

Judge puts Miami-Dade Expressway Authority in driver's seat

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Written by on July 5, 2022



The Miami-Dade Expressway Authority was a big winner last week as the 11th Judicial Circuit granted its

motion for summary judgment in a dispute over control of the five expressways it operates in Miami-Dade County. Its court opponent, the state-created Greater Miami Expressway Agency, has until July 29 to respond.

The State Legislature voted in 2019 to dissolve the authority, MDX, and created the agency, GMX, to run the toll roads MDX has controlled since its birth in 1994. Both have been in a legal battle since 2019, with a first suit by MDX against the Florida Department of Transportation and a second in October 2021 against GMX and its appointed members.

Miami-Dade passed an ordinance in May 2021 invoking its Home Rule authority to create MDX and abolish GMX. Under the Florida Constitution, Home Rule authority allows the county to abolish authorities, boards or other governmental units whose jurisdiction lies wholly within Dade County, the motion closing the case signed by Judge Alan Fine says.

MDX's attorney, Eugene Stearns, said he expects the agency to appeal the decision to the Third District Court of Appeals.

"What we have here clearly is its politics, pure power politics, that some people in Tallahassee want to control everything in the state, every local government, every school board, and the best thing we got to Dade County is we have Home Rule, and thanks to the Constitution, and now the judge's order, our rights to Home Rule will be preserved," Mr. Stearns said.

Miami Today asked the Florida Department of Transportation, District Six, to comment but a spokesperson emailed "FDOT does not comment on pending or potential litigation."

Although the department is not a party to the litigation, GMX board members met twice last year in the department's offices in Broward County and the department's staff has handled its communications.

Miami-Dade Commissioner José "Pepe" Díaz, reappointed MDX chairman last week, said he would try to end the litigation. "I will try to meet with the state and [I] hope that this nonsense ends because \$200 million [in lost opportunities] in this community, it's a lot of money."

MDX has been unable to borrow since litigation began and it couldn't take advantage of historically low interest rates. Rating agency Fitch

downgraded the authority's bonds in May 2019.

"I want to make clear that this board will not deviate from our position," Mr. Díaz added.

"The real loser is the toll payers of Miami-Dade County," Carlos Zaldivar, MDX legal counsel, said at the meeting.

In response to the lawsuit filed last October, GMX has been arguing in court that FDOT should be recognized as a necessary party in the dispute. "Ownership of the roads was never transferred to MDX; only operation and control was transferred by these contracts," court documents by filed by the GMX defense say.

Darlene Fernandez, executive director of MDX since March, said in an interview that she thinks this is a new beginning to continue moving forward as one team. "I don't see MDX, I don't see state, and I don't see county, I see us as one because we're all trying to do the right thing. We're all public servants."

As of January, the litigation had cost FDOT \$326,469.57 in attorney's fees and costs. The legal battle had cost MDX \$1.3 million paid only to outside counsel since 2019. The Florida House of Representatives spent \$82,557.51 on legal fees paid to outside firms or counsel in the first litigation with MDX.