

Improvement district, expenditure of funds

Number: AGO 97-63

Date: September 22, 1997

Subject:
Improvement district, expenditure of funds

Mr. Kenneth W. Edwards
Northern Palm Beach County Improvement District Attorney
Post Office Box 2775
Palm Beach, Florida 33480-2775

RE: SPECIAL DISTRICTS--IMPROVEMENT DISTRICTS--expenditure of district funds to install lighting and construct concession/announcer stand on shared playing fields. Chs. 59-994 and 95-489, Laws of Florida; Ch. 298, Fla. Stat.

Dear Mr. Edwards:

You ask substantially the following question:

Does the Northern Palm Beach County Improvement District's enabling legislation, which prohibits the district's construction, operation or maintenance of professional athletic sports stadiums, prohibit the district from expending funds for the construction of a concession/announcer building and field lighting on baseball practice playing fields that are used on occasion by professional baseball teams?

In sum:

The prohibition in the enabling legislation for the Northern Palm Beach County Improvement District does not prohibit the district from expending funds for the construction of a concession/announcer building and field lighting on shared baseball practice playing fields.

The Northern Palm Beach County Improvement District (district) is an independent special district created and operating pursuant to Chapter 59-994, Laws of Florida, as amended, and supplemented with certain incorporated provisions of Chapter 298, Florida Statutes. In 1995, the district's enabling legislation was amended to authorize the district:

"(1) To provide, construct, operate, and maintain community or public preserves, playgrounds, amphitheaters, and recreation and sports areas and facilities, including, by way of example but not limitation: trails, courts, and athletic structures and fields, together with acquisition of such equipment and apparatus required or related thereto, as part of the district's plan of improvements for a unit of development; *however, specifically excluded from this grant of additional power is any authority to provide, construct, operate, or maintain professional athletic sports stadiums.* Said improvements shall be a benefit to be received by the lands located within the unit of development and financed as a part of the unit of development's plan of

improvements through debt and/or maintenance taxes, user fees, and other legally available revenues. The annual cost of operating and maintaining said improvements may be included in the unit of development's maintenance taxes." [1] (e.s.)

According to your letter, the district has adopted a plan of improvements for its Unit of Development No. 9A. As one aspect of its park and park facility program for the unit, the district is considering the construction of a concession/announcer building and Little League field lighting on "shared practice playing fields."

The "shared practice playing fields" are being constructed by the county and are located on an 88-acre tract of land. The county is also constructing, on the tract but in a different location, a 7,500 seat enclosed professional baseball Spring Training stadium and related baseball facilities. You state that for two months of the year (during Spring Training), the shared practice playing fields will be used exclusively by professional baseball teams. During the remaining ten months, the Town of Jupiter will use the playing fields for its Little League Baseball Recreational Program.

Thus, if the district constructs the concession/announcer building on the shared practice playing fields, the professional teams may use the building during the two months of Spring Training; the Town of Jupiter, however, would have exclusive use of the building during the remaining ten months of the year.

According to your letter, the town would have exclusive use of the Little League baseball field lighting since the wattage and luminescence are lower than that required for professional baseball. The question that has arisen, however, is whether the 1995 amendment to the district's enabling legislation prohibits such expenditures.

As noted above, the district, as part of its planned improvements for a unit of development, is authorized to construct and maintain community or public recreation and sports areas and facilities, including the acquisition of needed equipment and apparatus. The district, however, is specifically precluded from constructing, operating, or maintaining a "professional athletic sports stadium." The district's expenditure of funds for the Little League baseball field lighting that will not be used by the professional baseball teams would not appear to fall within that prohibition. While you have not provided this office with details regarding the concession/announcer building, it appears that the building will be used solely for such purposes and not for the purpose of providing seating for spectators to watch the games. Moreover, a professional sports stadium is being constructed elsewhere in the 88-acre complex.

The district's special act does not define the term "professional athletic sports stadium." It is a cardinal rule of statutory construction that statutory language must be given its plain and ordinary meaning unless the words are defined in the statute or by clear intent of the Legislature. [2] It is assumed that the Legislature knows the meaning of words and has expressed its intent by the use of those words found in a statute. [3] The term "stadium" has generally been defined as "a large, usually unroofed structure with tiers of seats for spectators built in various shapes (as circular or elliptic) and enclosing a field usually used for sports events[.]" [4] From the information provided to this office, it appears that the concession/announcer building would not fall within the above definition.

Accordingly, I am of the opinion that the prohibition in the district's enabling legislation does not prohibit the district from expending funds for the construction of a concession/ announcer building and field lighting on the shared baseball practice playing fields.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] See s. 2, Ch. 95-489, Laws of Florida.

[2] See, e.g., *Green v. State*, 604 So. 2d 471 (Fla. 1992); *State, Department of Administration, Division of Retirement v. Moore*, 524 So. 2d 704 (Fla. 1st DCA 1988).

[3] See, e.g., *Aetna Casualty & Surety Company v. Huntington National Bank*, 609 So. 2d 1315 (Fla. 1992); *Sheffield v. Davis*, 562 So. 2d 384 (Fla. 2d DCA 1990).

[4] See Webster's Third New International Dictionary *Stadium* p. 2218 (unabridged ed. 1981). *And see*, 81A C.J.S. *Stadium* p. 252 (1977 ed.) (a structure with its enclosure used for athletic games).