

BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

To: Honorable Chairman and Members of the Board of County Commissioners

From: Herbert W. A. Thiele, Esq. 
County Attorney

Date: November 6, 2007

Subject: TEFRA Approval

Upon the County's receipt of the request from the Leon County Educational Facilities Authority ("EFA") regarding the Bethel Baptist Church project/dormitory bond issue (the "Bethel project"), several Commissioners requested some background information on the parameters of the Board's authority under TEFRA. With that in mind, we consulted with one of the bond firms (Holland & Knight) who has helped on County and Blueprint bond issues to assist the County Attorney's Office in preparing such an overview. We normally would have consulted with Bryant, Miller and Olive, who is the County's bond counsel, but since they are also the bond counsel to the EFA on this proposal, we thought we would not put them in a position of any perceived conflict.

With that said, Leon County is authorized, under the Internal Revenue Code, to both approve and *disapprove* the issuance of bonds by the Leon County EFA. Without the approval of the County, the EFA is not permitted to issue tax exempt Private Activity Bonds, such as the purchase of the downtown Holiday Inn otherwise known as the Bethel project.

Under Internal Revenue Code § 147(f), public approval is required for the issuance of all tax exempt Private Activity Bonds, which the Bethel project would be. A public hearing can be held by either the EFA or the County. If the County was requested by the EFA to hold the public hearing, our office is not aware of any requirement that the County comply with the request of EFA and hold said public hearing. The Bond is treated as being approved if it was approved by the elected representatives of the issuer of the bonds or the governmental entity on behalf of which the bonds were issued, here being the Leon County Board of County Commissioners, after a public hearing following reasonable public notice or by voter referendum of such government unit. Because the Board of County Commissioners are the elected officials where the project is located and because under the Internal Revenue Code the EFA issues on behalf of the County, we can choose not to give TEFRA approval for the Bethel project thus precluding the issuance of the Bonds by the EFA.

Should you have any questions, please contact the County Attorney's Office.

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cc: Parvez Alam, County Administrator
Vincent Long, Deputy County Administrator
Alan Rosenzweig, Assistant County Administrator ✓