . . . (emphasis added).

The Legislature could not have found that the provision of emergency medical services was a proper subject for financing by special assessment without first implicitly finding that the service (particularly when it is a part of an *integrated* fire-rescue department), provides a special benefit to real property in accordance with law.

As argued in the Initial Brief, the City of North Lauderdale's fire-rescue-EMS assessment is proper under its home rule powers and the controlling precedent from this Court. Although the City's assessment was not made under Chapter 170, the Florida Legislature's finding by implication that emergency medical services can provide a special benefit to real property is not dependent on the method of assessment.¹

¹ A third argument could be made to uphold the City's fire/rescue/EMS assessment, also based on Section 170.201(1), Fla. Stat. Assuming arguendo that there is no special benefit to real property from the provision of EMS with fire and rescue, this Court has recognized that municipalities may raise revenues by

Moreover, this finding must be recognized because courts must construe statutes so as to avoid rendering a statute and its necessary implications ineffective. *Holly v. Auld*, 450 So. 2d 217, 219 (Fla. 1984) (courts are precluded from construing an unambiguous statute in a way which would extend, modify, or limit its express terms or its reasonable and obvious implications because to do so would be an abrogation of legislative power). If this Court rules that emergency medical services never provide a special benefit to real property and thus can never be financed by special assessments, then it will have rendered the provision for such assessments in Section 170.201(1) a nullity. Such an abrogation of legislative power is beyond the power of the courts. Rather, the Court should consider the historical and operational integration of fire-rescue-EMS, and find that *integrated* fire-rescue services do provide a special benefit, as found by the State Legislature and by the City.

Because the rules of statutory construction compel the conclusion that the Florida Legislature has made the legislative determination that emergency medical services provide a special benefit to real property and are appropriately funded via special assessment, the City's special assessment must be upheld.

enacting a tax authorized by general law. *Collier County v. State*, 733 So. 2d 1012, 1014 (Fla. 1999) (citing to Article VII, sections 1(a) and 9(a) of the Florida Constitution).

CONCLUSION

For the foregoing reasons, the Coalition respectfully requests that the City of North Lauderdale's appeal be granted, and the decision of the Fourth District Court of Appeal reversed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this initial brief was served via U.S. Mail on this ____ of September, 2000 upon:

_____.

Respectfully submitted,

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