

THE BUZZ ON THE STREET BIZ!

'Tisn't the season

There hasn't been any snow in Jacksonville in nearly 20 years, but despite forecasts in the high 80s, there will be some in Clay County Sept. 22.

Ryland Homes is hosting a "Super Cool" grand opening at Pine Ridge off Old Jennings Road just west of Blanding Boulevard with a winter theme, complete with snow-making machine, designed to attract the target buyer — young families with children 6 years old and younger.

The Ice Man will use the machine and about three tons of bagged ice to transform one of three new model homes into a heavy and moist snowy wonderland that will last about two to two and a half hours in the late September sun, said The Ice Man owner David Bryant.

"It looks like snow, it piles up like snow and it throws like snow," Bryant said. "It's just not like Colorado snow that's all fluffy."

"It's as close as you're going to get in Florida."

Phil Alia, president of Jacksonville-based Vivid Media Concepts LLC, came

up with the theme of the grand opening that also includes a penguin obstacle course, an ice sculpture, live music, giveaways and food. He expects about 100 to 150 visitors to sneak a peek at the 120-home community with three-, four- and five-bedroom homes ranging in size from 1,429 square feet to 2,834 square feet and starting in price from the low \$200,000s.

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Smallbiz advocate hails 'historic' opinion

BY MARK SZAKONYI
STAFF WRITER

ST. AUGUSTINE — Small businesses could get more federal contracts if the Government Accountability Office decides they have to be considered for all federal supply programs.

The U.S. Small Business Administration recently supported a St. Augustine small business advocate's protest that his business wasn't considered for a U.S. Army contract through the U.S. General Services Administration Schedule program.

The GAO has until Nov. 5 to make a decision on FitNet President Raul Espinosa's protest. The protest could be dismissed if the U.S. Army takes a corrective action, said Kenneth Webb, a paralegal with the GAO's procurement law control group.

"This is a historic opinion," Espinosa said. "For the first time, SBA actually acknowledged that funds have been diverted away from small businesses."

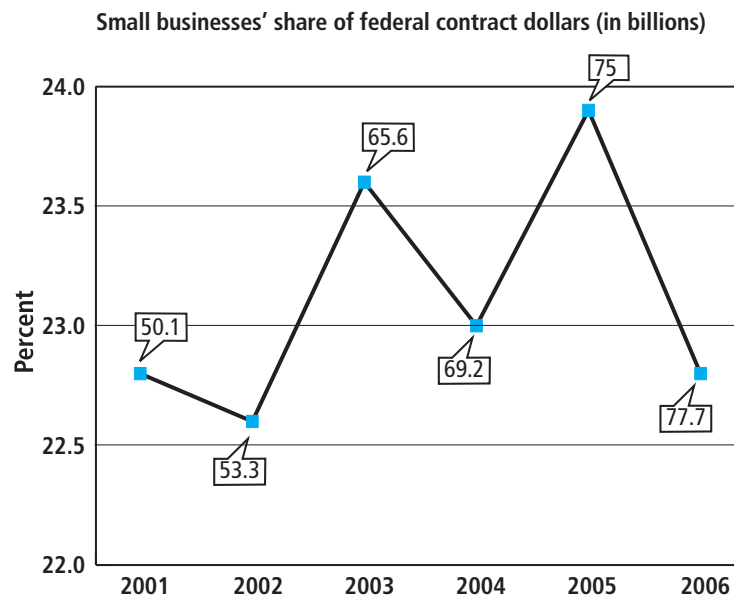
He said set-aside exemptions to the Small Business Act have cost small and minority businesses about \$640 billion in federal contracts over the last decade.

John Klein, SBA's associate general counsel for procurement law, said SBA's view is that small businesses must be considered for contracts between \$3,000 and \$100,000 through GSA's Schedule program even though the schedule hasn't recognized the requirement.

Klein said the legal opinion

SMALLBIZ SHARE

Small businesses secured between 22.6 percent and 23.9 percent of federal contract dollars over the past six years.



SOURCE: U.S. Small Business Administration

was important in that it was the first time the issue has been in front of the GAO, the investigative arm of Congress that provides information on the use of public funds to lawmakers. He said SBA has been looking for a case that would serve as a precedent.

Klein said Espinosa's \$640 billion figure is exaggerated, but he agreed that a significant amount of federal contracts have been lost. There isn't a way to determine how much in contracts had been lost, he said.

Figures showing an annual \$20 billion loss of foreign pro-

cessments and a \$44 billion loss through federal supply schedules were received from congressional staff, Espinosa said.

Pressuring regulators

The SBA has "avoided this issue for years," he said. "They have allowed these regulations that have negatively affected small businesses to remain."

Espinosa said the Fairness in Procurement Alliance, which he founded, will pressure government regulators by petitioning the administrator of the Office of Federal Procurement Policy to remove set-aside

exemptions.

The alliance also will petition the SBA's Office of Advocacy to do the same within its new Regulatory Review and Reform Initiative, he said.

In fiscal 2006, small businesses received \$77.7 billion in federal contracts, 22.8 percent of the government's contracting dollars, according to the SBA. That's down from 23.9 percent in 2005.

Despite the government's failure to meet its 23 percent small business goal in 2006, the U.S. House passed legislation in May to increase the goal to 30 percent, Espinosa said. The U.S. Senate is expected to introduce its version of the bill this fall.

Espinosa said reaching the 30 percent mark is irrelevant until the exemptions costing small businesses \$64 billion each year are removed.

Calling the SBA's legal opinion historic isn't an understatement, said Henry Thomas,

director of the FPA Think Tank at University of North Florida. Thomas, an associate professor of political science and public policy and director of the Florida Center for Public and International Policy, said he hoped the GAO decision would reveal just how much small businesses have lost and spur the removal of set-aside exemptions.

"When we can improve the plight of small businesses, we improve the possibility of poor folks starting small businesses and being successful."

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Land deal question may go to highest state court

BY TONY QUESADA
STAFF WRITER

JACKSONVILLE — The federal lawsuit seeking to stop the Jacksonville Aviation Authority's land development deal with a Southern California company could be put to the Florida Supreme Court.

While hearing oral arguments Sept. 11, members of a three-judge panel for the 11th U.S. Circuit Court of Appeals suggested in their questioning that the case involves issues Florida's highest court could clarify.

The deal being challenged, which the authority projects could bring it \$900 million over its lengthy term, involves a 328-acre tract near Jacksonville International Airport known as Woodwings East. Dallas-based Jackson-Shaw Co. sued the authority in January 2006, about a month after it approved a deal to give Majestic Realty Inc. a no-cost option to lease all or part of Woodwings under multiple leases for up to 65 years each.

Jackson-Shaw, a commercial development and property management company with a large stake in the nearby Jacksonville International Tradeport, alleged the agreement is prohibited by the Florida Constitution's ban against governments lending their credit to a private entity.

U.S. District Judge Timothy Corrigan, who presided over a trial Oct. 10 to 13, 2006, concluded the authority did not violate any state laws or the Florida Constitution.

In his appeal for Jackson-Shaw, however, lawyer John Mills argued that the lease's form — a participating lease in which Majestic would pay half its net profits — illegally makes the authority a partner in the venture.

Although Jacksonville Chief Deputy General Counsel Cindy Laquidara cited the same cases as Mills, she disputed his interpretation and noted that Corrigan determined the authority's deal would not put public assets at risk.

Important question

Appellate Judges Stanley Birch and Edward Korman indicated they saw elements of the authority's deal that differentiated it from previous cases enough to warrant certifying a question for the state Supreme Court.

"This is an important part of municipal law," Birch said. "Why not certify this to the [Florida] Supreme Court?"

Certifying a question would ask for guidance on the Florida Constitution's meaning. When given, such guidance generally determines how appellate courts rule.

"I'm not sure a federal appeals court should be deciding this," Korman said.

Birch said he and Korman would likely lean on the opinion of Judge Rosemary Barkett, the other judge on the panel, in determining whether to certify a question. Birch noted Barkett's nine years on the Florida Supreme Court, the last two as chief justice.

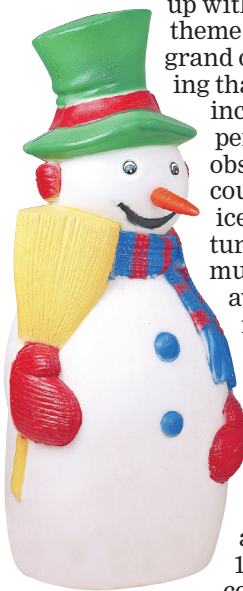
Neither lawyer advocated deferring to the state supreme court, which could delay the case's decision for several months to a few years.

Mills told the panel he understands the "urge to certify" but that doing so would merely be asking the Supreme Court "if they meant what they said."

Although the wisdom of the authority's deal is not subject to judicial review, Korman offered negative commentary: "This would be an open-and-shut case if the question were whether this is a smart deal."

The deal was executed the day before the trial. So far, no visible activity has taken place, but Majestic has a five-year option.

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