

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2021-024025-CA-01

SECTION: CA44

JUDGE: Lisa Walsh

Miami-Dade County Expressway Authority

Plaintiff(s)

vs.

Greater Miami Expressway Agency et al

Defendant(s)

**ORDER VACATING PRIOR ORDERS PURSUANT TO MANDATE, GRANTING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT AND ENTERING FINAL JUDGMENT FOR
DEFENDANTS (D.E. 144 AND D.E. 182)**

This cause comes before the Court on the Motion for Summary Judgment filed by Defendants Greater Miami Expressway Agency (“GMX”), Marili Cancio, Richard Blanco, Stacy Miller, Rodolfo Pages, and Fatima Perez (collectively, the “GMX Defendants”) on March 14, 2024 [D.E. 144], and on the Joint Motion for Summary Judgment filed by Plaintiffs Miami-Dade Expressway Authority (“MDX”) and Intervenor-Plaintiff Miami-Dade County (“County”) (collectively “Plaintiffs”) on July 8, 2024 [D.E. 182]. The Court held a hearing on both motions on Thursday, August 8, 2024. After reviewing the Motions, the pleadings, applicable Florida law, argument of counsel, and being otherwise fully advised, the Court hereby GRANTS the GMX Defendants’ Motion, DENIES Plaintiffs’ Motion, and enters Final Judgment for the Defendants for the reasons stated herein.

INTRODUCTION

1. This action relates to the struggle between the State of Florida and Miami-Dade County to control a multibillion-dollar system of five tolled expressways owned by the State and encompassed within Miami-Dade County (the “System”). In the last four years, the Florida Legislature and Miami-Dade County Board of County Commissioners (“County”) have sequentially adopted statutory amendments and county ordinances in their respective attempts to assert control of this System and the related revenue. Presently before the Court are the parties’ cross-motions for summary judgment, wherein both sides of this dispute ask the Court to decide the matter in their favor on grounds that there are no genuine disputes of material fact, and with each side asserting it is entitled to judgment as a matter of law.

2. The primary legal question the Court must decide in ruling on these competing motions for summary judgment is whether the Miami-Dade County Board of County Commissioners (the “BCC”) acted within its authority under the Home Rule Amendment to the Florida Constitution and the Miami-Dade County Home Rule Charter (the “Charter”) when adopting Ordinance No. 23-93 (the “2023 Ordinance”). Under that authority, the BCC may “abolish . . . governmental units whose jurisdiction lies wholly within Dade County, whether such governmental units are created by the Constitution or the Legislature or otherwise” and may adopt ordinances that “modify or nullify any existing local,

special or general law applicable only to Dade County.” *See* Fla. Const., art. VIII, § 6(e), n. 3 (1968); Charter at §§ 1.01(A)(24) & 9.04. However, Article VIII of the Florida Constitution further provides that “[n]othing in this section shall limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and *any other one or more counties in the state of Florida . . .*” Art. VIII, § 11(5), Fla. Const. (1968) (emphasis added).”

3. The Florida Legislature enacted 2023-70, Laws of Florida, Sections 18-28 of House Bill 1305 (the “2023 Statute”), abolishing the County-created Miami-Dade Expressway Authority and re-creating the Greater Miami Expressway Agency (“GMX”), to manage an expressway system “within the geographical boundaries of Miami-Dade County and the portion of northeast Monroe County which includes County Road 94 and the portion of Monroe County bounded on the north and east by the borders of Monroe County and on the south and west by County Road 94.” *Id.* The subsequently passed 2023 BCC Ordinance purported to supersede and nullify the 2023 Statute.
4. On its face, the 2023 Statute does not apply “only to Dade County,” but rather applies to portions of Monroe County as well. Nonetheless, Plaintiffs argue it is not “feasible” or “reasonably possible” for GMX’s jurisdiction to be exercised in Monroe County and, therefore, Plaintiffs urge the Court to ignore the statutory text and conclude that the 2023 Statute is a local or special law, and to further conclude that the 2023 Ordinance is a valid exercise of the County’s authority under the Home Rule Amendment to the Florida Constitution.

FACTUAL BACKGROUND

The court provides some historical context to this dispute.

I. The FEAA and the Creation of MDX.

5. In 1990, the Legislature passed the Florida Expressway Authority Act (“FEAA”), Ch. 90-136, Laws of Florida, a law that authorized the creation of state agencies to operate portions of the Florida Highway System owned by the Florida Department of Transportation (“FDOT”). *See generally* §§ 348.0001-.0012, Fla. Stat. (2018). Before it was repealed in 2019, the FEAA provided that “[a]ny county, or two or more contiguous counties located within a single district of the department, may, by resolution adopted by the board of county commissioners, form an expressway authority, which shall be an agency of the state, pursuant to the Florida Expressway Authority Act.” § 348.0003, Fla. Stat. (2018).

6. Pursuant to the FEAA, in 1994, the County adopted Ordinance 94-215 (codified as Article XVIII, Section 2-128) to “exercise the power conferred by the Florida Expressway Authority Act” to create an expressway authority (MDX) as a state agency. See Ordinance 94-215 at § 1 (“The Dade County Expressway Authority (the ‘Authority’) is hereby formed. The Authority shall be an agency of the state pursuant to the Florida Expressway Authority Act.”); *see also Dep’t of Transp. v. Miami-Dade Cnty. Expressway Auth.*, 316 So. 3d 388, 390 (Fla. 1st

DCA 2021) (finding that MDX was a “state agency” and without standing under the public official standing doctrine to challenge the constitutionality of Chapter 2019-169, Laws of Florida (“2019 Statute”)).^[1]

7. In 1996, FDOT entered a Transfer Agreement with MDX whereby it transferred financial and operational control of five State-owned expressways in Miami-Dade County to MDX in exchange for MDX’s payment of \$91 million; however, under the Transfer Agreement, FDOT retained ownership of the five expressways in Miami-Dade County. Such expressways have always been components of the State Highway System, first constructed by the State in 1915.

II. The Legislature’s 2019 Statute and the County’s 2021 Ordinance.

8. In 2019, the Florida Legislature enacted Chapter 2019-169, Laws of Florida, repealing the FEAA. *See* Ch. 2019-169, s. 13, Laws of Fla. The 2019 Statute created GMX, dissolved MDX, and transferred its assets, liabilities, contracts, rights, and employees to GMX. *See* §§ 348.0301-348.0318, Fla. Stat. (2019).

9. Thereafter, on May 4, 2021, the County passed Ordinance 21-35 (the “2021 Ordinance”), purporting to dissolve GMX and nullify five sections of the 2019 Statute via the County’s home rule powers.

III. MDX’s Original Complaint and the Third DCA’s Reversal of Summary Judgment in Favor of MDX.

10. Subsequently, on October 28, 2021, MDX first filed this case, at that time only against the GMX Defendants. In its original complaint, MDX brought an *in rem* action for declaratory relief, injunctive relief, and to quiet title to part of the State of Florida's expressway system in Miami-Dade County. MDX argued that the 2019 Statute was invalidated by the 2021 Ordinance. The Predecessor Judge denied a motion to dismiss the complaint.
11. MDX moved for summary judgment on February 2, 2022 (and amended its motion on March 1, 2022). The Predecessor Judge granted summary judgment in favor of MDX, and entered Final Judgment on July 26, 2022, stating that, *inter alia*, MDX was the lawful owner of all property and interests conveyed by the Transfer Agreement. The GMX Defendants timely filed their notice of appeal, and the court stayed the final judgment pending appellate review. *See Fla. R. App. P. 9.310(b)(2)*.
12. On October 25, 2023, the Third District Court of Appeal issued its opinion in this case reversing the trial court's orders, on the grounds that only operational and financial control -- not ownership -- of the expressway system was transferred to MDX, and that because FDOT was an indispensable party, the trial court erred in denying a motion to dismiss the complaint. *See Greater Miami Expressway Agency, et al. v. Miami-Dade Expressway Authority, et al.*, 388 So. 3d 138 (Fla. 3d DCA 2023). On November 17, 2023, the Third DCA issued its mandate to this Court to hold further proceedings in accordance with its opinion.

13. Following the mandate, the parties did not place the matter on the court’s docket to vacate the orders entered by the predecessor judge and dismiss this case. Instead, three days after the Mandate issued, Plaintiff filed an amended complaint.^[2] Thus, as a preliminary matter, the court, in carrying out the mandate, hereby vacates the final judgment, summary judgment order, and order denying dismissal entered by my predecessor.

IV. The Legislature’s 2023 Statute and the County’s 2023 Ordinance

14. While the appeal was pending at the Third DCA, the Legislature passed Chapter 2023-70, Laws of Florida (the “**2023 Statute**”), to “clarify the legal status, ownership, and control of the roads that constitute the expressway system in Miami-Dade County and portions of northeast Monroe County...” § 348.03031(1), Fla. Stat.

15. The 2023 Statute confirms that FDOT owns the expressway system and “transferred only operational and financial control of the expressways owned by the department” to MDX pursuant to the Transfer Agreement. § 348.03031(2), Fla. Stat. It also provides that “the Greater Miami Expressway Agency that was created by chapter 2019-169, Laws of Florida, is hereby reestablished,” § 348.03031(4), Fla. Stat., and that “Miami-Dade County Expressway Authority was dissolved by chapter 2019-169, Laws of Florida...” § 348.03031(3), Fla. Stat. Further, it transferred all “assets, employees, contracts, rights, and liabilities” previously under MDX’s authority to GMX. See § 348.03031(3),

Fla. Stat.

16. The 2023 Statute expressly states the following:

(1) The Legislature finds the need to clarify the legal status, ownership, and control of the roads that constitute the expressway system in Miami-Dade County and portions of northeast Monroe County, following Miami-Dade County's attempt to abolish the Greater Miami Expressway Agency in Miami-Dade Ordinance 21-35 (May 4, 2021).

(2) The Legislature recognizes that the original expressway system previously operated by the former Miami-Dade County Expressway Authority is owned by the department. The transfer agreement dated December 10, 1996, entered into by the department and the former Miami-Dade County Expressway Authority, transferred only operational and financial control of the expressways owned by the department.

(3) The Legislature recognizes the Miami-Dade County Expressway Authority was dissolved by chapter 2019-169, Laws of Florida, and all assets, employees, contracts, rights, and liabilities were purportedly transferred to the Greater Miami Expressway Agency. All assets, employees, contracts, rights, and liabilities previously owned or controlled by the former Miami-Dade County Expressway Authority, including, without limitation, those previously transferred to the Greater Miami Expressway Agency, are transferred back to the reestablished Greater Miami Expressway Agency created in s. 348.0304 on May 11, 2023.

(4) It is the intent of the Legislature to confirm that the Greater Miami Expressway Agency that was created by chapter 2019-169, Laws of Florida, is hereby reestablished. The Greater Miami

Expressway Agency is the state agency that shall govern the expressway system within the geographical boundaries of Miami-Dade County and the portion of northeast Monroe County which includes County Road 94 and the portion of Monroe County bounded on the north and east by the borders of Monroe County and on the south and west by County Road 94. It is further the express intent of the Legislature that the Greater Miami Expressway Agency created by this law is an agency of the state and not subject to any county's home rule powers.

§ 348.0306, Fla. Stat. (2023).

17. The Florida Legislature did not identify any “expressway system” within the Monroe County portion of GMX’s jurisdiction, and the Legislature did not transfer assets or operational control of any roadways lying within the Monroe County portion. Instead, all of the expressways and assets under GMX’s control currently lie exclusively in Miami-Dade County. County Road 94, also known as “Loop Road,” is located within the Big Cypress National Preserve and is owned by the U.S. government.
18. In response to the 2023 Statute, on October 17, 2023, the Miami-Dade County Commission passed Ordinance No. 23-93 (the “**2023 Ordinance**”) purporting to (i) declare the 2023 Statute to be a special or local law applying only to Miami-Dade County, (ii) nullify the 2023 Statute, (iii) abolish GMX, (iv) reestablish MDX, and (v) transfer all assets, facilities, property, liability for any bonds, and any other rights or obligations held by GMX back to MDX.
19. The County characterizes the 2023 Ordinance as an exercise of its constitutional

home rule powers. Such powers provide that the County may dissolve a governmental entity whose “jurisdiction lies wholly within Miami-Dade County,” Art. VIII, § 6(e), Fla. Const. (1968), and “nullify any existing local, special, or general law applicable only to Dade County.” Art. VIII, § 11(5), Fla. Const. (1968).

V. MDX’s Amended Complaint.

20. On November 20, 2023, MDX filed its Amended Complaint in this case. MDX seeks declaratory relief and a permanent injunction barring GMX from taking any action to interfere with MDX’s rights to the Miami Expressway System. (DE 99) This new pleading updated the factual allegations and asserted that County’s 2023 Ordinance nullified the Legislature’s 2023 Statute. MDX still did not include FDOT as an indispensable party, because the Complaint does not include a claim to quiet title or any other claim to property ownership. MDX instead added The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New York, as indenture trustee, and Bank of America (collectively, the “Bank Defendants”) as defendants, seeks declaratory relief with respect to the accounts held by these defendants, and adds Miami-Dade County as an intervenor-plaintiff.

21. Pursuant to the 2023 Ordinance, in its Amended Complaint, MDX seeks (i) a declaratory judgment that GMX was dissolved and MDX was given full jurisdiction and control over the operation, maintenance, and finances of the subject expressway system; (ii) a permanent injunction against the GMX

Defendants barring any interference with MDX's authority over the subject expressway system; and (iii) a declaratory judgment that the Bank Defendants must recognize MDX as the owner of certain assets and interests held in trust by the Bank Defendants. (DE 99)

VI. Cross Motions for Summary Judgment

22. Plaintiffs in their Joint Motion for Summary Judgment argue that (i) the 2023 Statute is a special law that affects only Miami-Dade County because it would not be feasible for GMX to operate an expressway in the portion of Monroe County included in the 2023 Statute; and (ii) the 2023 Ordinance was a proper exercise of the County's home rule authority and thus supersedes and nullifies the 2023 Statute. Accordingly, on the basis of the 2023 Ordinance, MDX seeks (i) a declaratory judgment that GMX was dissolved and MDX was given full jurisdiction and control over the operation, maintenance, and finances of the System; (ii) a permanent injunction against the GMX Defendants barring any interference with MDX's authority over the subject expressway system; and (iii) a declaratory judgment that the Bank Defendants must recognize MDX as the owner of certain assets and interests held in trust by the Bank Defendants.
23. Defendants in their Motion for Summary Judgment argue that: (i) the Legislature has plenary authority to govern the state's highway system and to direct state agencies to administer the highway system; (ii) the 2023 Statute is a general law that is not subject to the County's home rule powers; (iii) the 2023 Ordinance is preempted by the 2023 Statute and, therefore, was passed without

constitutional authority; and (iv) the County lacks authority to direct the State's assets or to abolish and create state agencies. Defendants seek a judgment in their favor on the grounds that the 2023 Statute is valid and enforceable with respect to the jurisdiction and control of the System.

CONCLUSIONS OF LAW

I. The County's Home Rule Authority and Separation of Powers

24. The Florida Constitution provides that counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. Fla. Const. art. VIII, § 1(g). The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. *Id.* The Miami-Dade County Home Rule Charter allows the BCC to “[s]upersede, nullify, or amend any special law applying to this county, or any general law applying only to this county, or any general law where specifically authorized by the Constitution.” *Id.* at Section 1.01-A(24).
25. In ruling on the validity of the 2023 Ordinance, the Court must consider its authority under the separation of powers doctrine set forth in the Florida Constitution. “The separation of powers doctrine encompasses two fundamental prohibitions; the first is that no branch may encroach upon the powers of another, and the second is that no branch may delegate to another branch its

constitutionally assigned power.” *Fla. Ass'n of Pro. Lobbyists, Inc. v. Div. of Legislative Info. Servs.*, 7 So. 3d 511, 514 (Fla. 2009) (citation omitted). “Under the constitutional doctrine of separation of powers, the judicial branch must not interfere with the discretionary functions of the legislative or executive branches of government absent a violation of constitutional or statutory rights.” *Trianon Park Condo. Ass'n, Inc. v. City of Hialeah*, 468 So. 2d 912 (Fla. 1985) (citing *Com. Carrier Corp. v. Indian River Cnty.*, 371 So. 2d 1010 (Fla. 1979); *Askey v. Schuster*, 331 so. 2d 297 (Fla. 1976); art. II, § 3, Fla. Const.)

26. Equally, the judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws. Fla. Stat. § 20.02. The right to declare an act unconstitutional is purely a judicial power. *State ex rel. Atl. Coast Line R. Co. v. State Bd. of Equalizers*, 84 Fla. 592, 94 So. 681 (1922). Ordinarily, the constitutionality of a legislative act should be challenged by filing an action for declaratory judgment in circuit court. *Abdool v. Bondi*, 141 So. 3d 529, 537 (Fla. 2014) (citing *Moreau v. Lewis*, 648 So. 2d 124, 126 (Fla. 1995)).
27. Although this case, which initially involved the parties’ dispute over the 2019 Statute and 2021 Ordinance, was already in progress, Plaintiffs did not initiate an action for declaratory judgment as to the constitutionality of the 2023 Statute prior to BCC enacting the 2023 Ordinance seeking to nullify and supersede the 2023 Statute. The 2023 Ordinance purports to determine the constitutional

propriety of the 2023 Statute enacted by the Legislature by (i) declaring that “sections 18 through 28 of Chapter 2023-70 of the Laws of Florida together constitute a special or local law applying only to Miami-Dade County (or a general law applying only in Miami-Dade County)”; (ii) superseding and nullifying sections 18 through 28 of Chapter 2023-70 of the Laws of Florida; (iii) abolishing “the board, offices, and functions of the Greater Miami Expressway Agency created or required to be created by section 15 of Chapter 2019-169 and subsequently reestablished by section 18 of Chapter 2023-70”; and (iv) reinstating “[a]ny portion of Ordinance No. 21-35 that was superseded by sections 18 through 28 of Chapter 2023-70 of the Laws of Florida. “[W]hether a law is a special or general law is a pure legal question subject to de novo review.” *Schrader v. Florida Keys Aqueduct Auth.*, 840 So. 2d 1050, 1055 (Fla. 2003). Accordingly, the Court will exercise its judicial function to determine the purely legal question whether the 2023 statute is a special or general law under the Florida Constitution.

II. Whether the 2023 Statute is a special or general law under Art. VIII, § 11(5) of the Florida Constitution

28. Under art. VIII, § 11(5), Fla. Const. (1968), the County may “nullify any existing local, special, or general law applicable only to Dade County.” The County relied on this provision in its 2023 Ordinance purporting to nullify the 2023 Statute. However, the Florida Constitution provides that “[n]othing in this section shall limit or restrict the power of the Legislature to enact general laws

which shall relate to Dade County and any other one or more counties in the state of Florida...” Art. VIII, § 11(5), Fla. Const. (1968) (emphasis added).

29. The Florida Supreme Court has defined special, local, and general laws as follows:

[A] special law is one relating to, or designed to operate upon, particular persons or things, or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal; a local law is one relating to, or designed to operate only in, a specifically indicated part of the state, or one that purports to operate within classified territory when classification is not permissible or the classification adopted is illegal.

A general law operates universally throughout the state, or uniformly upon subjects as they may exist throughout the state, or uniformly within permissible classifications by population of counties or otherwise, or is a law relating to a state function or instrumentality.

Schrader, 840 So. 2d at 1055 (Fla. 2003) (quoting *State ex rel. Landis v. Harris*, 163 So. 237, 240 (1934)).

30. On its face, the 2023 Statute is not a special law because it relates to Miami-Dade County and “one or more counties in the state of Florida,” under art. VIII, § 11(5), Fla. Const. (1968). It empowers GMX to operate and maintain an expressway system in Miami-Dade and Monroe counties.

31. Further, the law “[relates] to a state function or instrumentality.” *Landis*, 163 So. at 240. As the Court pointed out in *Schrader*, “[s]o long as a law materially

affects the people of this state, it need not have universal application to be a general law.” *Id.* At 1055-56. The 2023 Statute was passed as part of comprehensive legislation reasonably relating to the operation and maintenance of the *statewide* transportation system and thus relates to a state function or instrumentality. As the law materially affects the people of the State of Florida, the 2023 Statute is a general law reasonably relating to a statewide purpose and is not subject to nullification under art. VIII, § 11(5). *See Dep’t of Legal Affairs v. Sanford-Orlando Kennel Club, Inc.*, 434 So. 2d 879, 881 (Fla. 1983) (“It is well established that a general law does not lose its general law status so long as it . . . relates to a state function or instrumentality.”); *see also Fla. Retail Fed’n, Inc. v. City of Coral Gables*, 282 So. 3d 889, 893 (Fla. 3d DCA 2019) (“It is well-established that the Home Rule Amendment must be strictly construed to maintain the supremacy of general laws.”), *citing Metro. Dade Cnty. v. Chase Fed. Housing Corp.*, 737 So. 2d 494, 504 (Fla. 1999).

32. The 2023 Statute unambiguously confers jurisdiction and authority to GMX—a state agency—to operate and maintain a significant portion of the State Highway System owned by FDOT and integral to Florida’s transportation system. Indeed, the broader Chapter 348, Florida Statutes, generally regulates “Expressway and Bridge Authorities” across the State of Florida, including the Central Florida Expressway Authority, the Tampa-Hillsborough Expressway Authority, and the Greater Miami Expressway Authority. *See Johns River Water Mgmt. Dist. v. Deseret Ranches of Florida, Inc.*, 421 So. 2d 1067, 1068

(Fla. 1982) (explaining that a court should review “the nature and history of [the] enactment... in conjunction with [its statutory] chapter” to determine its special or general character).

33. Pursuant to its authority under the 2023 Statute, GMX operates five expressways in Miami-Dade County that constitute a significant and highly traversed portion of the Florida Highway System owned by FDOT: State Road 112 (the Airport Expressway), State Road 836 (the Dolphin Expressway), State Road 874 (the Don Shula Expressway), State Road 878 (the Snapper Creek Expressway), and State Road 924 (the Gratigny Expressway). The 2023 Statute also confers jurisdiction over parts of Monroe County to GMX should it choose to operate or extend an expressway in that area. See § 348.0304(2), Fla. Stat.

34. Florida courts have routinely held that statutes furthering a statewide purpose are valid general laws, including, specifically, laws relating to “transportation systems that had impacts far exceeding the limited geographic area identified in the laws themselves.” *Martin Mem’l Med. Ctr., Inc. v. Tenet Healthsystem Hosps., Inc.*, 875 So. 2d 797, 803 (Fla. 1st DCA 2004); *see also Florida State Tpk. Auth.*, 80 So. 2d at 343 (finding law directing turnpike to be constructed through small part of State would affect traffic statewide and, thus, “such a turnpike may no more logically be said to be local than one aorta may be said to perform a local function independent of the other blood vessels of the human body.”); *St. Johns River Water Mgmt. Dist.*, 421 So. 2d at 1069 (finding legislation that applied in a limited geographic region to be a valid general law

because “the statewide water management plan created and implemented by chapter 373 is primarily a state function serving the state’s interest in protecting and managing a vital natural resource.”); *Schrader*, 840 So. 2d at 1056 (“This Court has upheld as legally valid general laws legislation that facially appeared to affect only a limited geographic area of the state but which had a primary purpose contemplating an important and necessary state function and an actual impact far exceeding the limited geographic area identified by its terms.”); *Humana Med. Plan, Inc. v. State, Agency for Health Care Admin.*, 898 So. 2d 1040, 1044 (Fla. 1st DCA 2005). Thus, the court need not resort to interpreting whether reference to the portion of Monroe County renders the statute a general law; by its primary purpose contemplating a necessary state function, it is a general law.

35. Additionally, there is no support under Florida jurisprudence to apply the feasibility analysis proposed by Plaintiffs (see Section III below for further analysis of this issue). Rather, the Court must engage in a textual analysis: “whether a law is a special or general law is a pure legal question subject to de novo review.” *Schrader*, 840 So. 2d at 1055 (emphasis added).
36. The Court also rejects Plaintiffs’ argument that the 2023 Statute is a special law because GMX’s governing board would only consist of members residing in Miami-Dade County. Plaintiffs’ reliance on *Homestead Hosp., Inc. v. Miami-Dade Cnty.*, 829 So. 2d 259, 262 (Fla. 3d DCA 2002) is misplaced. In that case, the statutory amendment at issue on its face applied exclusively to Miami-Dade

County and, therefore, was found to be an unconstitutional special law.

37. Accordingly, the Court finds that the 2023 Statute, conferring jurisdiction to GMX over Miami-Dade and Monroe counties, being reasonably related to the broader statewide purpose of managing the Florida State Highway System, by establishing the entity responsible for operating a key portion of that System, including the laws and regulations to which GMX is subject in its performance of its statutory duties, is a general law not subject to the County's home rule powers or the purported effect of the 2023 Ordinance. *See Florida Dep't of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1117 (Fla. 2021) ("Even if the law is limited in direct application, it is still a general law as long as the limitation on its application bears a reasonable relationship to its statewide purpose."); *see also Cantwell v. St. Petersburg Port Auth.*, 21 So. 2d 139, 140 (Fla. 1945) (explaining that a court must, upon "[a]n examination of the act in question," assess whether a law bears a reasonable relationship to its statewide purpose.).

III. The Validity of the 2023 Ordinance

38. As set forth above, Florida Constitution Art. VIII, § 6(e) permits the County to abolish a governmental unit "whose jurisdiction lies wholly within Dade County." Fla. Const. (1968). In adopting the 2023 Ordinance, BCC relied on § 9.04 of the Charter, which contains a supremacy clause referencing the BCC's power to supersede special and general laws as provided in art. VIII, § 6(e) of the Florida Constitution.

39. In the 2023 Ordinance, the BCC concluded that the jurisdiction of the recreated GMX under the 2023 Amendment extended “in truth and in fact exclusively within Miami-Dade County, regardless of the guise in which it may have been framed.” The BCC reasoned that there are no expressways within the Big Cypress parcel, the expressway systems referenced in the 2023 Amendment are exclusively within Miami-Dade County, FDOT’s design standards (set forth in the Florida Greenbook) make clear that no expressway could ever be constructed within the Big Cypress parcel, and the GMX board membership would be drawn entirely from Miami-Dade County. Therefore, the BCC found that (1) “the 2023 Amendment only operates in Miami-Dade County and relates exclusively to Miami-Dade County, and is therefore a local, special or general law applicable only to Dade County that can be superseded, nullified, or modified by Miami-Dade County,” and (2) “the Florida Legislature’s attempt to abolish [MDX] again, reestablish [GMX], and transfer all the assets, liabilities, and powers from [MDX] to [GMX] is an infringement upon the local home rule authority granted to the people of Miami-Dade County.”

40. The text of the 2023 Statute confers power to GMX to operate in both Miami-Dade and Monroe counties. *See* § 348.0304(2), Fla. Stat. (explaining that GMX “shall govern the expressway system within the geographical boundaries of Miami-Dade County and the portion of northeast Monroe County which includes County Road 94 and the portion of Monroe County bounded on the north and east by the borders of Monroe County and on the south and west by

County Road 94.”). Nonetheless, Plaintiffs entreat the Court to engage in a feasibility analysis. They urge the court to ignore the plain language of the statute, conclude that it is not reasonably possible for GMX’s jurisdiction to be exercised in Monroe County, and conclude that the 2023 Statute is a local or special law. The Court disagrees with Plaintiffs’ reasoning and conclusion.

41. Plaintiffs’ argument conflates the question of jurisdiction under art. VIII, § 6(e) with the question whether the 2023 Statute is a special law under art. VIII, § 11(5). Such questions are two separate inquiries pursuant to two separate constitutional provisions. *Compare* art. VIII, § 6(e), Fla. Const. (1968) (allowing the County to dissolve a governmental unit “whose jurisdiction is wholly within” Miami-Dade County), with art. VIII, § 11(5), Fla. Const. (1968) (allowing the County to nullify any local, special, or general law applicable only to Miami-Dade County); *see Chase v. Cowart*, 102 So. 2d 147 (Fla. 1958) (differentiating the analyses under art. VIII, §§ 6(e) and 11(5), Fla. Const. (1968), by explaining that the Florida Constitution “clearly authorizes the abolition of any board whose jurisdiction lies wholly within Dade County, whether created by the Constitution or legislative act. We understand this to mean that it makes no difference whether the board be created by a special or a general act, based on population or otherwise.”).

42. Significantly, Plaintiffs have provided no authority—and the Court knows of none—indicating that the extent of an agency’s lawfully conferred jurisdiction can be abridged or disregarded if a court concludes it is not feasible or

reasonably possible for the agency to exercise that jurisdiction in the future. Instead, the Florida Supreme Court has made clear that, when a statute is unambiguous, a court must “presume that a legislature says in a statute what it means and means in a statute what it says there.” *Page v. Deutsche Bank Trust Co. Americas*, 308 So. 3d 953, 958 (Fla. 2020). Here, the Florida Constitution unequivocally limits the County’s powers under art. VIII, § 6(e), to only those governmental units “whose jurisdiction lies wholly within Dade County,” and the 2023 Statute unequivocally confers jurisdiction to GMX in both Miami-Dade and a certain portion of Monroe County.

43. This presumption makes sense. To rule otherwise, to open this legislation up to inspection of the reasons behind enactment of a facially-valid general law, would result in a violation of the separation of powers by treading on the legislative function.
44. Considering the Court’s ruling herein that the 2023 Statute constitutes a general law applying to both Miami-Dade and Monroe Counties, the Court must also find the 2023 Ordinance in conflict with such general law insofar as it purports to supersede or nullify the 2023 Statute. The GMX Defendants have not filed a Counterclaim requesting that the court enter a declaration in their favor. But they did plead affirmative defenses, including their second and fifth affirmative defenses, that Plaintiffs’ claims are barred by the enactment of 2023-70, Laws of Florida and that Plaintiff has failed to state a claim for declaratory judgment. Accordingly, the Court grants Summary Judgment because Plaintiffs fail to

state a valid claim for declaratory judgment and are therefore not entitled to injunctive or other relief.^[3] Further, Defendants have established that 2023-70, Laws of Florida bars the enactment of the BCC Ordinance.

Therefore, it is hereby ORDERED and ADJUDGED as follows:

- A. The following orders are vacated: Order Denying Motion to Dismiss (DE 42), Order Granting Plaintiff's Amended Motion for Summary Judgment (DE 78), Final Judgment (DE 81).
- B. Defendants' motion [D.E. 144] is **GRANTED**. Accordingly, summary judgment is GRANTED in favor of the GMX Defendants as to all counts of Plaintiffs' Amended Complaint [D.E. 99]: Count I (seeking declaratory judgment that MDX has jurisdiction over the System pursuant to the 2023 ordinance); Count II (seeking permanent injunction against the GMX Defendants with respect to the exercise of jurisdiction and control over the System by MDX); and Count III (seeking declaratory judgment against the Bank Defendants requiring them to recognize MDX as the sole rightful and lawful owner of certain accounts and assets pertain to the System).
- B. Plaintiffs' motion [D.E. 182] is **DENIED**; and
- C. Final judgment is rendered in favor of the GMX Defendants and against Plaintiffs. Plaintiffs shall take nothing by this action and go hence without day.**

D. The Agreed Order Granting the Motion of The Bank of New York Mellon Trust Company, *N.A., as Indenture Trustee, to Preserve the Status Quo Pending Final Order or Judgment* (Filing No. 190512024) dated January 25, 2024, is incorporated herein by reference and remains in full force and effect pursuant to its terms.

E. The Court reserves jurisdiction to enforce this order, to address costs and fees if appropriate, and to address any further relief on the interpleader claims.

^[1] The court in *Dep't of Transp. v. Miami-Dade Cnty. Expressway Auth.* found no distinction between “state agency” and “agency of the state.” 1990-136, Laws of Florida, § 23, states: "Agency of the state" means and includes the state and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by, the state.”

^[2] The Court notes that MDX filed its Amended Complaint without leave and based on a subsequently enacted County ordinance. Though only mentioned briefly by the Defendant GMX (DE 107, at p. 1, n. 1), no party has requested a ruling on this procedural irregularity. The prior judgment and orders should have been vacated first, and then MDX should have sought leave to amend. Perhaps such a motion would have been granted, and this issue would have accrued eventually. Perhaps the inevitability of a merits decision and the need for swift determination of an issue affecting the state, the county, and its residents led the parties to mutually seek a

merits decision on the cross motions.

[3] The elements of an injunction are: “(1) the substantial likelihood of success on the merits, (2) the likelihood of irreparable harm, (3) the unavailability of an adequate remedy at law, (4) the threatened injury outweighs the possible harm, and (5) the issuance of the temporary injunction will not disserve the public interest.” *VME Group Intl., LLC v. Grand Condo. Assn., Inc.*, 305 So. 3d 30, 31 (Fla. 3d DCA 2019). If the movant fails to satisfy any of these elements, the request for injunctive relief must be denied. *Id.* Here, while MDX may satisfy the elements of irreparable harm to it and the unavailability of a remedy at law, it fails to establish any likelihood of success on the merits. Granting an injunction disserves the public interest because it would allow the County to tread on the legislative and judicial functions, and would interfere with the state interest in consistent statewide control over the main arteries of the state’s public transport system. This point may be debatable. But because MDX fails to establish the likelihood of success on the merits, the count for injunctive relief fails.

DONE and ORDERED in Chambers at Miami-Dade County, Florida on this 25th day of September, 2024.

2021-024025-CA-01 09-25-2024 2:20 PM

2021-024025-CA-01 09-25-2024 2:20 PM

Hon. Lisa Walsh

CIRCUIT COURT JUDGE

Electronically Signed

Final Order as to All Parties SRS #: 12 (Other)

THE COURT DISMISSES THIS CASE AGAINST ANY PARTY NOT LISTED IN THIS FINAL ORDER OR PREVIOUS ORDER(S). THIS CASE IS CLOSED AS TO ALL PARTIES.

Electronically Served:

Alan Lawson, Alan@lawsonhuckgonzalez.com

Alan Lawson, leah@lawsonhuckgonzalez.com

Alan Lawson, michelle@lawsonhuckgonzalez.com

Amber S. Nunnally, anunnally@shutts.com

Amber S. Nunnally, smartin@shutts.com

Amber S. Nunnally, sferguson@shutts.com
Caroline May Poor, caroline@lawsonhuckgonzalez.com
Caroline May Poor, leah@lawsonhuckgonzalez.com
Caroline May Poor, michelle@lawsonhuckgonzalez.com
Daniel Alvarez Sox, dsox@reedsmith.com
Daniel Alvarez Sox, docampo@reedsmith.com
Daniel Alvarez Sox, lcardona@reedsmith.com
Daniel Nordby, dnordby@shutts.com
Daniel Nordby, mpoppell@shutts.com
Edward M Mullins, emullins@reedsmith.com
Edward M Mullins, docampo@reedsmith.com
Edward M Mullins, lcardona@reedsmith.com
Elise Engle, eengle@shutts.com
Eric Yesner, eyesner@shutts.com
Eugene E. Stearns, estearns@stearnsweaver.com
Eugene E. Stearns, jcartwright@stearnsweaver.com
Garrett Tozier, gtozier@shutts.com
Glenn T Burhans Jr, gburhans@stearnsweaver.com
Glenn T Burhans Jr, cacosta@stearnsweaver.com
Glenn T Burhans Jr, abrantley@stearnsweaver.com
James Randolph Liebler Sr., jrl@lgplaw.com
James Randolph Liebler Sr., service@lgplaw.com
James Randolph Liebler Sr., ytc@lgplaw.com
Jason B Gonzalez, jason@lawsonhuckgonzalez.com
Jason B Gonzalez, marsha@lawsonhuckgonzalez.com
Jason B Gonzalez, michelle@lawsonhuckgonzalez.com
Jessica Leighann Slatten, jessica@lawsonhuckgonzalez.com
Jessica Leighann Slatten, leah@lawsonhuckgonzalez.com
Jessica Leighann Slatten, michelle@lawsonhuckgonzalez.com
Julissa Rodriguez, jrodriguez@shutts.com
Kirk D DeLeon, kdd@deleondeleon.com
Kirk D DeLeon, sns@deleondeleon.com
Kirk D DeLeon, am@deleondeleon.com
Marc Parrino, mtp@lgplaw.com
Marc Parrino, aad@lgplaw.com
Marc Parrino, service@lgplaw.com
Melanie Rose Leitman, mleitman@stearnsweaver.com
Melanie Rose Leitman, lrussell@stearnsweaver.com
Michael Beny Valdes, mbv@miamidade.gov
Michael Beny Valdes, mora@miamidade.gov
Miguel Angel Gonzalez, gmiguel@miamidade.gov
Miguel Angel Gonzalez, mpdl@miamidade.gov
Oren Rosenthal, orosenthal@broward.org
Oren Rosenthal, jlahti@broward.org
Oren Rosenthal, aswadlow@broward.org
Paul C Huck Jr, paul@lawsonhuckgonzalez.com
Paul C Huck Jr, michelle@lawsonhuckgonzalez.com

Paul C Huck Jr, leah@lawsonhuckgonzalez.com
Raymond Cordova, raymond@lawsonhuckgonzalez.com
Raymond Cordova, leah@lawsonhuckgonzalez.com
Raymond Cordova, michelle@lawsonhuckgonzalez.com
Sahily Serradet, ss@lgplaw.com
Sahily Serradet, aad@lgplaw.com
Sahily Serradet, service@lgplaw.com
Taylor H. Greene, taylor@lawsonhuckgonzalez.com
Taylor H. Greene, leah@lawsonhuckgonzalez.com
Taylor H. Greene, michelle@lawsonhuckgonzalez.com

Physically Served: