



Legislation Text

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MASSACHUSETTS LIFE INSURANCE CO., FLORIDA CONFERENCE CENTER ASSOCIATES, INC., AND STATE OF FLORIDA, BOARD OF REGENTS V. ED CRAPO, VON FRASER, AND JAMES ZINGALE CASE NO. 01-04-CA-4822 (NB)

The City Commission authorize the City Attorney to file an appeal from the Court's denial of the City's motion to intervene in the above styled case.

On December 21, 2004, the Hilton Hotel filed a lawsuit challenging the imposition of ad valorem taxes on the hotel located at 1714 S.W. 34th Street. The owners of the Hilton Hotel had previously challenged the decision of the Property Appraiser to tax the real property improvements that constitute the hotel. The challenge was heard by a special master for the County's Value Adjustment Board. The City Attorney's Office represented the position of the Property Appraiser at the hearing at his request, as well as the City's interests in the proceeding, as the interests were the same. The Special Master found the real property improvements that constitute the hotel to be taxable and this finding was accepted by the County's Value Adjustment Board.

A lawsuit contesting the assessment of ad valorem taxes was filed in Circuit Court naming the Property Appraiser, Tax Collector and Department of Revenue as Defendants. The lawsuit asks the Court to prohibit the Defendants from assessing and collecting ad valorem taxes against the Hilton Hotel. It is the City's position, as well as the Property Appraiser's, that the real property improvements constituting the hotel, which are owned and operated by a private entity, are subject to ad valorem taxation just as any other commercial establishment.

The City Attorney's Office sought and received authorization from the Commission to intervene in the lawsuit to protect the City's interests. The City would receive a little over \$91,000 in 2005 from the taxation of the hotel. The total amount of revenues due all the taxing authorities in Alachua County from the Hilton Hotel is \$472,173.65. Alachua County, the School Board, and Dwight Adams, a private citizen, also sought leave to intervene in the lawsuit.

On March 30, 2005, the Court entered an order denying the City's, County's, School Board's and Dwight Adams's Motions to Intervene. The City Attorney's Office believes that the court did not apply the correct standard to determine whether intervention was proper. The standard requires that the party seeking to intervene have an interest in the litigation "of such a direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment". The court did not address how the City, County, or School Board did or did not meet this standard, but denied the intervention stating that "[t]he government entities who are seeking to intervene have failed to show how their interests are different than any other political entity in Alachua County".

The Property Appraiser and the Tax Collector act as the local governments's surrogate to assess and collect property taxes assessed by the local governments. The Court's denial of the local governments' intervention leaves the local governments, who are the sole beneficiaries of the taxes assessed, without a means to protect their interest. While the court did, in its order, allow the local governments to participate as amicus (friends of the court) and file briefs on the legal issues, the denial of intervention status leaves the local governments without the ability to participate in discovery, file dispositive motions, and most importantly, it leaves the local governments without the ability to appeal a ruling of the court if it were adverse to the local governments interests. A ruling of the court would not affect only the Hilton property, but other potential properties similarly situated.

For these reasons, it is the request of the City Attorney's Office for authorization to file an appeal from the Court's order denying intervention in this case. The County Attorney's Office will also seek authorization to file an appeal.