
IN THE SUPREME COURT OF FLORIDA

Case No. 88,696

Upon Request from the Attorney General
for an Advisory Opinion as to The
Validity of an Initiative Petition

**ADVISORY OPINION
TO THE ATTORNEY GENERAL**

**RE: PEOPLE'S PROPERTY RIGHTS AMENDMENTS
PROVIDING COMPENSATION FOR RESTRICTING
REAL PROPERTY USE MAY COVER MULTIPLE SUBJECTS**

**ANSWER BRIEF
OF
TAX CAP COMMITTEE
&
AMICI CURIAE
SUPPORTING THE PETITION**

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ARGUMENT

I. THE OPPONENTS' CONTENTIONS THAT THE PEOPLE'S PROPERTY RIGHTS - MULTIPLE SUBJECTS PETITION FAILS THE SINGLE-SUBJECT REQUIREMENT OF ARTICLE XI, SECTION 3 OF THE FLORIDA CONSTITUTION ARE WITHOUT MERIT.

Two briefs in opposition to the People's Property Rights - Multiple Subjects petition have been filed, one collectively by the Department of Community Affairs, The Florida League of Cities, Inc. and The Florida Association of Counties, Inc. and the other jointly by the Florida Audobon Society and National Audobon Society.¹

The major thrust of the opponents' objections to the People's Property Rights - Multiple Subjects petition is that the initiative violates the single subject rule by logrolling, affecting multiple branches of government, and by having numerous collateral effects. [Audobon, at 10-12; D.L.A. at 11-19]. All of the opponents' arguments in this regard have the faulty premise that approval of the People's Property Rights - Multiple Subjects petition would *ipso facto* have the effect that passage of an actual property rights amendment would have. This is patently not the case.

The opponents argue in harmony that adoption of the exception to the single subject rule proposed by the People's Property Rights - Multiple Subjects would prevent government from protecting the public through growth management,

¹ The brief submitted by the Department of Community Affairs, The Florida League of Cities, Inc. and The Florida Association of Counties, Inc. will be referred to as the "D.L.A." brief and the brief filed jointly by the Florida Audobon Society and National Audobon Society will be referred to as the Audobon brief.

environmental protection, and zoning, treating these *alleged* effects of a yet-unadopted property rights initiative as a *fait accompli*. The opponents clearly "jump the gun" here and are unwilling to let the voters decide whether to "cross bridges as they come to them." The People's Property Rights - Multiple Subjects petition would simply create an exception to the single subject rule for *future* initiatives, the effect of which voters could judge at the time of their proposal. These same arguments were made in opposition to the Revenue Limits initiative in *Advisory Opinion re: Tax Limitation, Voter Approval of New Taxes, Property Rights, Revenue Limits*, 644 So.2d 486, 495 (Fla. 1994) ("*Tax Limitation I*") and were summarily rejected by this court.²

The opponents also contend that the People's Property Rights - Multiple Subjects petition fails the single subject test because it is interdependent with the Property Rights petition, subject of Case No. 88,968. [D.L.A. at 20-24; Audobon at 13]. This "daisy chain" argument is without merit. The People's Property Rights - Multiple Subjects petition stands alone, with or without passage of the referenced Property Rights amendment, or any other property rights amendment which may later be proposed. Any such exception to the single subject rule would contemplate that other proposed amendments would follow, but that does not change the singular nature of the proposed exception itself. The People's Property Rights - Multiple Subjects

² The D.L.A. brief makes a related "collateral effects" argument that this Court has the duty to broaden the scope of the proposed amendment to include collateral effects which in turn causes a multiple subject problem. [D.L.A. at 18-19]. This argument is both circuitous and unsupported in the relevant case law.

petition is no more dependent on future proposals than was the Revenue Limits initiative improved in *Tax Limitation I* and the fact that it might complement other initiatives makes it no more a "daisy chain" than the initiatives approved in *In re: Everglades Sugar Production, Everglades Trust Fund, and Responsibility for Paying Costs of Water Pollution Abatement in the Everglades*, 21 Fla.L.Weekly S394 (Fla. 1996).

Two arguments unique to Audobon's brief are also unpersuasive. First, it contends that the single subject exception proposed by the People's Property Rights - Multiple Subjects petition is too complex. [Audobon at 10-11]. On this basis, Audobon attempts to distinguish the Revenue Limits proposal of *Tax Limitation I*, but the distinction is one without a real difference. The brevity of the Revenue Limits proposal did not render the concept of a multiple subject exception for limiting the government's power to raise revenue any more or less complex than the concept of a multiple subject exception for property rights compensation measures.

Second, Audobon contends that the single subject exception proposed by the People's Property Rights - Multiple Subjects initiative would impact the judiciary by expanding initiative litigation. [Audobon at 13-14]. The opposite is obviously true -- creating an exception to the single subject rule would operate to lessen this Court's obligation to conduct single subject compliance analyses for qualified initiatives. *See, e.g., Advisory Opinion re: Tax Limitation*, 673 So.2d 864 (Fla. 1996) ("*Tax Limitation II*"). Audobon suggests that the policy of removing areas of the law from

the Supreme Court's initiative scrutiny is "unwise." [Audobon at 14]. Audobon is free to make that suggestion to the voters in a public debate of the measure, but it is not free to make it in these proceedings where the wisdom of a proposal is absolutely not an issue.

II THE OPPONENTS' CONTENTIONS THAT THE PEOPLE'S PROPERTY RIGHTS - MULTIPLE SUBJECTS PETITION FAILS TO SATISFY STATUTORY CLARITY REQUIREMENTS ARE WITHOUT MERIT.

The opponents' arguments concerning the clarity of the ballot title and summary are also without merit. Like the faulty premise behind their single subject challenges, the opponents credit the People's Property Rights - Multiple Subjects petition with certain automatic effects of a yet-unadopted property rights measure in order to claim that the title and summary fail to disclose consequences or collateral effects. [D.L.A. at 31-32; Audobon at 16]. To the contrary, the title and summary completely disclose the sole purpose of the People's Property Rights - Multiple Subjects petition - that is, to create an exception to the single subject rule for certain property rights initiatives. *Tax Limitation I.*

The opponents argue that the ballot title and summary contain emotional language or political rhetoric. [D.L.A. 29; Audobon 14-15]. These arguments are based on illogical segmentation of the language of the proposal. For instance, the word "fairness" and the phrase "property rights" are isolated and characterized as seductive rhetoric, but in the context of the proposal, they simply are not. The same

selective reading plagues D.L.A.'s argument that the title has a double meaning because of the words "People's Property." [D.L.A. at 25]. When read in the context of the title, it is clear that the word "People's" modifies the word "Amendments," clearly advising the voter that the proposal relates to people's initiatives. *See Tax Limitation I* regarding "People's Amendments Limiting Government Revenue."

Finally, the opponents challenge the clarity of the title and summary on the basis of the terms "owner," "common law nuisances," and "which in fairness should be borne by the public." [D.L.A. at 26-30; Audobon at 16]. These points have been previously addressed by Tax Cap's Initial Brief at pages 6-12 and need not be repeated here.

CONCLUSION

In light of the foregoing, the Tax Cap Committee and undersigned amicus curiae respectfully request that this Court approve the People's Property Rights - Multiple Subjects petition for placement on a general election ballot following the certification of the requisite number and distribution of valid signatures, pursuant to this Court's jurisdiction under Article IV, Section 10, Florida Constitution.

Respectfully submitted,

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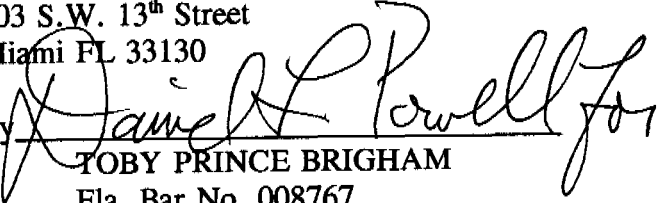
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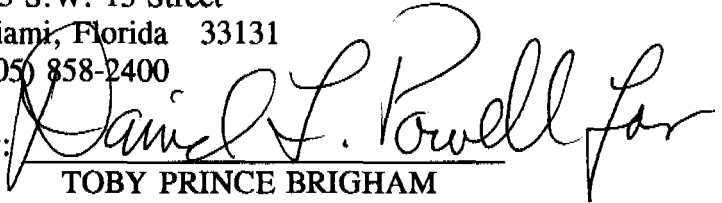
REQUEST FOR ORAL ARGUMENT

The Tax Cap Committee requests oral argument in this proceeding.

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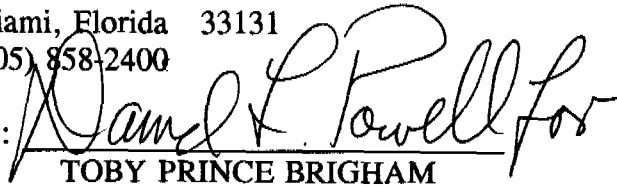
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing motion has been sent by U.S. Mail to all those on the attached service list this 6th day of November, 1996.

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