



Pinellas County

Staff Report

File #: 23-0374A, Version: 1

Subject:

Proposed initiation of litigation in the case of Pinellas County v. Florida PACE Funding Agency - action for declaratory and injunctive relief.

Recommended Action:

Approval and authorization for the County Attorney to initiate litigation in the case of Pinellas County v. Florida PACE Funding Agency to prevent an immediate danger to the health, safety and welfare of the citizens of Pinellas County by seeking to ensure compliance with the County's consumer protection ordinance regarding PACE in Pinellas County.

Strategic Plan:

N/A

Summary:

This is a case to have the Circuit Court declare that Pinellas County's PACE consumer protection ordinance applies to the Florida PACE Funding Agency (FPFA) and enjoin from operating within Pinellas County except in compliance with the County's PACE ordinance.

FPFA has obtained a bond validation judgment (Florida Pace Funding Agency v. State of Florida, et al., 2022-CA-001562 [Fla. 2nd Cir. Ct. October 6, 2022]) in which FPFA led the Court to improperly include collateral issues beyond the scope of a bond validation case. Pinellas County was provided no notice of this proceeding and was not made a party. The collateral issues contained within the judgment in that case purport to authorize FPFA to operate freely in Pinellas County without regard to any County protections including the County consumer protection PACE ordinance. Prior to filing the bond validation case, FPFA had entered into an interlocal agreement with Pinellas County agreeing to comply with the provisions of the County PACE ordinance. FPFA has sent a letter to the County terminating the interlocal agreement into which it had previously entered and indicates that it intends to operate in Pinellas County in direct contravention of Pinellas County's consumer protection ordinance. There is an immediate danger to the health, safety and welfare of the citizens of Pinellas County should FPFA proceed without complying with the provisions of the County PACE ordinance.

This authorization includes bringing suit against all defendants that may be or become necessary for declaratory and injunctive relief.

Background Information:

On December 12, 2017, Pinellas County adopted the Pinellas County Property Assessed Clean Energy (PACE) Program (ss. 42-440 PCC, et seq.) pursuant to its home rule charter authority within the consumer protection chapter of the Pinellas County code. The ordinance is effective countywide. On August 14, 2019, FPFA entered into an interlocal agreement with Pinellas County that among other things agreed that "in addition to the limitations and requirements of applicable state and federal law, [FPFA] must also comply with the limitations and requirements of the PACE Ordinance."

FPFA has since, without notice to Pinellas County, obtained a bond validation judgment that FPFA contends permits it to fully operate as a PACE provider offering all forms of PACE in Pinellas County with no Pinellas County ordinance consumer protection requirements applicable to it

Fiscal Impact:

N/A

Staff Member Responsible:

Jewel White, County Attorney

Donald S. Crowell, Chief Assistant County Attorney

Christy Donovan Pemberton, Managing Assistant County Attorney

Partners:

N/A

Attachments:

Florida PACE Funding Agency (FPFA) Letter.