



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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ROBERT W. RUNCIE
Superintendent of Schools

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September 14, 2018

Via Electronic Mail
davidh@oaklandparkfl.gov

David Herbert, City Manager
City of Oakland Park
3650 NE 12th Ave.
Oakland Park, FL 33334

RE: Stormwater Fees

Dear Mr. Herbert:

The issue of whether school districts are required to pay Storm Water Fees to municipalities has been a topic before the Courts in Florida since 2001. The First, Second and Third District Courts of Appeal have all held that although a stormwater fee may be a valid utility fee, school districts are entitled to Sovereign Immunity. Therefore before a city can sue to collect the fee, it must have a written contract.¹ Additionally, currently pending in this jurisdiction, the Fourth DCA, is City of West Palm Beach v. The School Board of Palm Beach County, Case No. 4D18-0183, L.T. Case No. 502013CA010144XXXXMB-AH, an appeal by the City of a ruling from the Circuit Court of Palm Beach County, which provides that the cases named in footnote number 1 below were both controlling and persuasive.

This letter is to provide notice to your City that as of October 1, 2018, Broward County School District is exercising its right under Sovereign Immunity and will no longer pay stormwater utility fees. This decision was made by considering the legal precedents the above named cases afford the School District and acknowledging that the School District and the City of Oakland Park do not have a written contract regarding Stormwater Fees.

Please feel free to have your City Attorney contact the School Board's General Counsel should they want to discuss this issue further.

Sincerely,

Robert W. Runcie
Superintendent of Schools

cc: *Via Electronic Mail*
The Honorable Tim Lonergan
Donald Doody, City Attorney

¹ City of Gainesville v. State Dep't. of Transp., 920 So. 2d 53 (Fla. 1st DCA 2005) *rev. denied*, 935 So. 2d 1219 (Fla 2006); City of Clearwater v. School Board of Pinellas County, 17 So. 3d 1287 (Fla. 2d DCA 2009); and City of Key West v. Fla. Cmty. College, 81 So. 3d 494 (Fla. 3d DCA 2012).