

November 4, 2010

## Voters resoundingly reject land use amendment

**Polyana da Costa**

For developers and other business interests, the \$12 million spent fighting Amendment 4 was worth every dollar.

The proposed amendment to the Florida Constitution, which would have drastically changed the state's growth-management system, was rejected by 67 percent of the voters Tuesday. The amendment required 60 percent for approval.

Amendment 4 would have required voter consent before any changes to state, city and county comprehensive land-use plans could be made.

"It was just proven this evening that the more voters learned about Amendment 4, the more they were against it," said Ryan Houck, head of the Vote No On 4 campaign.

"They haven't just said no to the amendment; they said no to the anti-growth philosophy that underpins it. Voters have shown they are interested in getting Florida's economy back on track."

The measure's language, as with so many other constitutional amendments, wasn't clear-cut, and left room for interpretation and legal challenges.

Rhonda Calhoun, executive director of the Broward League of Cities, said the group opposed the amendment because the language was unclear.

"It was completely ambiguous," she said Wednesday. "No one really knew what the implications of Amendment 4 were going to be. It was just going to be a pit of lawsuits."

She said residents already have plenty of chances to influence land-use decisions through public hearings.

Proponents of the so-called Florida Hometown Democracy campaign had pushed the measure since 2004, when they started collecting signatures to put the amendment on the ballot.

"I feel depressed," said Bett Willett, one of the leaders for the Amendment 4 campaign in South Florida. "I was truly hoping we would get more than 40 percent, but what difference does it make?"

### **Intended to Prevent Sprawl**

Proponents said Florida needed the amendment to prevent development sprawl, which they said is often the result of corrupt politicians who approve land-use changes to make way for poorly planned and unwanted projects.

Palm Beach attorney Lesley Blackner, an amendment co-author who invested more than \$800,00 in the campaign, said in an e-mailed statement that the group was "obviously disappointed" in the result.

"But we are extremely grateful for the countless thousands of volunteers and grassroots activists who stepped forward over the past seven years to fight the monumental battle just to get this issue on the ballot."

Opponents said the measure posed a major threat to Florida's economy. They argued the amendment would result in higher taxes to fund the expected surge in referendums, potential legal battles and a drop in employment from delayed projects.

Opponents poured more than \$12 million into the campaign to defeat the amendment.

Cash-strapped supporters had raised only about \$2.4 million since 2004.

"Unfortunately, it is very difficult to have a rational discussion of a solution to Florida's horrible growth management problem in 30-second television ads that cost millions of dollars to air," Blackner said in her statement.

"Voters were subjected to the full financial power of those special interests that are committed to maintaining a death grip on their ability to control the status quo of sprawl and overbuilding in our state."

Developer Terry Stiles, president of the Fort Lauderdale-based Stiles Co., strongly opposed the amendment.

"Everyone who understood the issue knew it was something that was not going to work," he said. "Are there things that need fixes? Yes. But this is just too radical."

If it had passed, the amendment would have cost Florida between 64,000 to 260,000 jobs in the first year alone, according to a study released last month by Florida TaxWatch, a Tallahassee-based research institute.

It also was expected to cost as much as \$21.6 billion in gross state product and \$2.2 billion in tax revenue and mean the loss of \$227 million in local property tax revenues, or about \$3.4 million per county, according to the study.

It was unclear how many comprehensive plan amendments Floridians would have been asked to vote on each year; how often the votes would have taken place; and at what cost and how the implementation process would have worked.

The Department of Community Affairs, which has the last word on all changes to comprehensive plans, received more than 15,000 proposed amendments to the plans in 2009. It adopted 25,000 amendments, including those that were submitted in previous years and were still under review.

Blackner said during the run-up to the vote that voters in 2009 would not necessarily have had to vote on as many as 25,000 issues if Amendment 4 had been in place.

### **Comprehensive Plan Changes**

The 2009 numbers provided by the DCA included all comprehensive plan amendments proposed and adopted in 2009.

The 2009 volume of applications was also much higher than in previous years, which normally average between 5,000 and 6,000, in part because developers wanted to win early approval for comprehensive plan changes in case voters approved Amendment 4.

Many land-use attorneys have said the amendment would have required voters to decide on all changes in the comprehensive plan.

Counties and municipalities in Florida have a comprehensive plan composed of nine elements: future land-use, housing, transportation, infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination and capital improvements. If argued that the other eight elements in the comprehensive plan impact land use, voters could be required to vote on all proposed changes, including minor technical issues.

Under Amendment 4, local government and planning agencies would still have had to review, make recommendations, hold public hearings and vote on all land-use changes.

The only difference, Blackner said, is that voters would have had the power to veto changes they considered to be against the public's interest.

### **Victory for City Residents**

**Jamie Cole**, the city attorney for Miramar and Weston, said Amendment 4's defeat was a victory for city residents who have the opportunity to fight projects at the municipal level.

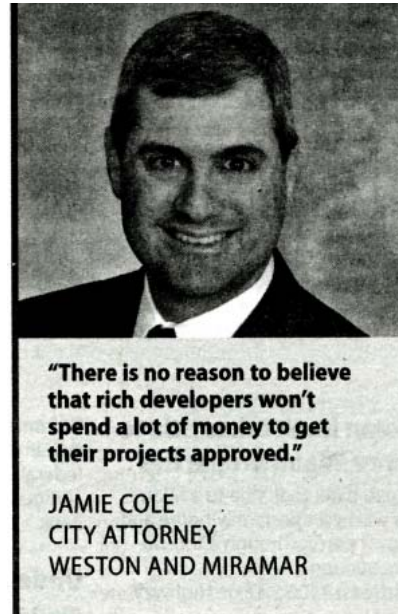
If projects had to be approved at the county level, opponents would have faced off against well-funded developers in numerous votes.

"There is no reason to believe that rich developers won't spend a lot of money to get their projects approved," said Cole of **Weiss Serota**

### **Helfman Pastoriza Cole & Boniske.**

Paola Iuspa-Abbott contributed to this report.

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**JAMIE COLE  
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