

# **Bond Case Briefs**

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## **PRIVATE ACTIVITY BONDS - DISTRICT OF COLUMBIA**

### **Indian River County v. Rogoff**

**United States District Court, District of Columbia - June 10, 2015 - 110 F.Supp.3d 59**

Counties brought action against the Department of Transportation (DOT) and DOT officials, alleging that DOT's authorization of tax-exempt private activity bonds (PAB) supporting construction and operation of railway violated various federal statutes. Both counties moved for preliminary injunctions, and one county moved for a temporary restraining order and for summary judgment.

The District Court held that:

- Counties lacked standing to challenge PAB authorization based on alleged harms arising from construction and operation of railway,
- Counties lacked standing to challenge PAB authorization based on alleged procedural harms.

Counties failed to demonstrate that enjoining the issuance of tax-exempt private activity bonds (PAB), which were authorized by Department of Transportation (DOT) and supported construction of railway that would allegedly cause a variety of environmental harms in the counties, would significantly increase the likelihood that the railway project would be abandoned, and thus counties failed to establish a redressable injury sufficient to confer Article III standing to challenge the issuance of the bonds. Project's investor stated it would move forward with or without the PABs, investor had already made substantial investments in the project and claimed it had access to further funding sources, and investor's expert calculated that project was financially viable even without PABs.

Allegations regarding impact of Department of Transportation's (DOT) authorization of tax-exempt bonds for railway project on the Federal Railroad Administration's (FRA) environmental review of that project under NEPA were insufficient to establish that counties that opposed the project suffered a redressable injury sufficient to confer Article III standing to challenge the issuance of the bonds. Counties could not object to the final environmental impact statement (EIS) and record of decision (ROD) before either was completed, and FRA was not required to evaluate alternative project financing options during the EIS process.