



Legislation Details (With Text)

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Strand vs. Escambia County (NB)

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9/18/2008	0	City Commission	Heard	

Strand vs. Escambia County (NB)

On September 9, 2007, the Florida Supreme Court (the "Court") issued an opinion in the case of Strand vs. Escambia County that reversed 28 years of legal precedent created by the Court in the Miami Beach case of 1980 (this is the case that CRAs have relied on to enter into multi-year TIF commitments) so for the first time CRAs that wished to enter into multi-year commitments of tax increment funds (such as borrowing for projects or providing incentives to development projects) would first have to obtain approval of the multi-year commitment via a voter referendum.

In response to this opinion, on September 17, 2007, the Gainesville CRA approved the following motion: 1) hold off on borrowing (executing notes with the City Commission) or bringing in new development agreements; and 2) to continue to honor obligations and (executed) development agreements.

On September 28, 2007, the Court issued a revised opinion to make clear that bonds issued or validated prior to the September 9th opinion are unaffected by that decision, as are school board certificates of participation. A request for rehearing was then filed and granted.

On September 18, 2008, the Court withdrew its revised Strand opinion and issued a substitute opinion. Under the substitute opinion, it appeared the CRA could (once again) enter into multi-year commitments utilizing tax increment revenues without need for a voter referendum. On September 29, 2008, a request for rehearing was filed. On November 19, 2008, the Court denied the rehearing. It should be noted that the September 18, 2008 substitute opinion will not become final until a mandate is issued (under Florida Rules of Appellate Procedure, Rule 9.340 this is at least 15 days after the order denying the rehearing.)

In summary, the Court in its substitute opinion affirmed the validation of the bonds issued by Escambia County to finance a road widening project to improve economic development. The Court firmly reinstated Miami Beach as "good" law, expressly recognizing that "receding from the precedent of Miami Beach would cause serious disruption to the governmental authorities that have relied upon that precedent for planning public works that are in various stages of development and approval."

None at this time

CRA Attorney to the CRA: Rescind the motion approved on September 17, 2007 (thereby lifting the "stay" on borrowing and new development agreements).

(NOTE: pursuant to Robert's Rules, a motion to rescind requires a 2/3 vote for approval)