

# **Bond Case Briefs**

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## **MUNICIPAL ORDINANCES - FLORIDA**

### **City of Palm Bay v. Wells Fargo Bank, N.A.**

**Supreme Court of Florida - May 16, 2013 - So.3d - 2013 WL 2096257**

This case considered whether a municipal ordinance may validly establish superpriority status for municipal code enforcement liens. The appeals court concluded that such an ordinance superpriority provision is invalid because it conflicts with a state statute and that the city's lien accordingly did not have priority over the lien of Wells Fargo's mortgage that was recorded before the city's lien was recorded.

The Supreme Court of Florida stated, "Here, it is undisputed that the Palm Bay ordinance provision establishes a priority that is inconsistent with the priority established by the pertinent provisions of chapter 695. In those statutory provisions, the Legislature has created a general scheme for priority of rights with respect to interest in real property. Giving effect to the ordinance superpriority provision would allow a municipality to displace the policy judgment reflected in the Legislature's enactment of the statutory provisions. And it would allow the municipality to destroy rights that the Legislature established by state law. A more direct conflict with a statute is hard to imagine. Nothing in the constitutional or statutory provisions relating to municipal home rule or in the Local Government Code Enforcement Boards Act provides any basis for such a municipal abrogation of a state statute. The conflict between the Palm Bay ordinance and state law is a sufficient ground for concluding that the ordinance superpriority provision is invalid."