

>> ALL RISE.

HEAR YE, HEAR YE, HEAR YE, THE  
SUPREME COURT OF FLORIDA IS NOW  
IN SESSION, ALL WHO HAVE CAUSE  
TO PLEAD, DRAW NEAR, GIVE  
ATTENTION AND YOU SHALL BE  
HEARD.

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

LADIES AND GENTLEMEN, THE  
SUPREME COURT OF FLORIDA.

PLEASE BE SEATED.

>> GOOD MORNING.

OUR FIRST CASE IS NUMBER  
20-1479.

IF YOU ARE READY?

>> THANK YOU, JASON LESSINGER ON  
BEHALF OF THE PETITIONER.

MAY IT PLEASE THE COURT, THE  
MATERIAL FACTS IN THIS CASE  
DEMONSTRATE THE PROPERTY AT  
ISSUE, A SINGLE-FAMILY  
RESIDENCE, WAS DESIGNED TO  
BUILD, AND UTILIZED AS A  
BOARDINGHOUSE.

AT INDIVIDUAL DWELLING UNITS  
UPSTAIRS.

THE LANDLORD OF THAT PROPERTY  
SIGNED LEASES WITH HIS TENANTS  
GIVING THEM EXCLUSIVE POSSESSION  
TO PORTIONS OF THAT STRUCTURE  
INCLUDING ONE FOR OVER 15 YEARS.

THAT IS UNQUESTIONABLY A  
COMMERCIAL PURPOSE AS DEFINED IN  
FLORIDA STATUTES.

AS WE KNOW, UNDER 196015 THE  
TERMINATION OF PERMANENT  
RESIDENCE MADE BY THE PROPERTY  
APPRAISER, DISPUTES IN THAT  
REGARD BEING RESOLVED BY TRIAL  
COURT JUDGE.

>> SORRY TO INTERRUPT.

IN THIS CASE IT SEEMS LIKE IF  
THERE IS AN ABILITY TO SEGREGATE  
A HOME THIS IS OBVIOUSLY A  
STRONG CASE FOR THAT BUT YOU  
MENTIONED A BUNCH OF DIFFERENT  
VARIABLES, THAT IT WAS A WRITTEN  
LEASE FOR A LONG PERIOD OF TIME.  
IN THIS CASE THERE IS A SPECIFIC  
AREA OF THE HOMES THAT COULD BE  
SEGREGATED FROM THE REST.

YOU MENTIONED IT WAS DESIGNED FOR THAT PURPOSE.

I'M TRYING TO UNDERSTAND WHAT TEXTUALLY WE SHOULD BE LOOKING TO FOR THE APPROPRIATE TEST, ONE CONCERNED THIS CASE RAISES IS WHAT ABOUT GRAY AREAS WHERE IT IS NOT A -- THE DISTINCTNESS, THE FINANCIAL RELATIONSHIP NOT AS OBVIOUS BUT WHAT ARE THE TEXTUALLY, WHAT SHOULD WE BE LOOKING TO FOR THE ACTUAL STANDARD?

>> CANDIDLY YOU NEED TO LOOK AT THE FACTS OF A PARTICULAR CASE. THAT'S WHAT THE PROPERTY APPRAISER DOES.

FACTUALLY, IS A COMMERCIAL PURPOSE, I CAN WALK YOU THROUGH EXAMPLES OF WHERE IT GETS GRAYER AND WHERE I BELIEVE THOSE ARE NOT NECESSARILY A COMMERCIAL PURPOSE IF THAT IS YOUR QUESTION.

>> ARE YOU LINKING THAT TO THE DEFINITION SECTION?

IT SEEMS LIKE THE CONTROLLING STATUTE LAYS OUT THE BASIC EXEMPTION.

IN THAT PART OF THE STATUTE DOESN'T TALK ABOUT COMMERCIAL PURPOSE BUT RESIDENTS, RESPONSE ABILITY THAT IMPLIES FOR THAT PURPOSE AND GOT THE DEFINITION OF THE PHRASE USED AS HOMESTEAD PROPERTY AND THE PHRASE ONLY APPEARS IN PARTS OF THE CHAPTER THAT DON'T DIRECTLY APPLY.

I AM TRYING TO UNDERSTAND WHERE WE LOOK FOR THE TEST THAT GOVERNS THIS CASE.

>> YOU LOOK TO THE ACTUAL PROVISION OF THE CONSTITUTION WHICH CONFIRMS YOU ONLY GET THE HOMESTEAD EXEMPTION FOR A PORTION OF PROPERTY THAT IS YOUR PERMANENT RESIDENCE, OKAY? SO IF YOU ARE NOT USING THAT PORTION OF ANY PROPERTY WHERE THERE IS A SINGLE-FAMILY RESIDENCE, YOU ARE NOT USING THAT PORTION OF THE PROPERTY AS YOUR HOMESTEAD, THEN IT DOESN'T QUALIFY FOR THE HOMESTEAD

EXEMPTION.

FOR EXAMPLE THERE'S A NUMBER OF  
EXAMPLES, WHEN WE ARGUED THIS  
BEFORE THE SECOND DCA, THE JUDGE  
COMMENTED OF HIS DAUGHTER CAME  
HOME FROM COLLEGE AND STAYED FOR  
THE SUMMER, SHIPPED IN FOR RENT  
WOULD THAT BE A COMMERCIAL  
PURPOSE?

ABSOLUTELY NOT.

UNDER THOSE BASIC FACTS WHEN  
DEALING WITH A FAMILY HOME AND A  
RELATIVE COMING IN, CHIPPING IN  
FOR EXPENSES THAT PROBABLY  
DOESN'T QUALIFY.

>> WHAT ABOUT SHORT-TERM RENTAL,  
NOT A RELATIVE?  
3 MONTHS?

>> LET'S ASSUME MY PARTNER FALLS  
ON HARD TIMES AND ALL OF A  
SUDDEN NEEDS A PLACE TO LIVE,  
CAN I COME STAY AT YOUR PLACE,  
CRASH ON YOUR COUCH, CHIPPING A  
LITTLE BIT, THAT'S NOT A  
COMMERCIAL PURPOSE.

>> WHAT IF IT IS THE WHOLE  
HOUSE, LIKE SHORT-TERM RENTAL  
MARKET AND YOU DO YOUR WHOLE  
HOUSE?

>> YOU DO YOUR WHOLE HOUSE FOR 3  
MONTHS, YOUR THAN RENTING ALL  
YOUR UNIT UNDER ONE 9606 --

>> RENTING THE WHOLE HOUSE FOR 3  
MONTHS IN THE SHORT-TERM RENTAL  
MARKET WHILE YOU GO SOMEWHERE  
ELSE FOR THE SUMMER?

>> FOR ONE YEAR OR 2 YEARS IN A  
ROW?

>> TAKE IT THE FIRST YEAR.

>> UNDER ONE 9606 ONE IT WOULD  
NOT BE A DISQUALIFIER, YOU WOULD  
NOT ABANDON YOUR HOMESTEAD UNDER  
THAT STATUTE.

IF YOU DO IT 2 CONSECUTIVE  
YEARS, THAT YOU DO BUT THAT  
WOULD BE AN ABANDONMENT OF THE  
HOMESTEAD BECAUSE YOU RENTED OUT  
THE ENTIRE PROPERTY, NO ONE IS  
CONTENDING THAT HE ABANDONED HIS  
HOMESTEAD, HE STILL GOT HIS  
HOMESTEAD.

>> IT SEEMS TO ME WE HAVE A  
CHOICE, WE CAN GO DOWN THIS ROAD  
OF WE KNOW IT WHEN WE SEE A

JURISPRUDENCE AND JUST SORT OF FOCUS ON THE FACTS WHICH SEEMS TO BE SHIRKING A LITTLE BIT OUR OBLIGATION TO SAY WHAT THE LAW IS, INSTEAD TO SORT OF SAVE A LOT IS WHAT WE SAY IT IS ON A CASE-BY-CASE BASIS VERSUS I THINK ACKNOWLEDGING A THREAD THROUGH ALL THESE FACT PATTERNS INDEED, IT SEEMS LIKE WHAT WE ARE REALLY FOCUSING ON IS YOU ARE SAYING THAT IF BECAUSE OF THE FINANCIAL ARRANGEMENT BETWEEN THESE TWO PARTIES ONE OF THE THINGS THE RENTER HAS PURCHASED IS THE RIGHT TO EXCLUDE THE TITLE OWNER FROM THIS SPACE THAN THEY HAVE BOUGHT A HOMESTEAD OUT FROM UNDERNEATH THAT PERSON, THAT PERSON IS NOT USING THAT SPACE AS A PRIVATE RESIDENCE.

ON MY RIGHT THAT THAT IS WHAT YOU ARE ARGUING, THAT ALL BOILS DOWN TO WRITE TO EXCLUDE?

>> THAT IS A CRITICAL FACT IN THIS CASE MOST CERTAINLY AND IT GOES BACK TO THE NOTION, EXAMINING FACTS OF ANY PARTICULAR CASE, THAT IS A CRITICAL FACTOR THAT DEMONSTRATES THAT PORTION OF THE PROPERTIES NOT USED AS A HOMESTEAD.

>> THEY, TIME WHEN PROPERTY OWNER CAN CLAIM HOMESTEAD OVER A RESIDENCE THEY CONTRACTED AWAY THE RIGHT TO INHABIT, IF THEY CAN BE LAWFULLY EXCLUDED FROM THE PREMISES CAN THEY UNDER ANY CIRCUMSTANCES CLAIM IT AS THEIR HOMESTEAD?

>> IT IS BEING USED FOR COMMERCIAL NONEXEMPT PURPOSE.

>> I'M TRYING TO DRAW A LINE, WE DON'T KNOW, DEPENDS ON THE FACTS OF THE CASE WHICH WOULD SEEM LIKE A FRUSTRATING PLACE.

>> THE STATUTES ARE NOT LIMITED TO EXCLUSIVE POSSESSION ANALYSIS.

IT IS ANY COMMERCIAL PURPOSE.

>> YOU READ THE RECORD YOU WILL HEAR THE SAME EXAMPLE, THE 6

JUDGES THE PREVIOUSLY CONSIDERED THIS CASE OF HEARD.

JUDGE BONNER WHEN SHE WILL DONE A MOTION TO DISMISS WAS CONCERNED ABOUT A TAX APPLIED TO SOMEONE WHO SIMPLY OPERATES A HOME BUSINESS.

>> THE STATUTE IS 6 MONTHS?

>> AS TO A RENTAL, THAT'S THE ONLY ANALYSIS OR GUIDANCE THE STATUTE PROVIDES, GUIDANCE FOR THIS PARTICULAR CASE.

>> SO 3 MONTHS RENTING THE WHOLE HOUSE, THAT'S LESS THAN 3 MONTHS, LESS THAN 6 MONTHS, SHOULD NOT THAT BE PRESUMED RESIDENTIAL, NOT COMMERCIAL? >> IT COULD BE BUT YOU HAVE TO LOOK AT THE ENTIRETY OF THE FACTS.

>> THEY PHRASED THE STATUTE, GAVE A PRESUMPTION.

>> GOING BACK TO THIS NOTION THAT IT GOES BEYOND POSSESSION AND GOING BACK TO THE HOME-BASED BUSINESS YOU CAN ONLY DETERMINED THAT BASED ON ANALYSIS OF THE FACTS.

FOR EXAMPLE, IF I DON'T TAKE IT VERY SERIOUSLY AND SELL A FEW PIECES OF MAKEUP AND HAVE BOXES IN MY SPARE BEDROOM MY BROTHER COMES AND STAYS AT MY HOUSE AND STILL SLEEPS OR MY KIDS PLAY HIDE AND GO SEEK, BUT IF MY BUSINESS THEN GROWS AND I CAN BUY A BIGGER HOUSE AND SET ASIDE 2 ROOMS IN THAT HOUSE, ONE IS MY OFFICE, WHAT IS MY STORAGE UNIT AND ALL MY STUFF IS STORED IN THEIR AND MY KIDS AREN'T ALLOWED IN THEIR IT IS NO LONGER USED AS A HOME.

I DEPRECIATE THAT ON MY TAXES, FORM A CORPORATION AND LEASE THOSE SPACES TO THE BUSINESS.

>> WHERE DO YOU DRAW THE LINE? YOU COULD COME UP WITH A MILLION HYPOTHETICAL SITUATIONS, THE PERSON WHO BAKES COOKIES AND SELLS THEM TO STORES OUT OF THEIR OWN KITCHEN, DOES THAT BECOME NONEXEMPT PROPERTY? THAT PORTION OF THE KITCHEN?

DO WE JUST DO THE OVEN PORTION  
OF THE KITCHEN?

WHERE DO YOU DRAW THE LINE?

>> IT IS A CHALLENGING LINE TO  
DRAW BUT IT APPEARS THE BENCH IS  
STRUGGLING WITH THE NOTION THAT  
ULTIMATELY COMES WHERE THE  
RUBBER HITS THE ROAD ON THIS  
CASE, CAN A SINGLE-FAMILY  
RESIDENCE IN AND OF ITSELF BE  
DIVIDED FOR HOMESTEAD PURPOSES?

>> SEEMS TO ME IN YOUR CASE  
THERE IS NO DISPUTE THAT THE  
OWNER OF THE HOME ALIENATED AWAY  
FROM HIMSELF THE RIGHT TO OCCUPY  
THE ROOMS HE WAS RENTING OUT.  
WHY ISN'T THAT THE END OF THE  
CASE?

>> IT WOULD END THE ANALYSIS IN  
THIS CASE BUT NOT IN ALL CASES  
THE JUSTICE ARE LOOKING FOR A  
RULE IN HOW TO INTERPRET THIS.

>> THE STATUTE I HAVE BEEN  
REFERRING TO LEAST TO THIS  
PARTICULAR TENANT.

>> IT IS ONLY A PRESUMPTION.

>> IF YOU RENTED FOR 6 MONTHS IT  
IS PRESUMED COMMERCIAL.

>> THE PRESUMPTION, LOOK TO THE  
OTHER FACTS OF THIS FOR A  
MINUTE, A LONG-TERM CONVEYANCE  
OF ENTRANTS THROUGH A LEASE,  
THEREFORE IT IS YOU OUT OKAY THE  
COSTS, RIGHT?

>> IF YOU WANT TO LIMIT THE  
HOLDINGS TO THE FACT OF THIS  
CASE THAT'S AN EASY WAY TO DO IT  
AT YOU SIMPLY RULE THAT WHEN YOU  
GIVE UP EXCLUSIVE POSSESSION OF  
YOUR PORTION OF YOUR HOME IT  
KNOW MARCO QUALIFIES AS YOUR  
HOMESTEAD.

>> WHAT YOU NEED IS THE COURT TO  
AGREE WITH YOU THAT IT IS EVEN  
POSSIBLE TO DO THE APPORTIONMENT  
BECAUSE WE HEAR FROM THE OTHER  
SIDE BUT IT SEEMS THEY QUESTION  
THAT PREMISE.

ONCE YOU CROSS THAT THRESHOLD  
THE QUESTION IS IN THIS  
PARTICULAR CASE, WAS IT  
PERMISSIBLE, THE 15% THAT IS AT  
ISSUE HERE SEEMS LIKE WHATEVER  
YOUR CRITERIA ARE, THIS CASE

WOULD MEET THOSE CRITERIA AND ALL THESE OTHER THINGS ABOUT A HOME BUSINESS AND RELATIVES STAYING AD HOC, WHATEVER, THOSE ARE SEPARATE ISSUES, SEPARATE ISSUES THAT CAN BE DEALT WITH WHEN PRESENTED IN AN APPROPRIATE CASE.

>> RIGHT, EXACTLY.

I WOULD ENCOURAGE YOU TO LIMIT THIS CASE TO THE FACTS OF THIS CASE.

BECAUSE THE FACTS LEND THEMSELVES TO ANALYSIS.

I ENCOURAGE YOU TO GO BEYOND THAT AND TRY TO ADDRESS ALL COMMERCIAL PURPOSES BUT AT THE END OF THE DAY WE HAVE STATUTES THAT ARE ON POINT THAT CONFIRM SINGLE-FAMILY RESIDENCE CAN BE DIVIDED BETWEEN USE AS A PERMANENT RESIDENCE AND ITS USE AS A PLACE OF BUSINESS OR FOR COMMERCIAL PURPOSES.

19060314 CONFIRMS THAT.

IN THAT IT STATES THE EXEMPTION ONLY APPLIES TO THOSE PARCELS CLASSIFIED AS RESIDENTIAL PROPERTY OR TO THE PORTION OF THE PROPERTY SO THE SECOND DISTRICT TO ADDRESS THE STATUTE AT ALL.

JOHNSON APPLIES IT APPLIES TO MIXED-USE PROPERTIES.

THE REALITY IS IF IT ONLY APPLIED TO MIXED-USE PROPERTIES ONLY A PORTION OF THE PARCEL, NOT A PORTION OF THE PROPERTY, IT IS ONLY THE PORTION OF THE PROPERTY.

IF THERE IS ANY AMBIGUITY OR DOUBT AS TO WHETHER OR NOT THAT STATUTE APPLIES TO THIS, IT IS STRICTLY AGAINST THE EXEMPTION AND TAX PAYER.

WHEN YOU LOOK AT THAT STATUTE THROUGH THAT LENS THAN A SINGLE-FAMILY RESIDENCE CAN BE IN ITSELF DIVIDED.

>> SHOULDN'T WE READ ALL THE DIFFERENT PARTS OF THIS IN HARMONY?

MY QUESTION IS DIDN'T LEGISLATURE LIMIT THE EFFECT OF

RENTAL OF A DWELLING ON THE  
RIGHT OF TO A HOMESTEAD  
EXEMPTION TO SITUATIONS WHERE  
THERE IS ALL OR SUBSTANTIALLY  
ALL OF THE DWELLING THAT IS  
RENTED IN ONE 96.

06 ONE?

>> ABSOLUTELY, YOUR HONOR BUT  
THAT STATUTE ADDRESSES WHEN YOU  
ABANDON YOUR HOMESTEAD YOU  
ABANDON YOUR HOMESTEAD WHEN YOU  
RENT ALL OF YOUR PROPERTY OUT  
BECAUSE YOU ARE NOT USING IT AS  
YOUR HOMESTEAD AND YOU NO LONGER  
QUALIFY BECAUSE YOU HAVE TO OWN  
AND MAINTAIN.

>> DIDN'T THE LEGISLATURE  
ESSENTIALLY SET THAT IS THE  
FLOOR?

THIS IS WHERE THEY ARE WILLING  
TO DRAW THE LINE.

ALL ARE SUBSTANTIALLY OR ALL OF  
THE PROPERTY NEEDS TO BE RENTED  
IN ORDER TO LOSE ITS HOMESTEAD  
EXEMPTION.

>> THAT AN EASY ANALYSIS BECAUSE  
YOU ARE ABANDONING YOUR  
HOMESTEAD WHEN YOU RENT OUT  
SUBSTANTIALLY ALL OF IT.

MISTER REYNOLDS DIDN'T ABANDON  
HIS HOMESTEAD AND DIDN'T LOSE  
HIS HOMESTEAD.

>> THAT IS WHY WE ARE STRUGGLING  
SO MUCH AND YOU CAN HEAR FROM  
THE QUESTIONS ON THE BENCH,  
WHERE EXACTLY IS THAT LINE TO BE  
DRAWN?

IT'S VERY EASY TO DRAW THE LINE  
AT ALL OR SUBSTANTIALLY ALL BUT  
WHEN YOU START GETTING INTO THE  
NUANCE OF OTHERWISE EXEMPT  
PROPERTY YOU'RE GOING INSIDE AND  
LIKE MAYBE THE KITCHEN IS  
NONEXEMPT, MAYBE THIS PART OF  
THE BEDROOM IS NOT EXEMPT.

>> WHEN YOU RENT OUT ALL OF YOUR  
HOME, THE HOMESTEAD IS  
ABANDONED.

IN THIS PARTICULAR INSTANCE THE  
ONLY THING THAT IS HAPPENING IS  
YOU ARE PAYING SLIGHTLY MORE TAX  
ON THAT PORTION OF THE HOME THAT  
IS NOT PART OF YOUR HOMESTEAD  
ARE NOT PART OF YOUR PERMANENT

RESIDENCE.

IT SEEMS TO ME 5 OF THE 6 JUDGES  
THAT LOOKED AT THIS PRIOR TO YOU  
HAVE HAD SOME FUNDAMENTAL ISSUE  
WITH LOSING YOUR HOMESTEAD BUT  
THERE'S NO HOMESTEAD BEING LOST  
AS IT WOULD BE LOST UNDER  
196.061.

ONLY SLIGHTLY MORE TAX BEING  
PAID ON THE PORTION --

>> ONLY PART OF THE HOMESTEAD.

>> LAY PART OF THE HOMESTEAD  
EXEMPTION THAT IS BEING LOST.

IT IS NOT EVEN BEING LOST,  
YOU'RE JUST PAYING A 7% INCREASE  
PER YEAR ON THAT PORTION AND I  
DON'T SEE THE PARADE OF  
HORRIBLES FOR PAYING SLIGHTLY  
MORE TAX ON A PIECE OF YOUR  
PROPERTY.

>> SOMEBODY LIVING MONTH TO  
MONTH TO PAY THE BILLS MIGHT  
DISAGREE WITH THAT.

>> IF YOU ARE USING YOUR HOME  
FOR COMMERCIAL PURPOSES YOU  
DON'T BENEFIT FROM THE HOMESTEAD  
EXEMPTION.

IT'S NOT HOMESTEAD AT IT'S NOT  
PART OF YOUR PERMANENT RESIDENCE  
COVER THEREFORE YOU SHOULD PAY  
MORE TAX ON IT.

>> MR.

REYNOLDS WOULD SUGGEST SECTION  
196.

>> YOU HAVE 3 MINUTES AND 40  
SECONDS LEFT.

>> FULL-TIME?

I RESERVE THE REST FOR REBUTTAL.

>> IS THE CLOCK NOT WORKING?

>> IT SAID 3 MINUTES BUT I THINK  
HE INTENDED TO RESERVE 5 MINUTES  
FOR REBUTTAL.

PLAY IT PLEASE THE COURT.

MY NAME IS SHERRI JOHNSON.

I WANT TO EMPHASIZE THIS IS  
IMPORTANT, THE PROBLEM IS NOT  
WITH STATUTES.

IT IS WITH PROPERTY APPRAISER'S  
INTERPRETATION OF THE STATUTES  
CONSISTENT IN MY ARGUMENTS  
THROUGHOUT THIS CASE I DO NOT  
CONTEND ANY OF THE STATUTES OR  
RULES ARE INVALID BECAUSE THEY  
VIOLATE THE CONSTITUTION.

ARTIST AGREEMENT IS HOW THEY ARE INTERPRETED AND APPLIED.  
THE MOST IMPORTANT ONE IS RAISED BY JUSTICE PAULSON.  
I WANT TO ADDRESS THAT.  
IF ANYTHING WERE TO BE RESOLVED IN THIS CASE, I HOPE IT IS RESOLVED IN MY CLIENT'S FAVOR BUT THE MOST IMPORTANT THING THIS COURT CAN DO IS TO RESOLVE THE CORRECT INTERPRETATION OF SECTION 196 SUBSECTION 13 AND THAT IS THE DEFINITIONAL STATUTE DEFINES REAL ESTATE AND HOMESTEAD.  
FOR YEARS THE PROPERTY APPRAISERS HAVE RELIED ON THAT STATUTE DENYING HOMESTEAD EXEMPTION TO PEOPLE WHO RENT PORTIONS OF THEIR PROPERTY AND THE PROBLEM IS THE STATUTE DOES NOT APPLY TO THE HOMESTEAD.  
THE STATUTE IS INTENDED TO APPLY TO THE COMPLETE EXEMPTIONS FOR DISABLED VETERANS.  
IF YOU LOOK AT STATUTE ITSELF. THE REAL ESTATE IN THE HOMESTEAD, EQUALS HOMESTEAD PROPERTY MINUS THE NEED FOR COMMERCIAL PURPOSES.  
IT IS NOT A DEFINITION OF HOMESTEAD PROPERTY.  
THAT FUNDAMENTALLY, WILL CLARIFY THE STATUTE IS NOT APPLICABLE TO HOMESTEAD EXEMPTIONS.  
IT IS DIFFERENT FROM OTHER EXEMPTIONS.  
THE OTHER IS THE OTHER EXEMPTIONS IN ANY STATUTES WHERE APPORTIONMENT IS ALLOWED THEY ARE ALL COMPLETE EXEMPTIONS, WHEN YOU GET IT WOULD EDUCATIONAL EXEMPTION, OR THE DISABLED VETERANS OR DISABLED FIRST RESPONDERS EXEMPTIONS, TO REMOVE FROM THE TAX WORLD.  
THESE EXEMPTIONS ARE SO GENEROUS IT MAKES SENSE THE REQUIREMENT FOR THOSE EXEMPTIONS WOULD BE MORE STRINGENT.  
>> DO YOU THINK THE TAXPAYER IN THE FOURTH DCA CASE WAS WRONG TO CONCEDE THE APPORTIONMENT OF HER APARTMENT HOUSES?

>> YES, YES.

ABSOLUTELY.

I SHOULD TAKE THAT BACK.

SHE CONCEDED LAND.

>> SHE HAD ONE OF THE UNITS.

I'M TRYING TO UNDERSTAND IT IS

YOUR RULE, IF PART OF THE

PROPERTY THAT IS UNDISPUTED

WHERE YOU LIVE IS UNDER THE SAME

ROOF AS WHATEVER ELSE IS GOING

ON THAT ESSENTIALLY THE PROPERTY

APPRAISER HAS TO TREAT THE WHOLE

THING AS YOUR HOMESTEAD?

>> THAT'S WHERE THE ENABLING

LEGISLATION IS COMING IN.

I'VE NO PROBLEM WITH THAT,

SECTION 196.

031 TAKES THE CONSTITUTIONAL

REQUIREMENT OF THE PERMANENT

RESIDENCE, GIVES MORE CLARITY,

IT APPLIES TO RESIDENTS, AND

IMPORTANT TO THIS CASE, IT ALSO

SAYS THE HOMESTEAD ONLY APPLIES

TO THOSE PARCELS OR THE PORTIONS

OF THE PARCELS CLASSIFIED AND

ASSESSED AS OWNER OCCUPIED

RESIDENTIAL PROXY.

>> YOU ARE READING 196194.

CONSISTENT WITH SEVERAL --

EXCLUDABILITY OF SEVERAL ROOMS

IN A HOME.

>> NOT WITHIN A HOME.

>> HELP ME UNDERSTAND WHERE THE

LIMITING PRINCIPLE IS.

IT SEEMS WHAT WALLS WE BUILD

AROUND A SPACE IS A THIN REED

UPON WHICH TO HANG SOMEONE'S

CONSTITUTIONAL PROTECTIONS OF

HOMESTEAD EXEMPTION BECAUSE WE

CAN PLASTER A ROOM IN A DAY OR

TWO AND CALL IT UNDER THE ROOF

OR PUT IT UNDER AN EXTENSION OF

A ROOF, 196-0314 PUTS THE BURDEN

ON THE PERSON SEEKING EXCEPTION,

IT IS ALL TAXABLE.

THE RESIDENTIAL PROPERTY OR ONLY

THE PORTION CLASSIFIED IN

ASSESS.

WHAT IS THE MAGIC, CLOSING WITH

WALLS.

>> THE VOTERS INTENT, WHEN YOU

LOOK AT THE STATUTE AND IT TALKS

ABOUT CLASSIFICATION, THE WAY OF

TRYING TO ENSURE PEOPLE COULDN'T

CLAIM ON COMMERCIAL PROPERTY.

>> I'M INTERESTED IN WHAT THEY DID.

THE WORDS HERE, WITHOUT GETTING INTO WHAT VOTERS INTENT OR LEGISLATURE INTENDED HELP ME WORK WITH THE EFFECT.

>> IN ORDER TO APPORTION PROPERTY THE PROPERTY APPRAISER WOULD CLASSIFY IT AS OTHER THAN RESIDENTIAL PROPERTY WHICH THEY COULD HAVE DONE.

IF IT IS CLASSIFIED AND ASSESSED AS HOTEL MOTEL PROPERTY, THEY HAVE A CLASSIFICATION, THE PROPERTY WERE TAXED AS SOME TYPE OF COMMERCIAL PROPERTY, ABSOLUTELY.

>> Reporter: IF YOUR CLIENT TOLD THE PROPERTY APPRAISER EXACTLY WHAT IS GOING ON I HAVE THIS HOUSE AND DESIGNED IT SO THE TOP FLOOR I CAN HAVE THESE INDEPENDENT UNITS WITH THE LAUNDRY ROOM, I WILL BE RENTING THEM OUT, PROPERTY APPRAISER WOULD HAVE BEEN, AND ON THE 15TH%.

THAT IS OKAY.

>> THIS IS WHERE WE HAVE A DISAGREEMENT. I NEVER CONCEDED THIS WAS A COMMERCIAL OPERATION OR BOARDINGHOUSE IN ANY WAY, SHAPE OR FORM.

THE TRIAL COURT LOOKED AT THE EVIDENCE, THEY DID NOT FIND THAT, THE SECOND DCA, THEY AGREED.

IF THIS WAS A BOARDINGHOUSE TYPE SITUATION, FOR SERVICES.

>> IF THE FACTS, SEEMS LIKE THIS TO ME HAS PROCEED A NONACCEPTANCE OF THE FACTS THE 15% RENTED OUT, AND THE PROBLEM WITH THE COURTS, THE PROPRIETY OF APPORTIONMENT IN THE PERIOD, SOUNDS LIKE WHAT YOU ARE SAYING IS IF WE ACCEPT THOSE FACTS AS TRUE IF THE PROPERTY APPRAISER HAD KNOWN WHAT WAS GOING ON IN THAT HOUSE IT WOULD HAVE BEEN OKAY TO DENY HOMESTEAD TO THE 15%.

>> IT IS NOT JUST A MATTER OF KNOWLEDGE EVEN AFTER HE KNEW, HE CLASSIFIED AS A SINGLE-FAMILY RESIDENCE.

>> IT SEEMS LIKE THE STATUTE THAT ALLOWS THE CORRECTION OF THE 10 YEAR LOOK BACK WHEN SOMETHING GOT A HOMESTEAD EXEMPTION, THAT KIND OF ASSUMES THERE IS A MISTAKE IN CLASSIFICATION BASED ON WHAT WAS PRESENTED TO THE PROPERTY APPRAISER, NOT LIKE THE CASE WE HAD.

LEFT OUT SOMETHING OR WHATEVER. DOESN'T SEEM IT WOULD MAKE ANY SENSE TO ALLOW THE TAXPAYER TO NOT GIVE A PICTURE OF WHAT IS GOING ON AND USE THE MISCLASSIFICATION AS THE REASON FOR WHY IT CAN'T BE FIXED WHEN THE STATUTE REQUIRES THE PROPERTY APPRAISER TO FIX IT.

>> THERE'S A DIFFERENCE BETWEEN RECLASSIFICATION OF PROPERTY IN THE HOMESTEAD EXEMPTION.

HOW THE PROPERTY IS TAXED, HOTELS AND MOTELS, BY SINGLE-FAMILY HOMES.

IT DOES NOT RECLASSIFY THE TYPE OF PROPERTY IT IS.

DO THEY DO THAT RETROACTIVELY.

AS FAR AS PRACTICALITIES, PROPERTY OWNER, THE HOMESTEAD EXEMPTION APPLICATION DOESN'T ASK ANYTHING ABOUT HOW MANY ROOMS YOU ARE USING, THERE IS NO MECHANISM IN PLACE FOR ANY OF THIS.

AVERAGE HOMEOWNER, I'VE GOT LOTS OF CLIENTS IN THIS SITUATION WITH ALL VARIATIONS OF THIS, THE AVERAGE HOMEOWNER RENTING A ROOM TO SOMEONE SAYS THERE'S NO OPPORTUNITY WHEN THEY APPLY FOR THE EXEMPTION TO SAY WE ARE ONLY LIVING IN TWO OR RENTING OUT ONE AND THEY ARE BEING SET UP TO FAIL.

THE ONLY WAY THESE ISSUES ARE ADDRESSED IS RETROACTIVELY BY IMPOSING A LIEN FOR PENALTY AND INTEREST.

AS A PRACTICAL MATTER IF A

PERSON WERE TO GO TO THE  
PROPERTY APPRAISER, AN ABUNDANCE  
OF CAUTION, MY ATTORNEY TOLD ME  
TO TELL YOU, DOES THE PROPERTY  
APPRAISER GO AWAY?

I WOULD SAY NO.

IF IT IS A SINGLE FAMILY  
RESIDENCE CLASSIFIED AS A  
SINGLE-FAMILY RESIDENCE THE  
STATUTES NOWHERE ABOUT THE  
PROPERTY APPRAISER TO APPORTION  
OUT A PORTION OF THE RESIDENCE  
USED FOR COMMERCIAL PURPOSES.

IN THE REPLY BRIEF, PROPERTY  
APPRAISERS TALK ABOUT SPECIFIC  
FACTS OF THIS CASE AND THE LEASE  
WHICH THE LENGTH OF TIME, I  
THINK THESE ARGUMENTS ARE A RED  
HERRING, PROPERTY APPRAISER MADE  
CLEAR IN THEIR BRIEF THEY  
BELIEVE RENTAL OF A ROOM  
JUSTIFIES THE EXEMPTION ON THE  
ROOM THAT IS RENTED, THEIR  
POSITION IS VERY SIMPLE THAT  
WAY.

IT ALSO SAID WHAT I THOUGHT WAS  
INTRIGUING AND PROBLEMATIC THAT  
THEY DO NOT CONSIDER A HOME  
OFFICE TO BE COMMERCIAL USE.  
TO ME THAT MAKES THE POSITION  
WORSE.

IF YOU ARE A WHITE-COLLAR  
EXECUTIVE THAT RUNS A BUSINESS  
OUT OF HIS HOME YOU ARE FINE.  
YOU DON'T LOSE YOUR TAX BENEFITS  
BUT IF YOU ARE A SENIOR CITIZEN  
OR WORKING WOMAN WHO CARES FOR  
OTHER PEOPLE'S CHILDREN THEN YOU  
HAVE TO WORRY AND WE SHOULD BE  
TREATING EVERYBODY EQUALLY UNDER  
THESE STATUTES AND ENABLING THE  
LEGISLATION ALLOWS THAT TO  
HAPPEN.

IF YOU FOCUS ON THE TYPE OF  
PROPERTY IS IT COMMERCIAL  
PROPERTY, MULTIFAMILY PROPERTY,  
SINGLE-FAMILY RESIDENCE?

IF IT IS SINGLE-FAMILY RESIDENCE  
AND YOU HAVE A HOME OFFICE, YOU  
ARE RENTING A ROOM TO A FRIEND,  
RELATIVE, BUDDY, I DON'T THINK  
THAT CHANGES YOUR EXEMPTION.

>> HOW DOES YOUR ARGUMENT READ  
OUT OF THE STATUTE?

SEE IF THAT PROVISION OF THE  
STATUTE WORKS?

>> I'M NOT SURE I UNDERSTAND?

>> THE EXEMPTION PROVIDED IN  
THIS SECTION APPLIES TO PERSONS  
CLASSIFIED AS OCCUPYING  
RESIDENTIAL PROPERTY OR PORTION  
OF PROPERTY SO CLASSIFIED AND  
ASSESSED.

IF THAT STATUTE IS GOING TO MAKE  
SENSE WE GIVE EFFECT TO THOSE  
WORDS.

MUST BE THE CASE THE LEGISLATURE  
IN FACT DID IMAGINE THE  
APPORTION OR RESIDENCE AND SAY  
SOME PORTION OF THIS RESIDENCE  
IS NOT OWNER OCCUPIED  
RESIDENTIAL PROPERTY.

>> RIGHT?

>> NOT A RESIDENCE.

I THINK A RESIDENCE IS A  
RESIDENCE.

IF IT IS, LET'S SAY YOU'VE GOT A  
CONVENIENCE STORE WITH THE  
LIVING QUARTERS UP TOP, WE HAD A  
10 ROOM MOTEL WITH LIVING  
QUARTERS ON THE BACK.

THAT WOULD BE A PORTION, YOU'VE  
GOT COMMERCIAL USE IN THE FRONT,  
RESIDENCE IN THE BACK.

IF IT IS A SINGLE-FAMILY  
RESIDENCE CLASSIFIED I DON'T SEE  
THE ABILITY TO APPORTION AND I  
WANT TO GO TO YOUR POINT.

>> WHY NOT?

I'M STRUGGLING TO UNDERSTAND WHY  
THAT COULDN'T BE APPORTIONED THE  
SAME WAY OTHER THINGS COULD BE  
APPORTIONED.

>> UNDER THE STATUTE THE ONLY  
WAY IT COULD BE APPORTIONED IF  
IT IS CLASSIFIED AND ASSESSED AS  
SOMETHING OTHER THAN RESIDENTIAL  
PROPERTY AND YOU RAISED THE  
QUESTION OF POSSESSION,  
EXCLUSIVE POSSESSION AND IF THE  
LEGISLATURE INTENDED TO DENY A  
HOMESTEAD EXEMPTION BECAUSE YOU  
GAVE UP POSSESSION WHY DID THEY  
ENACT SECTION 196.

ONE WHICH EXPRESSLY ALLOWS  
PEOPLE TO RENT THE ENTIRE  
PROPERTY?

ESSENTIALLY WHAT YOU ARE SAYING

IS A PERSON WHO WENT THEIR ENTIRE PROPERTY IS FINE AS LONG AS THEY DO SO FOR 30 DAYS OR LESS.

>> NONE OF THAT HELPS, SOUNDS LIKE YOU'VE GOTTEN TO THE POINT YOU ARE CONCEDING IT IS NOT A CONSTITUTIONAL CASE, YOU ARE SAYING TO ME THERE IS NOTHING IN THE CONSTITUTIONAL DEFINITION OF HOMESTEAD AND THE EXEMPTION AND EVERYTHING THAT WOULD PRECLUDE THE APPORTIONMENT, IT IS STATUTORY FRAMEWORK AND TIMING WHEN PROPERTY APPRAISER.

IF THIS WAS COMPLETELY IF YOUR CLIENT WERE STILL ALIVE AND THE QUESTION WERE PROSPECTIVELY GOING FORWARD BASED ON THE ARGUMENT YOU PRESENTED SEEMS THERE WOULD BE NO PROBLEM, 15% IS YOUR RESIDENCE, THAT SOUNDS LIKE IT.

>> IF THE PROPERTY APPRAISER TREATED THIS AS COMMERCIAL PROPERTY THEN YES, HE COULD HAVE APPORTIONED IT.

IT IS A SINGLE-FAMILY RESIDENCE AND THAT IS MY POSITION. THEY DON'T ALLOW THE PROPERTY.

>>

>>

>>

>> I DON'T THINK --

>> I DO NOT.

AND HOW TO USE THIS PROPERTY HE HAD A LEASE, ANYBODY WHO CAME TO ME AND SAID THEY RENT A ROOM I ENCOURAGE THEM TO HAVE A LEASE. THE ROOMS, HAVE LOCKS ON THEM. THIS PROPERTY, THAT STRIKES ME AS A COMMERCIAL PROPERTY AND IF THIS WERE IN FACT THE TYPE OF BED AND BREAKFAST WHERE YOU SERVE BREAKFAST AND WINE IN THE EVENING AND HOUSE CLEANING SERVICES, THAT'S NOT WHAT THIS WAS.

THERE WAS ONE ENTRANCE IN THE COMMON AREA.

THESE ROOMS DIDN'T HAVE APPLIANCES, WASHER OR DRYER OR ANYTHING LIKE THAT.

I DON'T SEE THAT AS COMMERCIAL

OPERATION ANYMORE THAN ANY OTHER  
CLIENTS THEY HAVE THAT ARE  
RENTING MORE BEDROOMS.  
THE REALITY, THE PEOPLE THAT DO  
THIS, THIS CASE IS NOT AN  
ANOMALY.

PEOPLE WHOSE TAX LIENS EXCEED  
ONE HUNDRED THOUSAND DOLLARS IS  
ONE THING BUT MOST OF THEM GET  
TAX LIENS OF \$40,000 OR LESS, TO  
THE SUPREME COURT OF FLORIDA, I  
WOULD SUGGEST THIS ISSUE, A LOT  
OF PEOPLE IN THIS SITUATION WHO  
ARE RENTING ROOMS UNDER THE  
PROPERTY APPRAISER'S  
INTERPRETATION THEY CONSIDER  
THAT A COMMERCIAL USE.

THESE PEOPLE FACING ENORMOUS TAX  
LIENS AND THAT IS NOT WHAT  
VOTERS, THEY INTEND TO SAY THEY  
COULD GET A TAX LIEN FOR BACK  
TAXES, AND THE PROPERTY  
APPRAISER, DON'T THINK THERE'S  
ANYWAY VOTERS IN FLORIDA  
INTENDED THAT ESPECIALLY IN 1968  
WHEN THERE WAS MORE CRIME BACK  
THEN.

>> THE OTHER WAY OF LOOKING AT  
IT, DO THE VOTERS WANT THE TAX  
LAW TO HINGE ON WHETHER I OWN A  
RENTAL PROPERTY AND MAKE MONEY  
FROM IT THAT IS SEPARATE  
PHYSICALLY FROM WHERE I LIVE  
VERSUS IF I DO THE SAME THING  
BUT SEGREGATE A PORTION OF THE  
HOUSE, WOULD THEY WANT THAT TO  
BE A DIFFERENCE THAT CAUSES THE  
TAXATION, THE FAIRNESS AND  
EQUALITY ASPECT.

>> ABSOLUTELY.

THEIR INTENT WAS PRETTY BROAD.  
IF YOU LOOK AT THE CONSTITUTION  
THE LEGISLATURE, THE EXEMPTION  
FOR RENTERS, WHEN THIS WAS  
APPROVED THE VOTERS, THEY  
QUALIFY FOR HOMESTEAD EXEMPTION.  
IT IS NOT LIKE THE OTHER  
EXEMPTIONS.

THIS IS AN TO COMPLETE  
EXEMPTION.

THE PROBLEM IS THE SITUATIONS  
COME UP RETROACTIVELY.  
FROM A PRACTICAL MATTER YOU LOOK  
AT A LOT OF PEOPLE WHO BASE HUGE

TAX LIENS FOR SOMETHING.  
>> IF I WERE SITTING AT DOR  
LISTENING TO THIS I WOULD THINK  
WE NEED TO MAKE THE FORMS MORE  
ROBUST AND YOUR ARGUMENTS COULD  
CAUSE MORE PEOPLE IN THIS GRAY  
AREA, THINGS THAT ARE COMMERCIAL  
USES IDENTIFIED ON THE FRONT  
END.

AND IT IS MORE FRONT END  
SCRUTINY.

>> THEY FIND OUT ABOUT THESE  
ISSUES.

>> IT CAN CAUSE CATASTROPHE.  
IF THAT WERE THE LAW, I DON'T  
THINK THAT IS IT.

SORRY.

SORRY.

LOST MY TRAIN OF THOUGHT FOR A  
SECOND.

THE CONSTITUTION TALKS ABOUT  
PERMANENT RESIDENCE, THERE IS  
NOTHING IN THE FLORIDA STATUTE  
THAT TALKS ABOUT CARVING UP THAT  
PERMANENT RESIDENCE AND IT  
VOTERS WANTED THAT COULD EASILY  
HAVE DONE SO.

THE OTHER EXEMPTIONS IN THE  
CONSTITUTION SPECIFICALLY TALK  
ABOUT APPORTIONMENT.

ARTICLE 3, SECTION 73

SPECIFICALLY TALKING ABOUT  
LITERARY, SCIENTIFIC, RELIGIOUS  
AND OTHER EXEMPTIONS, GO TO THE  
PORTIONS OF PROPERTY BEING USED  
THAT WAY, HOW LANGUAGE COULD BE  
USED HERE BUT IT WASN'T.

>> ONLY A COUPLE OF MINUTES.

REGARDING ONE HUNDRED 96.

0 ONE 4, THAT STATUTE DOES NOT  
SAY CLASSIFY AND ASSESS A  
SINGLE-FAMILY RESIDENTIAL  
PROPERTY.

>> WHAT DO YOU MAKE OF THE WORD  
PARCEL AND THAT?

CAN YOU GIVE ME USE OF PARCEL, A  
ROOM AS OPPOSED TO A PIECE OF  
LAND?

>> DON'T THINK A ROOM DOES  
REPRESENT A PARCEL.

>> HELP ME UNDERSTAND.

>> NOT A PROBLEM.

19060134 CONFIRMS THE EXEMPTION  
ONLY APPLIES TO THE PARCEL OF

RESIDENTIAL PROPERTY.

>> ORALLY TO THE PORTION OF  
PROPERTY.

>> OR PORTION OF THE PROPERTY.

WHEN LOOKING AT A PARCEL,  
EVERYONE AGREES THE STATUTE FITS  
NICELY IN THE ANALYSIS, WE KNOW  
IT APPLIES SO IT IS EASY TO SAY  
THIS PARCEL.

THIS APARTMENT BUILDING, THAT IS  
A SINGLE-FAMILY RESIDENCE.

IT IS A HOMESTEAD.

THE REST OF IT IS NOT.

>> HOW DO YOU RESPOND TO THEIR  
ARGUMENT?

>> THAT IS WHY THIS BOTHERS THE  
JUDGES BUT THE REALITY IS IT IS  
MANDATORY.

WHEN A VIOLATION IS DISCOVERED,  
PROPERTY APPRAISER, GOING BACK  
10 YEARS, THAT THE MANDATORY  
DETERMINATION.

MY CLIENT HAS NO DISCRETION.

NOTHING IS MORE CERTAIN THAN  
DEATH AND TAXES.

HATE TO GO THERE, BUT THAT IS  
WHAT WE ARE DEALING WITH.

IF THERE NEEDS TO BE A REWRITE  
OF THAT LAW THE LEGISLATURE  
NEEDS TO DO IT BUT THE REALITY  
IS THE TAX LIEN IS MANDATORY.

TO GO BACK TO ONE 96.

04 IF THERE IS ANY DOUBT HOW TO  
APPLY PARCEL OR PORTION OF  
PROPERTY TO THE SITUATION THERE  
IS A CONCESSION THAT STATUTE  
DOES APPLY TO APPORTIONING A  
PARCEL OF PROPERTY WITH MULTIPLE  
USES.

IF THERE IS ANY DOUBT, ANY  
AMBIGUITY AS TO WHETHER THAT  
STATUTE APPLIES TO MISTER  
REYNOLDS THE LOSSES YOU  
DISTRIBUTE AGAINST THE  
EXEMPTION, AND AGAINST THE  
TAXPAYER.

THAT IS WHERE THE ANALYSIS IS.

>> THANK YOU BOTH.