

**IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA**

SOUTH TULSA CITIZENS COALITION, LLC, and TOM SNIDER, an Individual,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CJ-2006-1052
)	
CITY OF JENKS and INFRASTRUCTURE VENTURES INC.,)	
)	
)	Defendants.

MINUTE ORDER

This matter comes on for decision this 9th day of April, 2007.

DECISION:

All parties, having previously been denied Motions for Summary Judgment have urged reconsideration of said motions and further agree that there are no relevant factual issues in dispute and that the Court should decide the issues in dispute by resolving only the remaining questions of law. The Court agrees and finds that there are no relevant facts in dispute. The Court resolves the issues of law as follows:

COUNT I

Count I of Plaintiffs' Second Amended Petition alleges that the Bridge Agreement between Jenks, the Arkansas River Bridge Authority (ARBA) and Infrastructures Ventures, Inc. (IVI) constitutes a franchise for 75 years and thus requires voter approval by exceeding 25 years as required by Oklahoma Constitution Article 18§5(a).

The Court finds that (a) The Agreement is not by statute a franchise since, (B) the

Agreement is between the Trust,. ARBA and IVI and not the City of Jenks and therefore not in violation of Oklahoma Constitution Article 18§5(a). The Court denies Plaintiffs' Motion for Summary Judgment on Count I and grants Defendants' Motion for Summary Judgment on Count I.

COUNT II

Plaintiff's allege in count II of the Second Amended Petition that the Agreement requires the City of Jenks to be responsible for police, fire, emergency services as well as repair and maintenance of the bridge after termination of the Agreement in 75 years and that this becomes an indebtedness exceeding in any year the income and revenue provided for such year and thus required consent of 3/5 of the voters to be in compliance with Oklahoma Constitution Article 10§26 (a). Defendants argue and the Court agree that Oklahoma Constitution Article 10§26(a) is not offended by the contingent agreement to perform governmental services on behalf of the bridge, nor by the possibility of future maintenance obligations. The Court denies the Plaintiffs' Motion for Summary Judgment and Grants the Defendants' Motion for Summary Judgment as it regards Count II of Plaintiffs' Second Amended Petition.

COUNT III

The parties agree that Count III is not ripe for determination by this Court and the Court so finds.

COUNT IV

Count IV alleges that neither ARBA nor the City of Jenks had the authority to construct or maintain a toll road within Tulsa County, Board of Commissioners of Oklahoma County -v- City of Oklahoma City, 484 P.2d 882 (Oklahoma 1971) and Oklahoma Statute Title 69§3001, et seq. The Court disagrees with Plaintiffs' contention and finds as Defendant contends that Plaintiffs' Motion for Summary Judgment should be denied and Defendants' Motion for Summary Judgment should be granted pursuant to Oklahoma Statute Title 68§1370.7.

COUNT V

In Count V of Plaintiff's Second Amended petition Plaintiffs allege ARBA and/or City of Jenks are required to submit the proposed bridge construction and the associated bridge agreement to competitive bidding. The Court finds that the Competitive Bidding Act is inapplicable and for that reason, and others cited by Defendants, find the Defendants' Motion for Summary Judgment should be granted and Plaintiffs' Motion for Summary Judgment be denied as it relates to Count V.

COUNT VI

The parties agree and the Court finds that this issue is not ripe for adjudication.

COUNT VII

For the reasons stated in its decision on Count IV, the Court finds that Plaintiffs' Motion for Summary Judgment should be denied and Defendants' Motion for Summary Judgment should be sustained as to Count VII of Plaintiffs' Second Amended Petition which alleges that ARBA, the City of Jenks and the Bridge Agreement failed to comply with several financing and other requirements that public trusts must comply with in order to engage in road construction.

COUNT VIII

Plaintiff alleges in Count VIII of their Second Amended Petition that Defendants' were not authorized to construct a toll bridge pursuant to Oklahoma Statute Title 69§1705 et seq. The Court finds that Plaintiffs' Motion for Summary Judgment should be denied and Defendants' Motion for Summary Judgment should be granted finding Oklahoma Statute Title 68§1370.7 grants Defendants' authority required to construct the bridge.

COUNT IX

For the reasons set forth in its decision as to Count V, the Court finds that Plaintiffs' Motion for Summary Judgment should be denied and Defendants' Motion for Summary Judgment should be granted as to the allegations in Count IX of Plaintiffs' Second Amended Petition alleging that the construction of the bridge and the Bridge Agreement were subject to competitive bidding pursuant to Oklahoma Statute Title 68§1370 et seq.

COUNTS X AND XI

Plaintiff's Motion for Summary Judgment is denied as it applies to Count X and XI and Defendants' Motion for Summary Judgment is granted as to those counts.

The Court thus denies Plaintiffs Motion for Summary Judgment in its entirety and grants Defendants' Motion for Summary Judgment in its entirety.

The attorneys for Defendants are ordered to prepare a Journal Entry consistent with this decision.

Notice to Parties

District Judge

Dated