

IN THE CIRCUIT COURT OF PINELLAS COUNTY, FLORIDA
CIRCUIT CIVIL NO. 88-6779-15

THE PINELLAS COUNTY EMERGENCY
MEDICAL SERVICES AUTHORITY,

Plaintiff, 2/1/89

vs.

THE CITY OF ST. PETERSBURG,
FLORIDA,

Defendant.

FINAL JUDGMENT ON PLAINTIFF'S AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT AND COUNTS I, II,
AND III OF DEFENDANT'S COUNTERCLAIM

When reduced to its essence, this litigation involves a battle over turf. It is simply a power struggle between two intransigent units of local government. Unfortunately, when units of local government sue each other, there are no winners, everyone is ill served by litigation. When the costs of this litigation are finally tallied, i.e., the myriad of experts imported from afar; the array of multi-credentialed consultants and their reports; the panoply of expensive exhibits; the daily transcripts; and, of course, the attorneys fees, the losers will be the taxpayers within these two warring governmental units. Taxpayers residing in St. Petersburg may be double losers because they pay taxes to both the City and the Pinellas County Emergency Medical Services Authority.

At the initiation of this litigation the original trial judge dismissed this causa in order to give the parties a final opportunity to peacefully resolve their differences. Agreement was not accomplished. At the pre-trial conference and at the conclusion of the trial, the court also urged the parties to resolve this matter without resorting to judicial intervention into the affairs of local government. Apparently, these exhortations have fallen on deaf ears, and the court must now make the following findings of fact and conclusions of law:

COUNT I

A. Findings of Fact.

1. The City of St. Petersburg (the City) is an advance life support (ALS) provider of emergency medical services (EMS) to individuals within the City.
2. The Pinellas County Emergency Medical Services Authority (the Authority) was created by Chapter 80-585, Laws of Florida. The Authority is the Board of County Commissioners of Pinellas County.
3. Prior to and subsequent to the enactment of Chapter 80-585, the City operated a separate EMS Department utilizing ALS trained paramedics operating stand-alone rescue units located within the City's Fire Department.
4. The customary method of providing ALS in Pinellas County and throughout the EMS industry is by paramedic staffed stand-alone rescue units.
5. Prior to the current budget year, the City submitted funding requests to the Authority based on Uniform Standards for Emergency Medical Services, as adopted and revised by the Authority. It was customary to negotiate on a line item basis any proposed cost thought by the Authority to be unnecessary or unreasonable.
6. In 1987 the Authority developed a ten year comprehensive uniform contract, entitled "Emergency Medical Services First-Responder Agreement" (the contract) to be applied countywide. The contract contained, among other things, a complex funding formula which radically changed the method by which the City and other EMS providers would be funded by the Authority in the future.
7. The complex (and, frankly, almost incomprehensible) funding formula defines reasonable and customary costs based upon: (a) the delivery of 911 calls resulting in hospital transportation; (b) the use of ALS engines; (c) a marginal cost concept; and, (d) certain averaged, rather than actual, costs.

8. The Authority has advised the City that if the City does not execute the contract as submitted, the Authority will consider that the City has abandoned its rights to continue as an EMS provider, thereby permitting the Authority to contract with a private company, Medic One Ambulance Company. This would privatize both EMS first response service and EMS transportation services within the City, and represents, in the court's view, the hidden agenda of the Authority, and its alter ego the Board of County Commissioners of Pinellas County, because there was no credible evidence at trial that:

- a) ALS engines could effectively be utilized to provide ALS services at demand call volume of less than 8 calls per day;
- b) reimbursement based on the number of hospital transports is reasonable or customary;
- c) use of marginal costs is reasonable or customary;
- d) it is reasonable and customary to use averaged rather than actual costs;
- e) the City's EMS operation is any more costly than other EMS operations of similar size and quality.

9. The contract and its funding formula indirectly compels the City to utilize ALS engines and otherwise improperly intrudes on the operation of the City's Fire Department.

10. The City's 1988 funding request of 4.1 million dollars meets the historical criteria of reasonable and customary costs under Chapter 80-585.

11. The millage cap in Chapter 80-585 does not necessarily define the outer limits of the reasonable and customary costs of providing quality EMS to the citizens of Pinellas County. The fact that projected costs may be approaching the millage cap is not relevant to these findings.

H. Conclusions of Law

1. The City was an existing EMS provider under Chapter 80-585, Laws of Florida.

2. The Authority is under a mandatory duty to fund the reasonable and customary costs of the City's EMS Department.

3. The City is not obligated under Chapter 80-585 to enter into a contractual relationship with the Authority as a condition precedent to funding.

4. The Authority may not use its power to define reasonable and customary costs to: (a) circumvent the legislative intent of Chapter 80-585; (b) directly or indirectly intrude in or attempt to control the operation of the City's Fire Department or the City's EMS Department; or, (c) force the City to cease providing EMS.

5. The definition of reasonable and customary costs utilizing the funding formula is arbitrary, capricious, and unlawful in that the funding formula bears no relationship to the actual services provided. The funding formula also permits the unlawful expenditure of EMS funds for non-EMS purposes.

6. The Authority has no authority under Chapter 80-585 to directly or indirectly:

- a) require the use of ALS engines in the City's Fire Department;
- b) require the City to remove its EMS operations from the Fire Department;
- c) require the City to staff its EMS operation with civilian personnel.

COUNT II

A. Findings of Fact and Conclusions of Law:

1. The proposed contract requires no audit of funds and permits the expenditure of EMS ad valorem taxes for non-EMS purposes, in violation of Section 2(8) of Chapter 80-585, Laws of Florida.
2. The Authority has failed to appropriately implement the audit requirements of Section 2(8) of Chapter 80-585, Laws of Florida.

COUNT III

A. FINDING OF FACT AND CONCLUSIONS OF LAW

1. Section 2(10) of Chapter 80-585, Laws of Florida, directs the Authority to designate districts in the special taxing district, which the Authority has done. There is no mandatory duty on the Authority to then assess taxes based on the needs within the respective districts.

Based on the above findings of fact and conclusions of law, it is

ORDERED AND ADJUDGED that:

1. The Pinellas County Emergency Medical Services Authority shall fund the City of St. Petersburg for Emergency Medical Services at a level of 4.1 million dollars as provided in the budget request for fiscal year 1988/89 heretofore submitted by the City, retroactive to October 1, 1988.

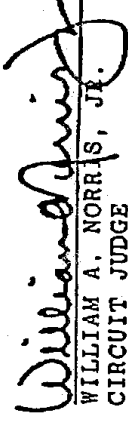
2. The Authority shall not condition current or future funding on the establishment of a contractual relationship between the City and the Authority.

3. The Authority shall forthwith implement audit procedures in compliance with Section 2(8) of Chapter 80-585, Laws of Florida.

4. Count III of the City's Counterclaim is DISMISSED.

5. Jurisdiction is reserved to enter such other and further orders as are appropriate.

125 DONE AND ORDERED AT Bartow, Polk County, Florida, this
_____ day of February, 1989.


WILLIAM A. NORRIS, JR.
CIRCUIT JUDGE

Copies furnished:

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