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Florida Growth Management Citizens' Initiative

SC08-318 | SC08-492

>> PLEASE RISE.

HEAR YE, HEAR YE, HEAR YE.

THE SUPREME COURT OF FLORIDA IS
NOW IN SESSION.

ALL WHO HAVE CAUSE TO PLEA,
DRAW NEAR, GIVE ATTENTION, AND
YOU SHALL BE HEARD.

GOD SAVE THESE UNITED STATES,
THIS GREAT STATE OF FLORIDA,
AND THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO
THE ORAL ARGUMENT SESSION FOR
THE FLORIDA SUPREME COURT.

FIRST CASE ON OUR AGENDA IS
ADVISORY OPINION OF THE
ATTORNEY GENERAL OF FLORIDA.

>> LEWIS HUBENER ON BEHALF OF
THE ATTORNEY GENERAL, THIS CASE
IS HERE ON THE REQUEST OF THE
ATTORNEY GENERAL --

>> COULD YOU SPEAK UP SOME,
PLEASE?

>> THIS CASE HERE IS AT THE
REQUEST OF THE ATTORNEY GENERAL
FOR AN ADVISORY OPINION.
STEPHEN GRIMES WILL BE ARGUING
ON BEHALF OF THE SPONSOR OF THE
AMENDMENT, AND ROSS BURNAMAN ON
BEHALF OF THE OPPONENT.

THANK YOU.

>> MR.^GRIMES?

>> MAY IT PLEASE THE COURT, MY
NAME IS STEPHEN GRIMES.
I REPRESENT THE SPONSOR OF THE
SMARTER GROWTH AMENDMENT.
THE OPPONENT DOESN'T EVEN
CONTEND THAT THIS DOESN'T HAVE
MORE THAN A SINGLE SUBJECT.
THE, THE ONLY SUBSTANTIVE
ARGUMENT THAT THE OPPONENT
MAKES TO THE INITIATIVE ITSELF
IS THAT HE CONTENDS THAT WE
SHOULD'VE SAID THAT WE WERE

AMENDING THE PRIVACY PROVISION
OF THE --

>> WELL, LET ME ASK YOU BEFORE,
YOU --

>> OKAY.

>> -- GO AWAY FROM SINGLE
SUBJECT HERE.

IS THIS AMENDMENT IS ABOUT
GROWTH MANAGEMENT BASICALLY,
AND IS THERE ALREADY IN PLACE A
PETITION PROCESS FOR THESE
TYPES OF REFERENDUMS IF THEY
ARE GOING TO GO TO A LOCAL
REFERENDUM, IS THERE ANY
PROCEDURE ALREADY IN PLACE TO
HAVE LOCAL REFERENDUMS?
I MEAN NOT JUST FOR GROWTH
MANAGEMENT BUT ANY LOCAL
REFERENDUM?

>> I'M NOT EVEN SURE I KNOW THE
ANSWER TO YOUR QUESTION.

>> WELL, I WAS ASKING THAT
QUESTION BECAUSE IF THERE'S
ALREADY A, A PROCEDURE IN
PLACE, I'M WONDERING, ARE
PEOPLE ON NOTICE THAT THAT KIND
OF PROCEDURE WOULD CHANGE WITH
THIS KIND OF AMENDMENT.

BECAUSE THIS AMENDMENT PUTS
LIMITATIONS ON HOW YOU GET --
WHERE YOU GET THE SIGNATURES.
IT PUTS LIMITATIONS ON THE TIME
FOR GATHERING SIGNATURES, AND
IF THERE -- IF THOSE
PROCEDURES -- PROVISIONS ARE
NOT APPLICABLE IN A REGULAR
REFERENDUM, WOULDN'T THE PUBLIC
NEED TO BE ON NOTICE OF THESE
KINDS OF CHANGES?

>> I'M NOT AWARE OF, OF, OF
ANY, ANY ABILITY TO, TO
CHALLENGE A COMPREHENSIVE PLAN.
THERE IS SOMETHING CALLED --

>> BUT I'M NOT NECESSARILY
TALKING ABOUT A COMPREHENSIVE
PLAN BUT ANY KIND OF LOCAL
REFERENDUM.

IS, IS THERE ANY PROCEDURE IN
PLACE?

>> I'M NOT AWARE OF THAT, BUT
THIS IS JUST, THIS IS JUST
SOMETHING THAT PEOPLE CAN DO IF
THEY WANT TO DO.

IF THERE WAS SUCH A ONE, THIS

WOULDN'T TAKE ITS PLACE.
IF THERE WAS SOME SORT OF A, A
REFERENDUM PROCEDURE ON OTHER
MATTERS.

>> WELL, YOU ARE SAYING, I
GUESS WHAT JUSTICE QUINCE WAS
ASKING, I MIGHT JUST NEED A
QUICK FOLLOW-UP HERE, IF THAT
CITIZENS NOW, THEY CAN PETITION
FOR RE-DRESS OF A GRIEVANCE,
CAN THEY -- WHAT THEY CAN --
THEY CANNOT OR CAN THEY
PETITION TO CHANGE A
COMPREHENSIVE LAND USE PLAN?
WITHIN THE LAW NOW?
IN OTHER WORDS IS THIS GIVING
THEM SOMETHING MORE THAN THEY
HAVE OR WAS JUSTICE QUINCE IS
SAYING IS THEY ARE TAKING AWAY
SOMETHING.

>> NO, IT'S GIVING THEM
SOMETHING MORE THAN THEY HAVE.

>> BUT WHAT IT'S ALSO DOING,
AND MAYBE THIS IS JUST, I'M
WORRYING AHEAD OF TIME, IF THIS
GOES ON THE BALLOT AT THE SAME
TIME AS HOMETOWN DEMOCRACY,
AREN'T THE VOTERS GOING TO BE
COMPLETELY CONFUSED?

I MEAN, THIS MEASURE REALLY AS
I UNDERSTAND IT, I MEAN, IS TO
COUNTER THE MANDATORY PROCESS
THAT'S SET FORTH IN THAT POSED
HOMETOWN DEMOCRACY, AND SO
WHAT, HAVE YOU CONSIDERED THE
EFFECT OF THIS BOTH GOING ON
THE AMENDMENT -- THE BALLOT AT
THE SAME TIME?

>> OF COURSE IT'S A MUCH LESS
DRASTIC METHOD OF --

>> BUT HOW, BUT IF THEY BOTH
PASS?

>> WELL, IT'S OUR BELIEF THAT
THE PUBLICITY SURROUNDING THIS
WILL BE SUCH THAT THE PEOPLE
WILL EITHER VOTE FOR ONE AND
VOTE AGAINST THE OTHER, AND,
AND IT'S, THE PUBLICITY IS
GOING TO FLUSH ALL THIS OUT
ONE IF YOU WANT TO HAVE A
REFERENDUM EVERY TIME YOU
CHANGE A PLAN, THEN YOU VOTE
FOR THAT ONE.

AND VOTE AGAINST THIS OR YOU

COULD, YOU COULD VOTE FOR BOTH,
AND IF IT WERE TO HAPPEN, OF
COURSE THAT WOULD THEN HAVE TO
BE IRONED OUT LATER, PROBABLY
COME BACK TO THIS COURT I GUESS
TO SEE WHAT WOULD BE.

I THINK IT WOULD -- IT COULD BE
THAT YOU'D HAVE BOTH OPTIONS.

>> THE PROBLEM, THOUGH, REALLY
THAT I DON'T KNOW THAT WE'VE
CONFRONTED EXACTLY THIS PROBLEM
IS THAT YOU'VE GOT TWO
COMPETING INITIATIVES, NEITHER
ONE OF WHICH HAS A SIGNATURE.
IF THEY GET THE SIGNATURE.

>> WELL, THEY HAVE THE
SIGNATURES, WELL, NO, EXCUSE
ME, THEY DON'T.

YOU'RE RIGHT.

THEY DON'T.

>> AND ONE OF THEM HAS BEEN
THROUGH THIS COURT.

BUT THERE'S, THERE'S STILL A, A
CASE PENDING IN THIS COURT ON
THAT ONE.

THEN YOU HAVE GOT THIS ONE, BUT
IF THEY, IF THE HOMETOWN
DEMOCRACY ONE PASSES, THEN
YOU'VE GOT A SITUATIONING AS TO
WHETHER THE SUMMARY HERE IN
THIS ONE OMITTS THE FACT THAT
YOU'VE GOT TO GO DOWN TO A
GOVERNMENTAL OFFICE TO SIGN THE
PETITION BECAUSE THE HOMETOWN
DEMOCRACY DOESN'T HAVE THAT
PROVISION.

IF IT'S IN THE CONSTITUTION.

IF IT'S NOT IN THE

CONSTITUTION, YET SO WE'RE JUST
KIND OF FLUMMOXED HERE BECAUSE
WE'VE GOT TWO COMPETING THINGS
GOING ON, AND IT'S KIND OF HARD
TO RESOLVE.

>> WELL, IT SEEMS TO ME THAT
IF, IF BOTH OF THESE WERE TO
PASS, THEN THE PUBLIC WOULD
HAVE BOTH OPTIONS.

AND THE PUBLIC COULD --

>> BOTH OPTION IS YOU CAN PUT
IT ON THE --

>> YOU CAN EITHER HAVE ONE OF
THESE TO, TO, TO PUT OURS, FOR
REFERENDUM OR YOU CAN GO
THROUGH THE PROCEDURE THAT THE

OTHER, THE HOMETOWN DEMOCRACY.
I SUPPOSE IF YOU WANTED A
REFERENDUM, EVERYBODY WOULD GO
WITH THE HOMETOWN DEMOCRACY
BECAUSE IT WOULD BE EASIER.

>> BECAUSE, REALLY, I UNDERSTAND
THE HOMETOWN DEMOCRACY, ALL OF
THEM WOULD HAVE TO GO --

>> YEAH.

>> FOR REFERENDUM.

>> WELL, THEN THERE WOULDN'T --

>> BUT THIS ONE LIMITS THE
NUMBER THAT WOULD GO ON
REFERENDUM.

ISN'T THAT THE CASE?

>> IT WOULD NOT, IT ONLY
TDOESANT LIMIT THEM.

IT DOESN'T TAKE -- IT DOESN'T
LIMIT THEM.

IT DOESN'T TAKE AWAY FROM THE
HOMETOWNTOWN DEMOCRACY.

IT WOULD GIVE -- IF SOMEBODY
WANTED TO USE OURS, THEY'D HAVE
TO GO THROUGH THIS PROCEDURE.

>> BUT YOU'RE REALLY -- YOUR
ATTEMPT --

>> IT SEEMS TO ME IF THE OTHER
ONE PASSES, OURS WOULD BE --
THERE WOULD BE NO PURPOSE IN
ANYBODY DOING OURS.

>> WHAT YOU'RE SAYING, AND
YOU'RE BEING CANDID HERE, IS
THAT THIS IS BEING OFFERED UP
WITH THE HOPE, IT'S SORT OF
LIKE ON THE -- I DON'T KNOW, IF
THEY BOTH GOT ON THE BALLOT,
YOU KNOW, WHETHER YOU'RE FOR
GAY MARRIAGE OR AGAINST IT, YOU
KNOW, I MEAN, HOPEFULLY PEOPLE
AREN'T GOING TO VOTE FOR BOTH
TO SAY I'M FOR AND AGAINST IT.

SOME JOKE ABOUT THAT BUT HOME
-- I MEAN EITHER YOU'RE SAYING
THEY'VE REALLY, VOTERS NEED TO
MAKE A CHOICE BUT THE WAY IT'S
NOW FRAMED, AND THE WAY IT
WOULD END UP APPEARING ON A
BALLOT ONCE WE APPROVE THIS
BALLOT SUMMARY AND IS THAT IT
COULD REALLY RESULT IN GREAT
CONFUSION TO THE VOTER.

>> IF, IF THE HOMETOWN
DEMOCRACY AMENDMENT PASSES, I
DON'T THINK IT WOULD MAKE ANY

DIFFERENCE WHETHER OURS PASSED
OR NOT.

BECAUSE IT WOULD REQUIRE
REFERENDUM --

>> BUT YOU'RE NOT SAYING IT
WOULD NULLIFY --

>> NO, NO,.

>> BUT IF YOU, IF THE HOMETOWN
DEMOCRACY PASSED AND THIS ONE
ON THE -- AND THIS WENT ON THE
BALLOT, WOULDN'T YOU SAY THAT
YOUR ATTEMPT WOULD BE TO LIMIT
THAT AMENDMENT BY PUTTING
SOMETHING ON THAT HAS A MUCH
MORE ONEROUS REQUIREMENT, WHICH
IS 10% OF THE, OF THE
ELECTORATE HAVING TO, YOU KNOW,
SIGN AND DO ALL THE THINGS THAT
JUSTICE WELLS IS TALKING ABOUT?

>> WELL, WE WOULD ARGUE
POLITICALLY IF THERAPY THEY'RE
BOTH ON THE BALLOT THEN YOU
OUGHT TO VOTE AGAINST THE OTHER
ONE BECAUSE INSTEAD OF HAVING
AN AMENDMENT -- SOMEBODY TOLD
ME THERE'S 11,000 CHANGES TO
COMPREHENSIVE PLANS AROUND THE
STATE EVERY YEAR.

IF YOU WANT TO HAVE A
REFERENDUM ON EVERY ONE OF
THEM, VOTE FOR THAT ONE BUT,
BUT DON'T -- OUR EFFORT WOULD
BE TO GET THEM TO VOTE AGAINST
THAT ONE.

AND TAKE OURS WHERE YOU HAVE IT
AN OPPORTUNITY BUT ALL BE IT A
LIMITED OPPORTUNITY TO HAVE A
REFERENDUM.

>> THE QUESTION OF SHOULDN'T,
SHOULDN'T A TITLE HERE SAY THAT
THERE'S A LIMITED OPPORTUNITY?
IT SAYS FLORIDA GROWTH
MANAGEMENT INITIATIVE GIVING
CITIZENS THE RIGHT TO DECIDE
LOCAL GROWTH MANAGEMENT PLANS.
NOWHERE IN THAT TITLE DOES IT
SAY, I MEAN, IT SEEMS TO ME
THAT THE TITLE OUGHT TO SAY
LIMITED RIGHT TO DECIDE LOCAL
PLAN.

>> AT THE TIME IT WOULD BE MORE
THAN A RIGHT THAN THEY HAVE AT
ALL.

THE FACT THAT IT SAYS THAT IT

REQUIRES, PROVIDES DEFINITION AND PETITION REQUIREMENTS, AND THERE, A NUMBER OF CASES THAT THIS PETITION REQUIREMENTS, THERE ARE A NUMBER OF CASES, AND THAT THE COURT HAS APPROVED THAT WAS ALLOWED THAT SORT OF THING TO PROVIDE THE DETAILS THAT WOULD FLESH OUT THE AMENDMENT AND WHEN YOU GET RIGHT DOWN TO THOSE THINGS ARE NOT ALL THAT UNUSUAL.

ABSENTEE VOTING THIS YEAR, WHERE YOU HAVE TO GO TO THE, THE SUPERVISOR'S OFFICE, WAY MORE THAN 10% OF THE PEOPLE WERE, WERE INVOLVED IN THAT THIS YEAR.

YOU GOT THE, YOU GOT TO HAVE A TIME LIMIT OF SOMETHING BECAUSE THE, THESE AMENDMENTS REQUIRE PROPERTY OWNERS HAVE A LOT OF MONEY INVESTED IN CERTAIN AMENDMENTS.

>> BUT IT SEEMS TO ME THAT IF, IF YOU REALLY WANT PEOPLE TO PARTICIPATE IN THE PROCESS, MAKING THEM GO TO THE PROPERTY APPRAISERS OFFICE OR THE TAX ASSESSMENT -- WHICH OFFICE IS IT?

THE --

>> SUPERVISORS.

>> SUPERVISOR OF ELECTIONS' OFFICE TO SIGN THE EPETITION AS OPPOSED TO GENERALLY WHEN THERE ARE PETITION DRIVES PEOPLE GO AROUND TO VARIOUS PLACES AND GET SIGNATURES, SO I THINK THAT'S A REAL DIFFERENCE IN WHAT'S NORMALLY THOUGHT OF IN A PETITION DRIVE THAN WHAT THIS AMENDMENT IS REQUIRING.

>> IT ISN'T INTENDED TO BE -- IT'S ONLY INTENDED TO WHERE YOU'D HAVE A, A, A PETITION DRIVE WHERE IT WAS A VERY CONTROVERSIAL CHANGE THAT'S BEING OFFERED.

BUT RIGHT NOW THERE'S NONE AT ALL.

AND, AND, AND THE VOTERS WOULD BE GETTING SOMETHING MORE THAN THEY HAVE.

IT WOULDN'T BE AS MUCH AS IF
THEY VOTE FOR THE HOMETOWN
AMENDMENT, AND I'M CONVINCED
THAT IF THE HOMETOWN AMENDMENT
PASSED, IT WOULDN'T MATTER
WHETHER OURS PASSED OR NOT.
BECAUSE NOBODY WOULD USE IT.
THERE WOULD BE NO PURPOSE OF
IT.

>> WELL, I'M HAVING DIFFICULTY
SEEING HOW THE HOMETOWN
AMENDMENT HAS IRRELEVANCY TO
WHETHER OR NOT THIS PROPOSED
AMENDMENT MEETS OUR, THE TWO
TESTS, YOU KNOW, THAT WE HAVE.
THAT, THAT AMENDMENT IS NOT IN
THE CONSTITUTION NOW, IS IT?

>> NO, SIR.

>> -- THE FIRST TIME WE'VE HAD
COMPETING GROUPS, BUT IS THERE
AN ISSUE, THOUGH, WITH
REFERENCE TO ANY POTENTIAL
DECEPTION AS TO THIS BEING A
REAL BIG DEAL GIFT TO THE
VOTING PUBLIC WHEN ORDINARILY
THEY'RE USED TO, AS THE CHIEF
JUSTICE ENEMY, BEING ABLE TO
SIGN PETITIONS, ALL KINDS OF
PLACES.

AND, AND THIS ONE ACTS LIKE
THEY'RE GETTING THAT PETITION
AUTHORITY BUT IT'S RESTRICTING
THEM TO HAVING TO GO TO THE
SUPERVISOR OF ELECTIONS, SO
IT'S REALLY MAKING IT MORE
DIFFICULT THAN WHAT WE PERCEIVE
IS ORDINARY PETITION DRIVE.
IS IT NOT?

>> I AGREE THAT THIS STANDS
ALONE.

I, I, I AGREE WITH YOU 100%.

>> AND ISN'T IT MAKING IT MORE
DIFFICULT THAN THE ORDINARY
PETITION DRIVES, FOR INSTANCE,
THE FIFTH CONSTITUTIONAL
AMENDMENT ON THE BALLOT.

>> YES, SIR, IT DOES.

>> IT DOESN'T TELL THE PEOPLE
THAT?

>> BUT, BUT IT DOESN'T HAVE TO
FOR --, THE, THE PEOPLE WOULD
BE BETTER OFF EVEN THOUGH IT'S,
IT'S A LIMITED AMOUNT.
THEY, THEY GOT NOTHING NOW.

IF THEY VOTE FOR IT, THEY, THEN
THEY HAVE A --

>> EVEN THOUGH IT MAY BE MORE
DIFFICULT, THEY STILL ARE
GETTING SOMETHING THAT THEY
DIDN'T HAVE BEFORE?

>> YES, SIR, AND IT STANDS ALL
BY ITSELF.

AND UNDERSTAND THE RATIONALE OF
ALL OF THE NUMBER OF OTHER
CASES WE'VE HAD BEFORE THE
COURT, YOU, YOU DON'T PUT ALL,
YOU CAN'T PUT ALL THOSE DETAILS
IN THE SUMMARY AND YOU -- BUT
YOU MAKE -- AND HERE'S A
SPECIFIC REFERENCE.

PETITION REQUIREMENTS.

AND THAT'S WHAT WE'RE TALKING
ABOUT AND AS I'M -- WHAT I'M
SAYING IS, SURE IT'S, IT'S MORE
DIFFICULT.

IT'S CERTAINLY NOT IMPOSSIBLE.

AND IF IT'S A CONTROVERSIAL
AMENDMENT, THEN THE PEOPLE WILL
RISE UP AND DO IT, AND THAT'S
ALL, THAT'S ALL WE INTEND THE
IT WOULD BE OFFERING AND IT'S
MORE THAN THEY HAVE NOW.

I'LL RESERVE THE REST, WHATEVER
TIME I HAVE.

THANK YOU.

>> THANK YOU.

MR. ^BURNAMAN.

>> CHIEF JUSTICE QUINCE,
MEMBERS OF THE COURT, GOOD
MORNING, I'M ROSS BURNAMAN HERE
ON BEHALF OF FLORIDA HOMETOWN
DEMOCRACY INCORPORATED.

I'D LIKE TO STARTUTE BY
RESPONDING TO YOUR INITIAL --
START OUT BY RESPONDING TO YOUR
INITIAL INQUIRY, CHIEF JUSTICE
QUINCE, ABOUT WHETHER OR NOT
THERE'S AN EXISTING PROCESS IN
FLORIDA FOR CITIZENS TO RECALL
ORDINANCES GENERALLY OR TO
FORCE RECONSIDERATION, AND THAT
IN SOME CHARTER COUNTIES AND
CITIES, THERE ARE PROVISIONS
MADE IN THE LOCAL CHARTER FOR
CITIZENS TO PETITION FOR
RECONSIDERATION OF ANY
ORDINANCE, WHICH WOULD INCLUDE
AN ORDINANCE AMENDING OR

ADOPTING A COMPREHENSIVE LAND USE PLAN.

THERE IS A STATUTE 1633167 THAT LIMITS THE ABILITY OF A LOCAL REFERENDUM TO PLAN AMENDMENTS WHERE THEY HAVE FIVE PARCELS OR MORE AFFECTED.

>> DID THOSE COUNTIES THAT HAVE THOSE KINDS OF PROCEDURES, IS THERE A PETITION METHOD SIMILAR TO WHAT'S IN THIS AMENDMENT THAT TELLS YOU WHERE YOU CAN SIGN PETITIONS, HOW LONG YOU HAVE, IN WHICH TO GET THE SIGNATURES?

>> THE CHARTERS DO DIFFER, BUT I'M NOT AWARE OF A SINGLE CHARTER THAT REQUIRES THAT THE PETITION BE SIGNED AT THE SUPERVISOR OF ELECTIONS OFFICE. IN THE APPENDIX TO OUR INITIAL BRIEF, WE INCLUDED AN EXCERPT FROM THE CHARTER OF THE CITY OF ST. PETE BEACH.

ST. PETE BEACH IS SIMILAR TO SOME OTHER MUNICIPALITIES INsofar AS THERE IS A GENERAL PROVISION FOR RECONSIDERATION OF ALL ORDINANCES, BUT ST. PETE BEACH IS UNIQUE IN INsofar AS EVERY SINGLE ORDINANCE AMENDING OR ADOPTING A COMPREHENSIVE LAND USE PLAN MUST BOW TO A REFERENDUM.

>> BUT WOULDN'T YOU AGREE THAT THERE ISN'T ANYTHING IN THE CONSTITUTION OF FLORIDA PRESENTLY THAT HAS TO DO WITH REFERENDUMS IN RESPECT TO COMPREHENSIVE PLANS?

>> I WOULD AGREE WITH YOU, JUSTICE WELLS.

THERE IS NO SPECIFIC PROVISION. THERE IS A RIGHT TO PETITION THE GOVERNMENT FOR SPECIFIC RE-DRESS IN ARTICAL 1 I BELIEVE SECTION 5.

NOW GOING TO THE NEXT POINT, --

>> BUT THAT'S SORT OF IMPORTANT TO ME BECAUSE THE FIRST ISSUE, AND AGAIN, I BROUGHT UP THE HOMETOWN DEMOCRACY NOT MR.^GRIMES SO ME I WAS SEEING THE CONFLICT AND I'M SURE YOU

AGREE THAT IF THEY BOTH PASS WE ARE GOING TO HAVE SOME ISSUES BUT WHAT -- LET'S TAKE YOUR AMENDMENT ASIDE, HOMETOWN DEMOCRACY.

THIS AMENDMENT, EVEN WITH ALL OF ITS REQUIREMENTS WILL GIVE CITIZENS OR VOTERS OF A PARTICULAR AREA THE POTENTIAL FOR PARTICIPATING IN THE -- ANY AMENDMENT THAT THEY THINK IS SIGNIFICANT TO LOCAL LAND USE PLANS.

IF THEY DON'T HAVE NOW.

DO YOU AGREE WITH THAT OR DISAGREE BECAUSE TO ME THAT'S IMPORTANT IN DECIDING WHETHER THIS IS MISLEADING OR NOT?

>>> JUSTICE PARIENTE IT WOULD CREATE A LIMITED OPPORTUNITY FOR CITIZENS TO HAVE A REFERENDUM ON A LOCAL PLAN OR PLAN AMENDMENT.

>> SO THEN THE ANSWER'S YES?

>> THE ANSWER --

>> IN OTHER WORDS, IF YOU HAD LIKE FOR YOUR GROUP, YOU SAID, WELL, IF WE CAN'T GET THE WHOLE THING, THIS IS AT LEAST BETTER THAN NOTHING.

>> WELL, LET ME AT A FOOTNOTE TO THAT, TO TAKE OFF ON WHAT I WAS JUST SPEAKING ABOUT IN RESPONSE TO THE CHIEF JUSTICE'S INITIAL CONCERN.

IN THOSE COUNTIES OR CITIES THAT HAVE A CHARTER, AND WHERE THE CHARTER PRESENTLY PROVIDES FOR A RECONSIDERATION OF ANY ORDINANCE UPON A PETITION PROCEDURE, THERE ALREADY EXISTS AN OPPORTUNITY.

NOW THAT HAS BEEN MODIFIED BY THE STATUTE THAT I CITED 1633167 ABOUT WHETHER IT AFFECTS FIVE OR FEW PARCELS BUT IN THE REMAINDER OF COUNTIES AND CITIES THAT DON'T HAVE A CHARTER AND OPERATE UNDER HOME RULE THEN THERE WOULD BE A LIMITED OPPORTUNITY CREATEDDINATE THE SMARTER GROWTH PROPOSAL.

>> BUT THERE CAN'T BE A

REQUIREMENT OF NOTICE WERECT
SOME TO EVERY PAGE WITH RESPECT
TO EVERY POSSIBLE IMPACT THAT
THE PROPOSED AMENDMENT WOULD
HAVE ON LOCAL ORDINANCES AND
LOCAL --

[INAUDIBLE]

IS THERE LAW, IS THERE
PRECEDENT FOR SAYING THAT
NOTICE IS GIVEN ABOUT THAT SORT
OF --.

>> WELL, JUSTICE CANADY, THERE
IS A GENERAL TRUTH IN PACKAGING
OR FAIRNESS REQUIREMENT FOR THE
BALLOT TITLE AND SUMMARY, AND --

>> IT WOULD BE THE CASE THAT
DEPENDING ON WHAT THE LOCAL
CHARTER SAID, THAT THE IMPACT
IN ONE PLACE COULD BE DIFFERENT
THAN THE IMPACT IN ANOTHER
PLACE.

SO YOU WOULD GET INTO A KIND OF
A VERY COMPLEX THING VERY
ANTITHETICAL --

[INAUDIBLE]

>> THAT'S ABSOLUTELY CORRECT.
YOU DON'T HAVE TO GET INTO
EVERY DETAIL AND RAMIFICATION
OF THE PROPOSAL IN THE BALLOT
TITLE AND SUMMARY BUT HERE THE
PROPOSAL IS CLEARLY AND
CONCLUSIVELY DEFECTIVE BECAUSE
OF MISLEADING THINGS.

I'D LIKE TO TALK ABOUT THE
BRIEF THAT WAS FILED ON BEHALF
OF THE SPONSOR.

SPECIFICALLY WITH RESPECT TO
THE STATEMENT AND PURPOSE
CLAUSE AND IT SAYS THAT IT'S
INTENDED TO PREEMPT OR
SUPERSEDE RECENT PROPOSALS TO
SUBJECT ALL COMPREHENSIVE LAND
USE PLANS AND AMENDMENTS TO
VOTES SO THAT'S AN IMPLICIT
REFERENCE TO FLORIDA HOMETOWN
DEMOCRACY, WHICH HAS ALREADY
BEEN IMPROVED.

AND IN TERMS OF BALLOT
ELIGIBILITY, WE'RE OVER 611.

BUT FOR THE REVOCATIONS WHICH
ARE SUBJECT TO A PENDING CASE
BEFORE THIS COURT, AND WE,
WE'RE, I THINK SHORT ONE
CONGRESSIONAL DISTRICT SO WE'RE

LIKELY TO BE ON THE 2010
BALLOT.

NOW FOR THE SMARTER GROWTH
AMENDMENT IS ON THE BALLOT
AT THE SAME TIME, THE VOTER IS
NOT GOING TO BE INFORMED THAT
IF HE OR SHE VOTES FOR BOTH,
THAT IN FACT THIS WHEREAS
LANGUAGE IS GOING --

>> IS THAT A REQUIREMENT?
IN OTHER WORDS, THAT'S WHERE I
STARTED OUT.

I DON'T KNOW ANY CASES THAT
WOULD SAY, I MEAN, YOU KNOW,
YOUR BALLOT SHOULD SAY
SOMETHING DIFFERENT.

I MEAN WHY SHOULD IT BE THEM
JUST BECAUSE THEIR SECOND JUST
BECAUSE YOURS HASN'T PASSED
YET?

I MEAN WHAT CASE LAW DO YOU
HAVE FOR THAT IDEA THAT THEY
HAVE TO ANTICIPATE WHETHER OR
NOT YOUR AMENDMENT WILL PASS OR
NOT.

>> WELL, THE CASE LAW, I RELY
ON IS THE GENERAL TRUTH IN
PACKAGING REQUIREMENT AND SAY
ARMSTRONG v. HARRISON,
WHATEVER, WE DON'T HAVE A
PROVISION IN OUR PROPOSAL THAT
IT SUPERSEDE OR PREEMPT ANY
OTHER PROPOSAL.

WE'RE NOT THE ONES THAT, THAT
OFFERED THAT LANGUAGE.
WHAT THEY HAVE DONE IS THEY'VE
PUT THAT LANGUAGE IN THEIR
WHEREAS CLAUSE AND IF YOU LOOK
AT THEIR REPLY BRIEF AND THEY
ARE SAYING WELL AS I UNDERSTAND
THE WHEREAS CLAUSE, IT IS NOT
SUBJECT TO REVIEW BY THIS COURT
AND THEY'RE CITE AGFOOTNOTE 8
IN THE SECONDHAND SMOKE CASE.
IN THE SECONDHAND SMOKE CASE AS
I READ IT, FOOTNOTE 8 DOES NOT
STAND FOR THAT PROPOSITION SO I
WOULD JUST DIRECT THE COURT
TO --

>> IT'S AN INTERESTING QUESTION
OF WHETHER MEASURES ARE ADOPTED
CONTEMPORANEOUS.

IF THEIR ARE ADOPTED BY THE
SAME PEOPLE AT THE SAME TIME --

THAT'S A COMPLICATED QUESTION
AND THE IMPACT THAT THAT
PURPOSE LANGUAGE WOULD HAVE ON
IT MIGHT BE, I MEAN I THINK YOU
WOULD PROBABLY CONCEDE.
THAT'S NOT BEFORE THIS COURT
TODAY.

BUT JUST THE NOTION THAT, THAT
THE PROPONENTS OF THIS
AMENDMENTS SHOULD, HAVE SOME
OBLIGATION TO INVOLVE IN THE
DOUBLE SPECULATION THAT YOUR
AMENDMENT'S GOING TO GET ON THE
BALLOT AND THEN IT'S GOING TO
GET APPROVED AND GIVE NOTICE
ABOUT THAT SEEMS TO ME TO BE
SEEMS TO BE A STRETCH.
SUMMARIES SHOULD NOT INVOLVE
SPECULATION.

THAT SEEMS TO BE AGAIN CONTRARY
TO THE IDEA OF KIND OF
INFORMING THE PEOPLE IN A CLEAR
COMPREHENSIVE WAY.

YOU GET INTO SPECULATION ABOUT
THINGS THAT MIGHT HAPPEN,
YOU'RE GETTING IT SEEMS TO ME
FAR AFIELD FROM WHAT THE
SUMMARY SHOULD BE ABOUT.

>> WELL, JUSTICE CANADY, WITH
ALL DUE RESPECT, THE LANGUAGE
THAT I WAS READING FROM ABOUT
THIS PREEMPT OR SUPERSEDE
LANGUAGE IS CAPTIONED UNDER
QUOTE STATEMENT AND PURPOSE IN
THE TEXT OF THE AMENDMENT AND
LET ME JUST GO TO THE CHIEF
PURPOSE BECAUSE TO ME THERE'S
THIS FATAL FLAW WITH THIS THE
FACT OF THE MATTER IS THE TEXT
OF THE AMENDMENT PURPORTS TO
SET FORTH ITS PURPOSE
EXPLICITLY AND THAT IS TO
PROVIDE A, QUOTE, LIMITED
OPPORTUNITY.

RIGHT?

HOWEVER WHEN THE VOTER READS
THE TITLE AND SUMMARY, NOTHING
IN THE TITLE OR SUMMARY INFORMS
THE VOTER THAT THIS IS A,
QUOTE, LIMITED OPPORTUNITY
INSTEAD IT'S MISLEADING AND
DECEPTIVE.

IT CHARACTERIZES --

>> I JUST WANT TO MAKE SURE WE

ARE ALL ON THE SAME PAGE.
IT'S ACTUALLY IF I'M CORRECT,
IF THIS AMENDMENT PASSED, THE
LINE THAT SAYS THIS AMENDMENT
IS INTENDED TO MODIFY EXISTING
LAW AND THEN IT SAYS AND
INTENDED TO PREEMPT OR
SUPERSEDE RECENT PROPOSALS,
WOULD ACTUALLY BE IF THE
FLORIDA CONSTITUTION?
IS THAT CORRECT OR NOT?

>> NEGATIVE, JUSTICE PARIENTE.
HOWEVER --

>> OKAY SO WHAT IS IT -- IT
WOULD ONLY BE, THAT'S
SUBSECTION A, ONLY SUBSECTION B
WOULD BECOME PART OF THE
AMENDMENT?

THOOTHAT'S A TRUE STATEMENT.
THAT'S A TRUE STATEMENT BUT THE
COURT IS NEVER, THAT I'M AWARE
OF CAN FIND ITSELF TO THE
ACTUAL TEXT THAT WOULD APPEAR
IN THE CONSTITUTION IN ORDER TO
DISCERN THE CHIEF PURPOSE.

AND HERE THE SPONSOR HAS -- IT
TELLS THE VOTER HERE'S WHAT THE
PURPOSE S. IT'S TO CREATE A
LIMITED OPPORTUNITY AND YET THE
VOTER WHO DOESN'T READ THE FULL
TEXT WOULD BE VOTING BASED ON
THE TITLE AND SUMMARY, WHICH
CHARACTERIZES THIS AS A, QUOTE,
RIGHT TO DECIDE AND ALLOWING
VOTERS, TO QUOTE, CALL FOR
VOTER APPROVAL.

AND THOSE ARE TWO QUITE
DIFFERENT THINGS AND THIS IS
COMPLETELY MISLEADING.

>> LET'S GO BACK FOR A MOMENT
TO THE STATEMENT YOU MADE
EARLIER.

YOU SAID THERE ARE SOME
COUNTIES AND MUNICIPALITIES
THAT ALREADY PROVIDE FOR A
VOTER REFERENDUM TO AMEND THESE
KIND OF LAND USE ORDINANCES?
IS THAT WHAT YOU SAID EARLIER?

>> I SAID JUSTICE QUINCE, I
SAID TWO THINGS, CONTAINS CITY
OF ST. PETE BEACH CHARTER THAT
ALREADY REQUIRES IN EVERY
INSTANCE VOTER REFERENDA ON
COMPREHENSIVE PLAN AMENDMENTS.

>> AND SO A PART OF THE YOUR ARGUMENT THEN IS THAT CITIZENS SHOULD AT LEAST BE ON NOTICE THAT THIS WOULD ELIMINATE, CHANGE, MODIFY THOSE KINDS OF PROVISIONS THAT ARE IN LOCAL CHARTERS.

>> I BELIEVE THAT THAT WOULD BE A FAIR CHARACTERIZATION FOR THE VOTER TO BE AWARE OF WHEN HE OR SHE CAST HIS OR HER BALLOT. THE.

>> BECAUSE THERE'S A CONSTITUTIONAL AMENDMENT, OF COURSE, THIS WOULD PREEMPT ANY KIND OF LOCAL ORDINANCE, CORRECT?

>> THAT IS CORRECT.

>> WHAT IS YOUR AUTHORITY FOR THAT PROPOSITION?

THAT IS THAT JUSTICE CANADY ASKED YOU EARLIER, IS THERE SOME REQUIREMENT THAT THE PROPONENTS OF A CONSTITUTIONAL AMENDMENT SEARCH OUT ALL OF THE MUNICIPAL ORDINANCES, COUNTY ORDINANCES, IN OTHER WORDS, ALL OF THE LOCAL LAWS AND INFORM THE VOTERS THAT THIS MIGHT PREEMPT A LOCAL LAW THAT GIVES THEM GREATER RIGHTS THAN THE CONSTITUTION AMENDMENT WAS? THERE'S NO REQUIREMENT.

>> ABSOLUTELY NOT, JUSTICE ANSTEAD BUT HERE --

>> THAT'S WHAT I'M HAVING TROUBLE --

>> WELL, AGAIN, HERE THE SPONSOR HAS IN THE TEXT OF THE AMENDMENT SET 4th, QUOTE, THE LEGISLATURE HAS ENACTED GROWTH MANAGEMENT AND LAND USE PLANNING LEGISLATION THESE LAWS DO NOT PROVIDE FOR VOTERS TO DIRECT APPROVAL FOR THE RESULTING PLANS OR AMENDMENTS. IN FACT, THAT'S NOT TRUE EVERYWHERE SO THAT YOU KNOW, THAT YOU KNOW, SO IF THE SPONSOR WANTS TO PUT IN THE TEXT OF A PROPOSAL, THE STATEMENT OF WHAT THE LAW IS, IT NEEDS TO BE ACCURATE.

FOR ONE, I MEAN, AND HERE, THE,
AGAIN, I JUST WOULD RELY UPON A
LONG LINE OF CASES.

ARMSTRONG v. HARRIS,.

>> YOU ARE TALKING ABOUT THE
CONCEPT ORPHDECEPTION.

>> RIGHT.

IN OTHER WORDS, YOU CAN HAVE
DECEPTION EITHER BY OMISSION OR
COMISSION.

AND, AND HERE WE BELIEVE THAT
IT'S A, THERE ARE ERRORS OF
OMISSION.

>> WELL, LET'S JUST SAY --

WELL, THE VOTER SEES THE TITLE,
VOTER DOESN'T SEE THE SUMMARY
ON THE BALLOT.

>> THE VOTER SEES THE TITLE AND
SUMMARY.

>> OKAY SO THEY DON'T SEE THE
TEXT OF WHAT'S BEING PROPOSED
UNLESS THEY GO -- THEY HAVE TO
GO SOMEPLACE.

>> WELL, THEY CAN SEE THE TEXT
WHEN THEY SIGN THE PETITION IF
THEY ARE ONE OF THE PETITIONERS
OR THE TEXT IS REQUIRED TO BE
POSTED IN EACH OF THE POLLING
PLACES.

NOW WHETHER OR NOT THAT'S --

>> WOULD YOU AGREE -- IF THE
FIGHTAL SAID, INSTEAD OF SAYING
GIVING CITIZENS THE RIGHT TO
DECIDE LOCAL GROWTH MANAGEMENT
PLAN CHANGES WAS IN KEEPING
WITH THOUGHT THAT STATE THE
PURPOSE IS, GIVING VOTERS A
LIMITED OPPORTUNITY TO PROVE OR
APPROVE PLANS OR AMENDMENTS,
WOULD YOU SAY THAT WOULD BE
MORE ACCURATE OR AT LEAST THAT
THAT WOULD NOT BE DECEPTIVE?

AND YOU -- NOW, WHETHER THE
BALLOT SUMMARY NEEDED TO
INCLUDE THIS OTHER PART ABOUT
IN SOME COUNTIES THEY ALREADY
HAVE THIS RIGHT, BUT MAYBE THEY
DON'T, I MEAN, WE, WE'RE
SPECULATING ABOUT IT.

WOULD THAT BE MORE ACCURATE,
LIMITED OPPORTUNITY TO DECIDE
-- YOU KNOW, LIMITED
OPPORTUNITY VERSUS RIGHT TO
DECIDE?

>> YES, MA'AM, JUSTICE PARIENTE IT WOULD BE MORE ACCURATE TO USE THE PHRASE LIMITED OPPORTUNITY ALTHOUGH RIGHT NOW JUST BEAR IN MIND HERE THEY HAVE ONLY USED 52 WORDS IN THEIR SUMMARY THEY HAVE 75 SO 23 WORDS ON THE CUTTING ROOM FLOOR SO TO SPEAK IN THE SUMMARY WHERE IT SAYS FOR EXAMPLE SIGN A PETITION THEY COULD'VE SAID SIGN A PETITION AT THE SUPERVISOR OF ELECTIONS OFFICE AND THEN IT SAYS CALLING FOR SUCH REFERENDUM THEY COULD'VE SAID WITHIN A 60-DAY PERIOD AND THEY STILL WOULD'VE BEEN THE 75-WORD BALLOT SUMMARY LIMITATION.

THAT WOULD'VE BEEN -- AT LEAST IT WOULD'VE CURED TWO OF THE MATERIAL OMISSIONS.

THAT IS THAT VERY SIGNIFICANT DETAIL THAT JUSTICE WELLS THAT YOU ALLUDED TO, I BELIEVE, AND THAT IS THAT YOU'VE PHYSICALLY HAVE TO LEAVE YOUR HOUSE AND DRIVE TO THE SUPERVISOR'S OFFICE IN ORDER TO SIGN THIS PETITION, AND, AND WHAT IT IS IS THAT WE HAVE A, A GENERAL PROPOSITION IN THESE CASES THAT CITIZENS THAT HAVE A COMMON UNDERSTANDING AND GENERALLY KNOW HOW THINGS WORK, AND HERE CITIZENS CERTAINLY KNOW THAT WHEN THEY SIGN A PETITION FOR A CANDIDATE OR A LOCAL CHARTER AMENDMENT OR CONSTITUTIONAL AMENDMENT THEY CAN DO IT ANYWHERE.

AND SO HERE, THE VOTER WOULD JUST ASSUME BASED ON THIS BALLOT TITLE AND SUMMARY, OH, I CAN SIGN THIS PETITION AND THAT'S GREAT.

BUT IF THE VOTER WAS TOLD, OH, WELL, YOU LIVE IN PALM BEACH COUNTY AND YOU'VE GOT TO DRIVE, YOU KNOW, 50 MILES TO GO SIGN THE PETITION, I THINK THAT VOTER WOULD WANT TO KNOW THAT WHEN HE OR SHE PULLED THE LEVER.

SO IN OTHER WORDS, THEY'VE
TURNED THIS PRESUMPTION OF
COMMON SENSE OF THE VOTERS ON
THEIR HEAD.

LET ME GET TO THE NEXT
ARGUMENT.

THAT IS INCONSISTANCY IN THE
BALLOT TITLE AND SUMMARY IN THE
TEXT OF THE AMENDMENT AND AS
NOTED IN THE HEALTH CARE
PROVIDER'S ADVISORY OPINION
WHERE THEY USE THE TERM
CITIZENS IN THE BALLOT TITLE
AND SUMMARY AND NATURAL PERSONS
IN TEXT, THAT WAS DETERMINED TO
BE FATAL TO THE ACCURACY OF THE
BALLOT TITLE AND SUMMARY AND
HERE IN THE TITLE THEY USE
CITIZENS, AND IN, AND IN THE
SUMMARY THEY USE FLORIDIANS,
AND ACTUALLY WHAT THEY'RE
TALKING ABOUT IS A SUBSET OF
THOSE.

THOSE ARE REGISTERED VOTERS AND
NOT JUST ANY REGISTERED VOTER
IN FLORIDA.

IT WOULD BE A REGISTERED VOTER
WHO RESIDED WITHIN THE LOCAL
GOVERNMENT JURISDICTION THAT
WAS THE SUBJECT OF THE PROPOSED
PLAN OR PLAN AMENDMENT.

>> BUT, BUT IN THE, SUMMARY IT
REFERS TO VOTER APPROVAL.

>> IT DOES REFER TO VOTER
APPROVAL BUT IT SAYS ALLOWS
FLORIDIANS TO CALL FOR.

WELL, TO CALL FOR, THE
FLORIDIANS THAT WOULD BE ABLE
TO CALL FOR THAT WOULD BE A AN
INDIVIDUAL QUOTE REGISTERED --
FOR ELECTIONS OF LOCAL
GOVERNMENT WHO PHYSICALLY WENT
DOWN TO THE SUPERVISOR OF
ELECTIONS OFFICE, PRESENTED
IDENTIFICATION, IDENTIFIED ALL
OF THEIR WEB SITES THAT THEY,
THAT THEY OWN OR VISIT, THAT
MIGHT HAVE ANYTHING TO DO WITH
THIS AMENDMENT, DISCLOSE ALL
THEIR FINANCIAL INFORMATION
THAT MIGHT HAVE ANY BEARING ON
THE PROPOSED AMENDMENT, THAT'S
NOT A FLORIDIAN.

THAT'S A FLORIDIAN WILLING TO

SACRIFICE HIS OR HER RIGHT TO PRIVACY WHO ALSO IS A REGISTERED VOTER OF THE PARTICULAR LOCALITY SO THAT IS JUST AS IN THE HEALTH CARE PROVIDERS CASE, THEY USE THESE INCONSISTENT TERMS.

THEY COULD'VE EASILY USED AN ACCURATE TERM INSTEAD OF FLORIDIANS.

THIS IS, FAILS BASIC TRUTH IN PACKAGING.

>> WELL I THINK YOU ARE MAYBE MIXING TWO THINGS WHICH IS WHETHER THEY NEED TO SAY, INSTEAD OF SAYING GIVING CITIZENS WHETHER IT WOULD BE VOTERS BUT I'M NOT SO SURE ABOUT THAT BUT NOW LET'S JUST GO BACK TO THIS ISSUE OF IMPACTING PRIVACY.

IT SEEMS TO ME IF A CITIZEN WHO IS OR VOTER WHO IS TRYING TO MAKE A, A CHANGE TO THE LAND USE PLAN THAT IT IS NOT A -- TO SAY THERE IS A RIGHT OF PRIVACY THEY ARE VOLUNTARILY DECIDING WE ARE GOING TO DO IT.

AND ARE YOU SAYING THAT EFFECT OF RIGHT OF PRIVACY SHOULD BE IN THE SUMMARY?

WHAT IS THE ISSUE WITH THE RIGHT OF PRIVACY?

BECAUSE IT IS GIVING THEM A RIGHT THEY DON'T HAVE GENERALLY, AND THE TEXT OF THE AMENDMENT DOES EXPLAIN THAT THEY HAVE TO DO THOSE OTHER THINGS.

ARE YOU SAYING THEY WOULD HAVE TO STATE AND DIZ CLOSE FINANCIAL INFORMATION IN THE WEB SITES OR IT WOULD JUST HAVE TO SAY IT INTERFERES WITH RIGHT WITH PRIVACY OR EITHER OR NEITHER.

>> WELL, AS I UNDERSTAND YOUR QUESTION, I HAVE TO IDENTIFY ANY, ANY CONSTITUTIONAL PROVISION WHERE THERE IS SUBSTANTIAL EFFECT AND IT WOULD HAVE TO ARGUE THIS IS SUBSTANTIAL EFFECT.

>> IT IS UNDER SINGLE SUBJECT.

>> IT IS ALSO UNDER SINGLE SUBJECT.

I SEE THAT I HAVE USED MY TIME AND I APPRECIATE THE COURT'S CONSIDERATION OF OUR ARGUMENTS TODAY.

>> THANK YOU VERY MUCH.

>> THANK YOU.

>>> SAYS 626, DOES THAT MEAN I HAVE THAT MUCH TIME.

>> YOU DON'T HAVE TO USE T.

[LAUGHTER]

>> GOOD POINT.

AS JUSTICE ANSTEAD POINTED OUT, THIS, THIS AMENDMENT STANDS ALONE.

THE, THE EVER --

>> CAN I ASK -- WHEN HE SAID THAT I WAS THINKING I BROUGHT IT UP BUT THEN I REALIZE I'D DITANT BRING IT UP, THE PROPONENT TO THE AMENDMENT BROUGHT IT UP IN THE STATEMENT AND PURPOSE WHICH SAYS THAT IT IS INTENDED TO SUPERSEDE OR PREEMPT RECENT PROPOSALS THAT WOULD SUBJECT ALL COMPREHENSIVE LAND USE AMENDMENTS AND VOTES THUS -- COMPETING INTEREST WITHOUT OVERBURDENING VOTERS SO I DIDN'T BRICK IT UP.

IT'S RIGHT THERE IN THE STATEMENT OF PURPOSE.

I AGREE.

OF COURSE THE PREAMBLE DOES NOT GO TO THE CONSTITUTION, BUT IT'S, AND IT'S NOT ARTFULLY WORDED BUT THE POINT IS THAT WHAT THEY WERE TRYING TO LET PEOPLE KNOW AT LEAST IN WHAT THEY WERE DRIVING WAS THAT THEY WERE OPPOSING THE HOMETOWN DEMOCRACY AMENDMENT.

THEY WEREN'T TRYING TO HIDE THAT AND THEY WANTED PEOPLE TO VOTE --

>> DOES THIS STATEMENT OF PURPOSE WHEN YOU HAVE TO POST THE FULL AMENDMENT IS THAT POSTED ALSO WITH THE FULL AMENDMENT?

>> POSTED, I DON'T KNOW WHERE YOU POST --

>> I BELIEVE EITHER YOU OR YOUR

OPPONENT SAID THAT THE FULL TEXT OF THE AMENDMENT IS POSTED SOMEPLACE, ONLY POLLS OR SOMETHING.

>> I'M NOT AWARE OF THAT BECAUSE THE PREAMBLE THERE HAVE BEEN A LOT OF PREAMBLES ON THE CITIZENS INITIATIVES THEY DO NOT GO IN THE --

>> IT IS PART OF THE FULL TEXT OF THE CONSTITUTION SO IF A VOTER REALLY WANTS TO GO THE EXTRA STEP AND GO BEYOND THE BALLOT IN THE SUMMARY, THEY GO TO THE WEB SITE OF THE SECRETARY OF STATE OR WHATEVER THE FULL TEXT OF THE AMENDMENT OF THE PROPOSAL AMENDMENT WILL INCLUDE. IT WON'T GO INTO THE CONSTITUTION BUT THAT STATEMENT THAT I JUST READ WILL BE THERE FOR THE VOTER TO, WHO WANTS TO GO FIND THAT.

>> RIGHT.

>> TO SEE THAT.

>> RIGHT.

WELL, THE BUOYANT OF THAT IS, AS -- POINT OF THAT AS I SAY IT WAS NOT ARTFULLY WORDED IT WAS TO GIVE A MUCH LESS EGREGIOUS WAY OF, OF, OF ALLOWING PEOPLE TO MAKE CHANGES TO THEIR COMPREHENSIVE PLAN.

IT WOULD NOT PREEMPT.

LOCAL -- THERE'S NOTHING ABOUT ANY LOCAL CHARTER.

IT WOULD BE AN EDITION.

IF A CHARTER HAS LOCALLY A WAY OF DOING THIS, THEN THIS WOULD SIMPLY BE AN ADDITIONAL WAY.

>> BUT THERE IS SERIOUS QUESTION ABOUT THAT, THAT IS IS IF THE CONSTITUTION SPEAKS TO A SUBJECT JUST LIKE WE TALK ABOUT SOMETIMES WITH STATUTORY SCHEMES PREEMPTING LOCAL, THERE WOULD BE A QUESTION, WOULD THEY NOT, THAT SINCE THERE WAS A PROVISION IN THE CONSTITUTION ABOUT IT, WHETHER OR NOT LOCAL GOVERNMENT COULD PROVIDE OTHER WAYS IN ADDITION TO WHAT THE CONSTITUTION -- ARE YOU SAYING WITHOUT QUESTION LOCAL

GOVERNMENTS COULD HAVE
ALTERNATIVE WAYS IN ADDITION TO
THIS?

>> IF YOU'RE ASKING ME FOR A
LEGAL OPINION BASED ON JUST --

>> YES, I'M ASKING YOU AS
SPONSOR, AS THE SPONSOR OF THE
THIS AMENDMENT.

>> TO THE EXTENT I CAN SPEAK
FOR HIM, IT IS MY OPINION IT'S
SIMPLY AN ADDITIONAL WAY.
IT HAS NO INTENTION TO PREEMPT
ANY OTHER WAY OF DOING IT.

>> WELL THIS IS THE PROBLEM AND
WE SEE THIS UNFORTUNATELY THIS
WEEK WE HAD THE RIGHT TO KNOW
AND WHETHER IT INCLUDED NURSING
HOMES.

YOUR STATEMENTS AT ORAL
ARGUMENT TODAY WE MAY LOOK AT
IT IN THREE YEARS FROM NOW AND
SAY, WELL, MR. GRIMES SAID THIS
BUT THE PROBLEM IN THIS CASE IS
THAT THIS THAT THE ACTUAL
LANGUAGE DRAFTED BY THE
PROponents SAY THAT IT WAS
INTENDED TO PREEMPT OR MODIFY.
WE HAVE -- AND WE ARE NOT GOING
TO GIVE AN ADVISORY OPINION ON
THAT SO WE ARE SETTING
OURSELVES RIGHT UP FOR, YOU
KNOW, LITIGATION.
IT'S MORE THAN INARTFULLY
WORDED.

IF YOU ARE SAYING IT WOULDN'T
PREEMPT LOCAL INITIATIVES THEN
THAT EVEN THAT PURPOSE.

>> IT IS IT DOESN'T SAY
ANYTHING ABOUT PREEMPTING LOCAL
-- IT SAYS PREEMPTING HOMETOWN
DEMOCRACY.

AND, AND IN THE EVERGLADES IN
SMOKE-FREE CASE, IT, IT DOES,
THERE'S A, DISCUSSION IN THERE
THAT THE BALLOT SUMMARIES DON'T
HAVE TO POINT OUT THAT THE
EFFECT OF THE AMENDMENT ON
LOCAL ORDINANCES SUCH AS THAT
BUT THAT, BUT TO GET TO YOUR
POINT, IT'S NOT PREEMPTING
ANYTHING LOCAL.

IT'S SOMETHING VOTERS
PARTICULARLY IN THOSE COUNTIES
THAT DON'T HAVE THIS ABILITY TO

BE ABLE TO HAVE A LIMITED WAY OF AMENDING.

IF I AM A VOTER, IF I WANT TO HAVE A REFERENDUM I AM GOING TO VOTE FOR IT WHETHER OR NOT IT'S LIMITED OR WHETHER OR NOT I EVEN KNOW IT'S LIMITED. IT WOULD GIVE ME SOMETHING I DIDN'T HAVE BEFORE.

>> WELL, ISN'T THAT PART OF THE DECEPTION ARGUMENT THAT YOUR OPPONENT IS MAKING AND THAT IS THAT YOU'RE ADDRESSING IT UP AS IF YOU'RE GETTING SOMETHING THAT YOU DIDN'T HAVE BEFORE. BUT YOU'RE MAKING IT SO DIFFICULT AS A PRACTICAL MATTER THAT IT'LL NEVER BE INVOKED.

>> WELL THAT'S -- I WOULD DISAGREE WITH YOU THAT IT WOULD NEVER BE INVOKED.

>> WELL I'M SAYING THAT THIS IS THE ARGUMENT.

AND NOW YOU, BUT THAT YOU'RE DRESSING IT UP AS SOMETHING AS A VERY ATTRACTIVE ALTERNATIVE TO REQUIRING LOCAL GOVERNMENT TO PUT THESE THINGS ON THE BALLOT EVERY TIME BUT THAT IN EFFECT IT'S NOT.

A VERY ATTRACTIVE ALTERNATIVE. IT IS FULL OF GLITCHES AND GOTCHAS AS FAR AS THAT YOU HAVE TO DISCLOSE YOUR FINANCIAL INTERESTS AND YOU HAVE GOT TO GO TO THE SUPERVISOR OF ELECTIONS OFFICE.

IN OTHER WORDS TITS THROWING UP SO MANY OBSTACLES THAT ALL THIS ATTRACTIVE ALTERNATIVE THING ENDS UP BEING DECEPTIVE.

>> LET ME ONE POINT.

THE ONLY PERSON THAT HAS TO POINT OUT THEIR FINANCIAL INTEREST IS THE PERSON WHO OFFERS IT IN THE FIRST PLACE. NOT EVERYBODY THAT SIGNS THE PETITION.

>> THE ONLY --

>> BUT EVERYBODY THAT SIGNS THE PETITION HAS TO GO TO THE SUPERVISOR OF ELECTIONS.

>> THE SUPERVISOR -- WHICH I SUBMIT IS, IS NOT TOTALLY OUT

OF THE BALL PARK.

I KNOW OF --

>> WELL, THE PEOPLE THAT SIGN
THIS PETITION TO GET THIS ON
THE BALLOT DON'T HAVE TO GO TO
THE SUPERVISOR OF ELECTIONS
OFFICE, DO THEY?

>> NO, NO PEOPLE CAN COME OUT,
THEY SOLICIT THEM ON THE STREET
OF COURSE THAT'S RIGHT.

>> WITH THAT YOU HAVE USED YOUR
TIME.

THANK YOU VERY MUCH.

BOTH OF YOU FOR YOUR ARGUMENTS.

>> THANK YOU.