



LEON COUNTY ATTORNEY



Herbert W. A. Thiele

County Attorney
(850) 606-2500
ThieleH@LeonCountyFL.gov

Herb Thiele was selected by the Board in 1990 to create the County's first in-house legal department and has served Leon County for over twenty-five years. Under Thiele's leadership, the office continues to remain small but extremely efficient, with only 5 lawyers handling the legal affairs of Leon County, Florida.

In addition to being active in several state and national organizations that serve local government lawyers and advance the interests of local government law, Thiele has presented lectures or published articles on many local government law topics, including the Sunshine Law, the Open Records Law, and the Honest Services Act and Ethics. He serves on the Board of Directors for both the Florida Association of Counties Foundation and the International Municipal Lawyers Association, and currently serves as the President of IMLA.

Thiele leads a team of skilled professionals who provide high-quality, timely and cost-effective legal representation to the Board and other officials of Leon County.

SERVING THE LEGAL NEEDS OF LEON COUNTY GOVERNMENT

Legal matters from this past year that are of particular note include the following:

- *Robert R. Reynolds, Appellant v. Leon County Energy Improvement District, Appellee* – On October 1, 2015, the Florida Supreme Court ruled in favor of the Leon County Energy Improvement District when it affirmed the Circuit Court's decision in the bond validation proceeding for the PACE Program, thereby clearing the way for the District to continue with its Commercial PACE Program. In its Opinion, the Court also created new precedent that will require any person who wishes to participate in a bond validation proceeding to first appear and plead in the circuit court action. The Opinion will further prevent the type of conduct that was allowed in the Reynolds case, which essentially caused a three-year delay in the implementation of the District's program.
- *Leon County, Plaintiff, v. Johnny Petrandis, II, and J-II Investments, LLC, Defendants, and Victor Timber, LLC, et al., Impleaded Defendants* – This matter has a long and complicated procedural history concerning illegal development activity on an 88 acre parcel, including the Defendant property owner's refusal to comply with Court-ordered remediation and restoration of the property, resulting in him being held in contempt of court, and his attempts to disguise ownership of the property by transferring title multiple times during the course of the litigation, culminating in the Court issuing an Injunction Against Further Transfer of the Property. Since this litigation began in 2003, this matter has been heard by seven Circuit Court judges and one Special Magistrate. On June 29, 2016, the Court, in a 15-page Judgment and Lien, confirmed the original Court Judgment of \$314,068, plus interest to date in the amount of \$103,972.43, accruing at the rate of \$41.13 per diem, in favor of Leon County.
- *Lori Owen, Caridad Molina and Donna Abramitis, Appellants, v. City of Tallahassee, Leon County, Florida, et al., Appellees, Circuit Court* – Fire Rescue Services Special Assessment – This class action lawsuit challenges the validity of Leon County's fire rescue services assessment, and more specifically, the City's ability to collect same via utility bills. Plaintiffs amended their complaint on three occasions, and served their Third Amended Complaint in 2013. On July 7, 2015, a hearing on class certification was held. The court is required to first determine the appropriateness of the class, before the parties go to trial on the merits of the claims related to the constitutionality of the fire rescue services assessment. The trial court denied the Plaintiff's Motion for Class Certification, and in December 2015, the Plaintiffs appealed that decision to the First District Court of Appeal. Oral Argument was held before a three-judge panel at the First District Court of Appeal in June 2016, and we are awaiting the Court's decision on whether to uphold the trial court's denial of the Plaintiff's Motion for Class Certification. The County Attorney's Office continues to work with the City Attorney's Office in the defense of this matter.
- *Christopher M. Jenson v. Leon County, Sentinel Offender Services, LLC* – A complaint was filed in 2015 against Leon County and a number of employees, alleging civil rights violations in connection with a probationer's monitoring ankle bracelet. A formal request was made by Leon County to Co-Defendant, Sentinel, to defend and indemnify the County pursuant to our contract with Sentinel; however both Sentinel and its insurance carrier refused to do so, resulting in Leon County filing a cross-claim against Sentinel. In October 2015, the Court granted the County's Motions for Summary Judgment, saying that the "motions are well founded on the merits, establishing that the defendants did not bring about Mr. Jensen's arrest without probable cause at all, much less through the use of information known to be false. In addition,

COUNTY ATTORNEY OFFICE HIGHLIGHTS



the individual defendants [the named Leon County employees] have qualified immunity from the federal claims.” A Final Judgment was entered on January 6, 2016, ordering that the Plaintiff recover nothing on his claims, and on March 1, 2016, the Clerk of the Court for the U.S. District Court, Northern District of Florida, entered an Order for Taxation of Costs against the Plaintiff in the amount of \$3,714.65. The County is moving forward with the indemnity and breach of contract claim against Sentinel. Mediation is tentatively scheduled for August 22, 2016.

- *Wolf Creek Homeowners' Association, et al., v. Leon County Development Support and Environmental Management, et al., DOAH* – This matter involves a challenge to the County’s Written Preliminary Decision to conditionally approve a development called the Residential Condominiums on Blountstown Highway a/k/a the “Tiny House” development. This matter proceeded under the County’s site and development plan appeal process, with the petition challenging the County’s decision being heard by a Special Master at the Division of Administrative Hearings, pursuant to a contract between DOAH and the County. The Final Hearing was held in April 2016, and the parties submitted Proposed Recommended Orders to the Special Master, who then issued a Recommended Order, confirming the County’s decision to conditionally approve the development. The Board of County Commissioners rendered a Final Order, accepting the Special Master’s Recommended Order’s Findings of Fact and Conclusions of Law, allowing the development to continue, subject to the conditions originally imposed by the County.
- *Wakulla Springs Basin Management Plan (BMAP Action)* – Coordinated County involvement in regional water quality initiative focused on reducing nitrate pollution to Wakulla Springs, and provided legal support during agency and stakeholder meetings that will result in significant policy

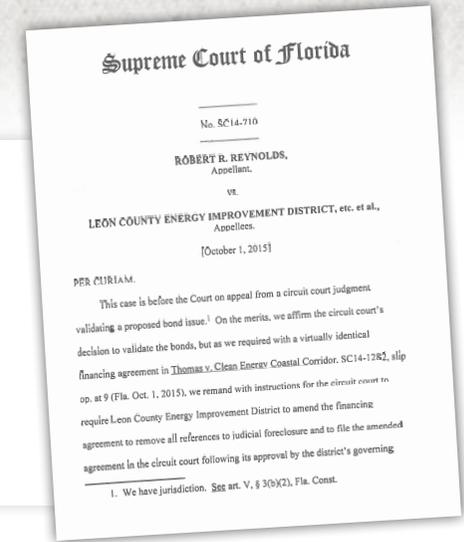


Did You Know

County Attorney, Herb Thiele, was this year’s recipient of the H. Hamilton “Chip” Rice, Jr., Award, presented annually by the Florida Bar’s Local Government Law Section to recognize a distinguished lawyer who has served the Section by mentoring and educating future lawyers in the local government field. Mr. Thiele began the County Attorney’s Office’s involvement with the Florida State University College of Law Externship Program in 1997, and under his guidance, the office has since mentored dozens of law school students.

formulation with long term impacts on capital expenditures and development patterns throughout the region. In December 2015, concerns and issues raised in our agenda item were resolved, resulting in Leon County not filing a formal Petition challenging the Wakulla BMAP Order, and commencing implementation of the Basin Management Action Plan for Wakulla Springs in 2016.

- *North Monroe Street Turn-Lane Improvement Project* – Worked with Public Works staff and outside co-counsel to resolve the eminent domain lawsuits on the remaining parcel acquisitions by negotiating full compensation settlements at mediations and avoiding costly jury trials. Following the settlements, we monitored the construction of the project by FDOT through its completion in July to assure it was constructed in accordance with the agreed-upon settlements.
- *Real Estate Policy Comprehensive Revision* – Worked with a team of County staff from Real Estate, Housing, Public Works, DSEM, and Administration to draft and obtain Board approval of a comprehensive revision of the Board’s Real Estate Policy to streamline the many types of transactions involved in the day-to-day activities of the County’s real estate and eminent domain programs.



- *Economic Development* – Negotiated and drafted the legal support necessary to finalize amendments to three interlocal agreements implementing the Blueprint Intergovernmental Agency’s (Blueprint) direction to (1) authorize the designation of Blueprint as the economic development organization of record for Tallahassee/Leon County; (2) establish the Tallahassee/Leon County Office of Economic Vitality (OEV) through a consolidation of the County and City economic development offices within the Blueprint organizational structure under the Department of Planning Land Management and Community Enhancement (PLACE); and, (3) consolidate the County and City Minority and Women Small Business Enterprise Programs under the Tallahassee/Leon County Office of Economic Vitality.