

Important court decision supports Miami-Dade County's Home Rule Charter

By **Chris Pearson** - January 13, 2022



New 874 Ramp Connector to SW 128 St scaled

The New Year brought encouraging news about an important case involving the defense of Miami-Dade County's Home Rule Charter, which is part of the Florida Constitution.

On December 30, 2021, the Honorable William Thomas of the Eleventh Judicial Circuit of Florida granted Miami-Dade County's motion to join the Miami-Dade Expressway Authority (MDX) as an indispensable party in a lawsuit against the Greater Miami Expressway Agency (GMX).

To put this into historical perspective, in 2019 the Florida Legislature created the Greater Miami Expressway Authority, thereby usurping MDX's property interests in the five local



Modernization of 836 and XT lanes busway

expressways it purchased from the Florida Department of Transportation (FDOT) in 1996 for \$91 million. Those expressways include the 836/Dolphin Expressway, 112/Airport Expressway, 874/Don Shula Expressway, 878/Snapper Creek Expressway and 924/Gratigny Parkway.

In response, on May 4, 2021, the Miami-Dade Board of County Commissioners under the leadership of Chairman Jose "Pepe" Diaz, exercised its Home Rule authority and passed a county ordinance nullifying certain unconstitutional sections of the Florida Statutes adopted under the 2019 bill. The ordinance included the elimination of GMX within the County's jurisdiction and transferring back to MDX all rights, benefits and revenue under the 1996 Transfer Agreement.

In his recent ruling, Judge Thomas found that FDOT is not an indispensable party to and has no remaining interest in the rights that were conveyed to MDX in perpetuity in exchange for payment. Furthermore, Judge Thomas recognizes the Miami-Dade Home Rule powers that prohibit the Florida Legislature from enacting bills that apply solely to Miami-Dade County, and that the county can take action to declare any bill enacted in this fashion unconstitutional and invalid.

Judge Thomas' ruling gives clarity and perspective in stating, "The home rule [amendment and charter] transferred the power the legislature had in passing local bills and special laws



836 direct ramp to airport

applicable only to Miami-Dade County, from the state to the Miami-Dade County Board of County Commissioners.”

Judge Thomas further explained that the Miami-Dade Board of County Commissioners “... has duly enacted an ordinance establishing MDX as the owner and operator of the system with all appurtenant rights, benefits, and revenue under the Transfer Agreement and abolishing GMX. This is well within the home rule powers of Miami-Dade County and supports MDX’s high likelihood of success on the merits in the instant action.”

During the 2021 vote on the county’s ordinance, Commissioner Joe Martinez explained that the intent of the ordinance was not only about MDX but was about defending the county’s right to self-governance under the Florida Constitution. Not only was the ordinance a protection of the Miami-Dade County Expressway Authority, but also of major assets such as the airport and seaport that could become targets of a future takeover attempt by the state.

This is not the first time that a legislative attack on Home Rule has occurred. On September 4, 2002 the Florida Third District Court of Appeal ruled in favor of Miami-Dade County and repealed an unconstitutional state law seeking to divert a portion of indigent care surtax funds from the Public Health Trust and Jackson Memorial Health Systems.

Judge Thomas’ recent ruling puts an end to a three-year legal battle that has harmed the Miami-Dade Expressway Authority by preventing it from refinancing its existing debt during a period of historically low interest rates, representing a loss of approximately \$175 million in interest savings.
