

Who pays for Palm Beach County IG? 4th DCA hears arguments

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WEST PALM BEACH — Palm Beach County municipal governments are all for the [Office of Inspector General](#), but were blindsided by the way they were called on to pay for it, their attorneys said Tuesday in oral arguments before the [4th District Court of Appeal](#).

County lawyers responded that when voters approved the office, they empowered county government to send cities the bill.

Fourteen cities [sued the county and Office of Inspector General in 2011](#); one, Delray Beach, later dropped out. A judge [tossed the suit in March 2015](#), but the cities appealed.

In 2010, following a rash of scandals that left the area with the nickname “Corruption County,” voters in each of the county’s cities overwhelmingly approved creation of the office, which provides oversight to local governments covering 13,000 employees and \$7.5 billion in combined budgets.

The amount the cities have been assessed since the Inspector General started in 2010, including what they were billed for the budget year that started Oct. 1, is [up to \\$4.9 million](#), according to figures provided by the county’s budget office to The Palm Beach Post. Of that, the cities have paid \$303,461. Fourteen have paid nothing.



Florida 4th District Court of Appeal judges Carole Y. Taylor and Mark W. Klingensmith hear arguments on Tuesday, Oct. 4, 2016, ... [Read More](#)

The county has made up the difference, paying its share of about \$1 million a year, plus what the cities have been billed.

The county has said that, should the 13 cities lose the appeal of their lawsuit, it intends to pursue arrears.

On Tuesday, each side was given 20 minutes to argue before the appellate court. The three-judge panel did not indicate when it will rule.

The lawyer for the municipalities said they'd believed vendors would pay all the costs. The lawyer for the county said cities are allowed to pass on their assessment to vendors. But the lawyer for the cities said that would be illegal since there's no item in any city's budget about the fees to the Inspector General and because the county is providing a service while the city's providing none.

The way the county forces cities to pay “violates sovereign immunity and creates an unlawful pact,” said **Jane Kreusler-Walsh**, a private appellate attorney representing the cities. “Sovereign immunity” is a legal status that prevents a governmental entity from having money taken from its coffers without its permission.

Noting that no one in the cities balked when they were helping hammer out the referendum that created the office, Judge Alan Orantes Forst asked **Walsh**, “You’re conceding it was understood that municipalities would be on the hook at least for some of the funding?”

“No, I’m not conceding that,” **Walsh** said. She said the cities believed the money would come from fees on vendors, and then-County Commissioner Jess Santamaria said as much during testimony that in the original trial.

She said it was only after the county passed an “implementing ordinance,” spelling out how the office would be paid for, that cities realized they were expected to help pay from their individual budgets.

Senior Assistant Palm Beach County Attorney Helene C. Hvizd said municipalities and the Palm Beach County League of Cities “were at the table every step of the way.” She said she couldn’t understand why they waited “until the first bill is received to then say, ‘sovereign immunity.’ ”

Hvizd said the cities are allowed to pass costs onto vendors. But **Walsh** said that would be illegal since there’s no item in any city’s budget about the fees to the Inspector General.

They (cities) don’t have a contract because they are not providing the service,” **Walsh** said.

Hvizd said cases from other jurisdictions concluded that “the people have all political power. When the people vote by referendum or initiative, that is the law. That is legislation. That is the basis for the municipalities to do what the people have said.”

And she said state law had required the referendum get yes votes from the majority of voters in each municipality.

Hvizd closed her argument by saying that “The people moved forward. They expressed their desire. They deemed it necessary to have an OIG. Their will is being attempted to be thwarted by the municipalities themselves.”

But Walsh said that if the ruling is upheld, “There’s nothing to stop the county from implementing other countywide programs. Other counties will follow and this will impact the budgets of other cities throughout the state. It will wreak havoc that will irreparably harm these cities throughout the state of Florida.”

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