Overview

(October 6, 2020, Washington, DC) — The US Supreme Court on October 5 denied review in Indian River County v. Department of Transportation. The court had been petitioned to review a decision from the US Court of Appeals for the DC Circuit upholding the Department of Transportation's (DOT) allocation of tax-exempt bonds (i.e., the right to issue tax-exempt bonds under federal law) to a Florida passenger rail project. The petition was filed by a county that opposes the project, putting more than $2 billion in tax-exempt bonds at stake. The Supreme Court denied the petition without comment. Steptoe has represented All Aboard Florida (AAF), the sponsor of the rail project, over the full course of this litigation.

AAF owns and operates high-speed passenger rail service connecting Miami and West Palm Beach. Plans to extend the line an additional 170 miles to Orlando have been challenged in several lawsuits by counties and homeowner groups.

As part of the most recent challenge, these plaintiffs asserted that DOT unlawfully authorized the use of "Private Activity Bonds" that will enable the AAF project to benefit from tax-free bond financing. The plaintiffs argued that passenger rail projects are categorically ineligible for the bonds under the Internal Revenue Code, and also claimed that DOT’s environmental review of the expansion project fell short of the standards required under NEPA. AAF intervened on the side of DOT. In 2018, the US District Court for the District of Columbia granted summary judgment in favor of DOT and AAF. The plaintiffs appealed, and in December 2019, the DC Circuit upheld the lower court’s ruling rejecting all the plaintiffs’ arguments under NEPA and the Internal Revenue Code.

The Steptoe team on opposing the petition for certiorari was led by partner Shannen Coffin with associate Mark Savignac. The team on the DC District Court and DC Circuit proceedings included transportation partners David Coburn and Cynthia Taub and associate Johanna Dennehy.

Read more in Law360 and TC Palm.

About Steptoe

In more than 100 years of practice, Steptoe has earned an international reputation for vigorous representation of clients before governmental agencies, successful advocacy in litigation and arbitration, and creative and practical advice in structuring business transactions. Steptoe has more than 500 lawyers and other professional staff across offices in Beijing, Brussels, Chicago, Hong Kong, London, Los Angeles, New York, San Francisco, and Washington. For more information, visit www.steptoe.com.
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