

MARGARET P. DONOVAN, et al., vs. OKALOOSA COUNTY, FLORIDA
No. SC10-794
SUPREME COURT OF FLORIDA
82 So. 3d 801; 2012 Fla. LEXIS 20; 37 Fla. L. Weekly S 6
January 5, 2012, Decided

Appellee county filed a bond validation complaint pursuant to Ch. 75, Fla. Stat. (2008) seeking a determination of its authority to incur bonded debt relating to a beach restoration project. Appellant owners of property subject to the related assessments intervened, filing an answer and counterclaims. The Circuit Court in and for Okaloosa County (Florida) issued an order validating the bonds. The property owners appealed. The Supreme Court affirmed the decision of the lower court.

The findings of special benefit and proper apportionment of costs among the properties assessed are legislative in nature and presumed correct. The apportionment of benefits is a legislative function, and if reasonable persons may differ as to whether the land assessed was benefitted by the local improvement, the findings of the government officials must be sustained. **The standard for determining whether to sustain the findings is the same for both prongs; that is, the legislative determination as to the existence of special benefits and as to the apportionment of the costs of those benefits should be upheld unless the determination is arbitrary. Accordingly, the findings will be sustained if they are supported by competent, substantial evidence.**

1. Special Benefits

As stated above, the first prong of the test is whether the improvement or service, in this case beach restoration, provides a special benefit to the assessed property. In evaluating whether a special benefit is conferred to property by the services for which the assessment is imposed, the test is not whether the services confer a "unique" benefit or are different in type or degree from the benefit provided to the community as a whole; rather, the test is whether there is a "logical relationship" between the services provided and the benefit to real property. *Lake County v. Water Oak Mgmt. Corp.*, 695 So. 2d 667, 669 (Fla. 1997).

2. Assessment Apportionment

The second question we must consider is whether the special assessment is fairly apportioned among the specially benefitting properties. *City of Boca Raton*, 595 So. 2d at 29 ("the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit."). As stated above, the findings regarding apportionment are legislative in nature. Accordingly, even if other methods of apportionment also appear to be valid, the method used must be upheld unless it is determined to be arbitrary. *City of Winter Springs*, 776 So. 2d at 259 ("And though a court may recognize valid alternative methods of apportionment, so long as the legislative determination by the City is not arbitrary, a court should not substitute its judgment for that of the local legislative body.").