

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO: 16-2020-AP-000037

DIVISION: AP-A

FIRST NATIONAL BANK OF AMERICA,
Petitioner,

v.

CITY OF JACKSONVILLE,
Respondent.

Petition for Writ of Certiorari from a decision by the Special Magistrate of the City of Jacksonville

June 3, 2024

PER CURIAM

Petitioner challenges fees it owes because of its failure to register defaulted properties. This Court rejects the majority of Petitioner's arguments without further discussion but writes briefly to address the argument that these fees constitute an unconstitutional tax. While there are many similarities between fees and taxes, one of the key distinctions is that fees are imposed to fund the cost of regulation while taxes are imposed to generate revenue. See Bateman v. City of Winter Park, 37 So. 2d 362, 363 (Fla. 1948). Revenue generated by a tax may fund a city's coffers, but revenue generated by a fee must relate back to the underlying regulation. See Home Builders and Contractors Ass'n of Palm Beach County, Inc. v. Board of County Commissioners of Palm Beach County, 446 So. 2d 140, 144-45 (Fla. 4th DCA 1983).

In the instant case, the City determined that distressed properties can lead to distressed neighborhoods and mandated that such properties be registered with the City. Registration carries

an annual cost of \$250 as long as the property is in foreclosure or default. This payment is used to offset the costs of maintaining the registry, code enforcement, and other city services specifically related to foreclosed properties. Because the fee is directly tied to the registration and maintenance of distressed properties, this Court finds that it is not a tax. Accordingly, it is not unconstitutional and the Petition is **DENIED**.

CHARBULA, HUTTON, AND MAHON, JJ, CONCUR.

Jason M. Tarokh, counsel for Petitioner
Helen P. Roberson and Jason Teal, counsel for Respondent.