

SUPREME COURT OF FLORIDA

CASE NO. SC01-411

KEYS CITIZENS FOR RESPONSIBLE GOVERNMENT, INC.,

Appellant,

v.

FLORIDA KEYS AQUEDUCT AUTHORITY,

Appellee.

AMICUS CURIAE BRIEF OF PINELLAS COUNTY, FLORIDA

PJNELLAS COUNTY, FLORIDA

Joseph A. Morrissey
(FBN 0699918)

Assistant County Attorney
3 15 Court Street, 6th Floor
Cleat-water, Florida 33756
Telephone: (727) 464-3354
Fax No.: (727) 464-4147

TABLE OF CONTENTS

	Page
TABLE OF AUTHORTTTES	ii
INTRODUCTION.....	I
STATEMENT OF THE ISSUES	2
SUMMARY OF THE ARGUMENT.....	2
ARGUMENT	
I. THE RES JUDICATA EFFECTS OF CHAPTER 75 ARE CRITICAL TO THE VIABILITY OF MULTIPLE SERIES OF BONDS ISSUED UNDER A MASTER RESOLUTION	2
II. THE MANDATORY CONNECTION COMPONENT OF THE VALIDATION ORDER IS OF CRITICAL IMPORTANCE TO FLORIDA LOCAL GOVERNMENT AND THE ABILITY TO MAINTAIN THE PUBLIC HEALTH, SAFETY AND WELFARE OF ITS CITIZENS	4
CONCLUSION.....	6
CERTIFICATE OF SERVICE	7
CERTIFICATION.....	8

TABLE OF AUTHORITIES

CASES	Page(s)
<u>CASES</u>	
<i>State v. Florida State Turnpike Authority</i> , 80 So.2d 337, 342 (Fla. 1955) -----	3
<i>Bigler v. Greenwood</i> , 254 P.2d 843 (Utah 1953) -----	5
<i>City of Mountain Home v. Roy</i> , 267 S.W.2d 503 (Ark. 1954) -----	5
<i>Hutchinson v. City of Valdosta</i> , 33 S.Ct. 290 (1913) -----	4
<i>McNeill v. Hartnett County</i> , 398 S.E.2d 475 (N.C. 1990) -----	5
<i>New Jersey v. Mayor of Patterson</i> , 51 A.922 (N.J. 1902) -----	5
<i>Schmidt v. Village of Kimberly</i> , 256 P.2d 515 (Idaho 1953) -----	5
<i>Stern v. Halligan</i> , 158 F.3d 729, 734 (3d Cir. 1998) -----	5
<i>Township of Bedford v. Bates</i> , 233 N.W.2d 706 (Mich.Ct.App. 1975) -----	5
<i>State v. City of Daytona Beach</i> , 34 So2d 309 (Fla 1948) -----	5
<i>State v. Cify of Miami</i> , 27 So2d 118 (Fla. 1946) -----	5

STATUTES

Chapter 75, Florida Statutes-----	2
§75.01, Fla. Stat. (2000)-----	3
§75.09, Fla. Stat. (2000)-----	3

INTRODUCTION

Pinellas County, Florida files this Amicus Curiae brief in support of the position of the Florida Keys Aqueduct Authority. Counties, municipalities and special authorities rely upon bond validation proceedings to ensure their ability to timely finance and construct public works projects. Without a bond validation it would be difficult to finance controversial or complex projects. In this case Appellant asserts that a bond validation is not the appropriate forum to raise the issue of mandatory connection to a sewer system. However, mandatory connections often forms the key link in sewer system financing. Additionally, it is settled law that mandatory connection ordinances are both permissible and desirable.

The bond validation allows orderly adjudication of key issues in a bond financed project. Parties who might oppose a particular financing **mechanism** are allowed their day in court. The financing **authority** and bond buyers gain needed certainty for projects that may be financed for twenty or **thirty** year terms. Appellants in this case seek to unreasonably **limit** the scope of a bond validation proceeding. Adoption of Appellant's view of bond validations would encourage

Piecemeal litigation of issues to the detriment of orderly bond financing procedures in the State of Florida.

STATEMENT OF THE ISSUES

I. The res judicata effects of Chapter 75, Florida Statutes are critical to the viability of multiple series of bonds issued under a master resolution.

II. The mandatory connection component of the validation order is of critical importance to Florida local government and the ability to maintain the public health, safety and welfare of its citizens.

SUMMARY OF THE ARGUMENT

Counties, municipalities and authorities that issue bonds must be able to rely upon the res judicata effects of bond validation proceedings. Such res judicata enables governmental authorities to know if controversial or complex projects may be legally financed. A mandatory sewer connection is exactly the sort of issue that may be advanced in a bond validation. Additionally, mandatory connections have been uniformly upheld in Florida as well as other jurisdictions.

ARGUMENT

I. THE RES JUDICATA EFFECTS OF CHAPTER 75, FLORIDA STATUTES ARE CRITICAL TO THE VIABILITY OF MULTIPLE SERIES OF BONDS ISSUED UNDER A MASTER RESOLUTION.

Section [75.01,] Florida Statutes, provides **that** “circuit courts have jurisdiction to determine the validation of bonds and certificates of indebtedness and all matters connected therewith” (emphasis supplied). Section [75.09,] Florida Statutes, provides that validation may “include the validation of . . . any taxes, assessments or revenues affected . . .” by the issuance of the bonds validated. If successful, validation prevents the validity of the Bonds, the validity of the issuer, the validity of any revenues which are pledged for the payment of the Bonds, the proceedings authorizing the issuance thereof, and any remedies provided for their collection from being “called into question in any court by any person.” [§ 75.091 Fla. Stat. (2000). “The purpose of a decree of validation and its value to the bond buyer is that defenses to collection are set at rest in the beginning.” *State v. Florida State Turnpike Authority*, 80 So.2d 337, 342 (Fla. 1955).

The Authority’s validation complaint seeks to put at rest the debate over the installation of a central sewer system in the Florida Keys. Many large-scale project financings are undertaken in several stages, through series of bonds on equal and parity status with each other, under a Master Resolution. To grant the relief Appellant seeks would undermine the entire purpose of the validation procedures initiated by local governments. Controversy over projects and their financings

would linger. The ability of a local government to move forward in an orderly fashion would be seriously impaired. The bond validation proceeding allows all sides to the issue to fairly litigate the issues.

II. THE MANDATORY CONNECTION COMPONENT OF THE VALIDATION ORDER IS OF CRITICAL IMPORTANCE TO FLORIDA LOCAL GOVERNMENT AND THE ABILITY TO MAINTAIN THE PUBLIC HEALTH, SAFETY AND WELFARE OF ITS CITIZENS.

At the crux of the dispute between Appellant and Appellee is a question many more urbanized communities faced in the early 20th century: do the public health, safety, welfare and environmental concerns associated with the disposal of sewage allow a government to compel individual citizens to connect to centralized sewer system ? The answer to this question by the United States Supreme Court, Florida Supreme Court and other courts is unequivocally yes.

Mandatory connections to governmental utility systems and the subsequent charges flowing therefrom have long been held to be a proper exercise of a governmental power to regulate the welfare of its citizens. "It is the commonest exercise of the police power of a State or City to provide for a system of sewers, and to compel property owners to connect therewith." *Hutchinson v. City of*

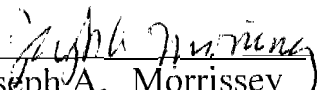
Valdosta, 227 U.S. 303, 308, 33 S.Ct. 290 292 (1913) (affirming mandatory connection to sewer system); *See Stern v. Halligan*, 158 F.3d 729, 734 (3d Cir. 1998) (upholding constitutionality of mandatory connection to municipal water supply) *citing City of Mountain Home v. Ray*, 267 S.W.2d 503 (Ark. 1954); *Schmidt v. Village of Kimberly*, 256 P.2d 5 15 (Idaho 1953); *Township of Bedford v. Bates*, 233 N.W.2d 706 (Mich.Ct.App.1975); *New Jersey v. Mayor of Patterson*, 51 A. 922 (N.J. 1902); *McNeill v. Hartnett County*, 398 S.E.2d 475 (N.C. 1990), *Bigler v. Greenwood*, 254 P.2d 843 (Utah 1953).

The Florida Supreme Court in *State v. City of Miami*, 27 So2d 118 (Fla. 1946) and *State v. City of Daytona Beach*, 34 So2d 309 (Fla 1948) approved mandatory connection provisions. Governmental bodies for decades have relied on such common sense decisions to protect the health of their citizens and enhance the environment of their communities. To not allow governments to validate such provisions would be a step backwards.

CONCLUSION

The decision below should be affirmed.

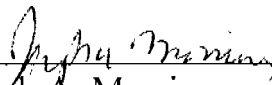
Respectfully submitted,



Joseph A. Morrissey
Assistant County Attorney
3 15 Court Street
Clearwater, FL 346 16
(727)464-3354
Fla Bar No.: 06999 18

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hercofhas been furnished by regular U.S. Mail to the following counsel of record on this d 30th March, 2001 :
Michael J. Neimand, Office of the Attorney General, 110 S.E. 6th St., FL 10, Ft. Lauderdale, FL 33301-500 I, Fred Kcrste'in, Esq., Specially Appointed State Attorney for the Sixteenth Judicial Circuit in and for Monroe County, Florida, E.R. Graham Building. 1350 NW 12th Avenue, Miami, Florida 33 136-2 I I I, Kendall Coffey, Esq., Kendall Coffey, P.A., Grand Bay Plaza, PH-2B, 2665 South Bayshore Drive, Miami, Florida 33 133, Grace F. Dur'lap, Esq. and Kenneth A. Guclccnberger, Esq., Bryant, Miller and Olive, P.A., 101 East Kennedy Boulevard, Suite 2100, Tampa, Florida 33602 and Kobert T. Feldman, Esq., Feldman & Koenig, P.A., 13 15 Whitehead Street, Key West, Florida 33040

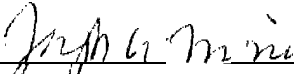


Joseph A. Morrissey
(FBN 0699918)

/ Assistant County Attorney
3 15 Court Street, 6th Floor
Clearwater, Florida 33756
(727) 464-3354

CERTIFICATION

The undersigned does hereby certify that this Brief used 14 point Times New Roman type and does hereby comply with Rule 9.210(a)(2), Florida Rules of Appellate Procedure, as recently amended.



Joseph A. Morri sscy
(FBN06999 18)
Assistant County Attorney
315 Court Street 6th Floor
Clearwater, Florida 33756

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