IN THE SUPREME COURT

OF FLORIDA

RICHARD AND MIRIAM WARNER, et al.,	:	
	:	
Plaintiffs,	:	**CASE NO. SC01-2206**
	:	
vs.	:	
	:	
	:	
CITY OF BOCA RATON,	:	
	:	
Defendant.	:	
_____:		

On Certification from the
United States Court of Appeals for the Eleventh Circuit

INITIAL BRIEF OF AMICUS CURIAE,
FLORIDA LEAGUE OF CITIES, INC.

REBECCA A. O'HARA
Florida Bar No. 0015792
Florida League of Cities, Inc.
301 S. Bronough St., Suite 300
Post Office Box 1757
Tallahassee, Florida 32302
(850) 222-9684

TABLE OF CONTENTS

TABLE OF CONTENTS . . . . . **ii**

TABLE OF AUTHORITIES . . . . . **iii**

STATEMENT OF INTEREST OF AMICUS CURIAE FLORIDA LEAGUE OF CITIES . . **1**

REFERENCES 2

STATEMENT OF THE FACTS AND OF THE CASE 2

SUMMARY OF ARGUMENT 2

ARGUMENT 4

I. THE COURT SHOULD REJECT PLAINTIFFS' EXTREME CONSTRUCTION OF "EXERCISE OF RELIGION"

II. PLAINTIFFS' OVERBROAD CONSTRUCTION IS BAD PUBLIC POLICY

III. PLAINTIFFS' OVERBROAD CONSTRUCTION LEADS TO UNCONSTITUTIONAL AND ABSURD RESULTS

CONCLUSION **17**

CERTIFICATE OF SERVICE **18**

CERTIFICATE OF COMPLIANCE18

TABLE OF AUTHORITIES

COURT CASES

Cheffer v. Reno, 55 F.3d 1517 (11th Cir. 1995) 15

City of Boerne v. Flores, 521 U.S. 507 (1997) 6, 14, 15

Daytona Rescue Mission, Inc. v. City of Daytona Beach,
885 F. Supp. 1554 (M.D. Fla. 1995) 11

First Assembly of God of Naples, Florida v. Collier County,
775 F. Supp. 383 (M.D. Fla. 1991), *aff'd*, 20 F.3d 419 (11th Cir. 1994) 11

First Baptist Church of Perrine v. Miami-Dade County,
768 So. 2d 1114 (Fla. 3d DCA 2000) 12

Grosz v. City of Miami Beach, 721 F.2d 729 (11th Cir. 1983),
cert. denied, 469 U.S. 827 (1984) 12

Gunning v. Runyon, 3 F. Supp. 2d 1423 (S.D. Fla. 1998) 15

Lawson v. Singletary, 85 F.3d 502 (11th Cir. 1996) 15

Miami-Dade County v. New Life Apostolic Church of Jesus Christ, Inc.,
750 So. 2d 738 (Fla. 3d DCA 2000) 12

Midrash Sephardi, Inc., et al, v. Town of Surfside,
Case No. 99-1566-Civ. (S.D. Fla.) (case pending) 10

Village of Arlington Heights v. Metropolitan Hous. Dev. Corp.,
429 U.S. 252 (1997) 7

Warner v. City of Boca Raton, 64 F. Supp. 2d 1272 (S.D. Fla. 1999) 4, 8, 15

Watson v. Mayflower Property, Inc., 223 So.2d 368 (Fla. 4th DCA 1969) 9

STATUTORY PROVISIONS

§ 761.02(3), Fla. Stat. 4

§ 761.03, Fla. Stat. 14

§ 761.05(1), Fla. Stat. 14

Chapter 761, Fla. Stat. 4

OTHER

Parnas, Susan M., Symposium: *State & Federal Religious Liberty Legislation: Is it Necessary? Is it Constitutional? Is it Good Policy?*, 21 Cordozo L. Rev. 781, 784 (1999). 7, 16

Rocking Church Riles Neighbors, CHI. TRIB., July 9, 1999 § 2, at 8 12

Smith, E. Tyson, *Do Unto Religious Uses As You Would Have Done Unto Nonreligious Uses: An Overview of the Religious Land Use and Institutionalized Persons Act of 2000*, FLA. BAR ENVT'L & LAND USE LAW SECTION REPORTER (Jan. 2002). 6

STATEMENT OF INTEREST OF AMICUS CURIAE FLORIDA LEAGUE OF CITIES, INC.

The Florida League of Cities, Inc. ("League"), is a voluntary organization whose membership consists of municipalities and other units of local government rendering municipal services in the State of Florida. Under the League's charter, its purpose is to work for the general improvement of municipal government and its efficient administration, and to represent its members before various legislative, executive, and judicial branches of government on issues pertaining to the welfare of its members. The League is particularly interested in the case before this Court regarding the interpretation of Florida's Religious Freedom Restoration Act, and how that interpretation will impact its members.

The issues presented in this case bring directly into question the authority of municipalities to protect the public's health, safety and welfare through local ordinances and regulations. This Court's response to the certified questions will affect the governmental interests of every member of the League, due to the sheer number of local laws of general applicability that may be open to challenge under the Florida Religious Freedom Restoration Act. On December 31, 2001, this Court granted the League's motion for leave to file brief as amicus curiae in support of appellee.

REFERENCES

Plaintiffs-Appellants **Richard Warner, et al.**, Amicus Curiae **Jeb Bush, Governor of Florida**, and Amicus Curiae **Liberty Counsel** will be referenced collectively as "Plaintiffs." The Florida Religious Freedom Restoration Act, Chapter 761, Florida Statutes, will be referenced as "FRFRA."

STATEMENT OF FACTS AND OF THE CASE

The League adopts and relies on the statement of the case and of the facts set forth in the Answer Brief of Defendant—Appellee **City of Boca Raton**.

SUMMARY OF ARGUMENT

The controversy in this case centers around the construction of "religious exercise" as defined in the Florida Religious Freedom Restoration Act ("FRFRA"). By providing this definition, the Florida Legislature evidenced an intent to reject the concept that a protected belief must be central or compulsory to a religion, but did not go so far as to provide that any religious whim is subject to FRFRA protections. This Court should agree with the federal District Court's conclusion that a religiously motivated belief must at least reflect some tenet, practice, or custom of a larger system of religious beliefs in order to obtain protection under FRFRA.

The federal District Court's reasoning strikes reasonable middle ground between two extreme

alternatives. One extreme requires that a protected belief be compulsory or central to a larger system of religious beliefs. The other extreme, advanced by Plaintiffs, would protect *any* religiously motivated belief, no matter how idiosyncratic, isolated or unreasonable. In addition, Plaintiffs' extreme construction of FRFRA's protections would eviscerate numerous neutral, generally applicable, local laws designed to protect public health, safety, and community livability. The broad cause of action that would be created under Plaintiffs' expansive notions of protected religious exercise would create an enormous litigation burden upon Florida's municipalities.

Finally, the extreme construction of FRFRA offered by Plaintiffs will lead to unconstitutional and absurd results by effectively creating a separate system of laws for religiously motivated persons. For these reasons, this Court should conclude that a religious belief protected by FRFRA must amount to more than just personal preference, by reflecting some tenet, practice, or custom of a larger system of religious beliefs.

ARGUMENT

In FRFRA, the Florida Legislature attempted to clarify the scope of protection that should be accorded to religious exercise under a neutral regulation of general applicability. *See* FLA. STAT. Ch. 761 (2001). In so doing, the Legislature defined what may constitute "religious exercise" for purposes of FRFRA. The dispute in this case centers on the construction of that definition.

FRFRA defines the "exercise of religion" as "an act or refusal to act that is substantially motivated by a religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious beliefs." FLA. STAT. §761.02(3). Based on this definition, the U.S. District Court concluded that while the protected religious exercise need not be compulsory or central to a larger system of religious beliefs, it must at least reflect some tenet, practice, or custom of a larger system of religious beliefs. *Warner v. City of Boca Raton*, 64 F. Supp. 2d 1272, 1283 (S.D. Fla. 1999). In other words, the exercise of religion must amount to more than just personal preference or perception. *Id.*

The District Court recognized that in adopting FRFRA, the Florida Legislature may have intended to expand existing federal court precedent which had limited the protections of the Federal Religious Freedom Restoration Act to only those practices that were compulsory or central to a system of religious tradition. *Warner*, 64 F. Supp. 2d at

1281-82 (explaining Florida Legislature's attempt to correct a "manifest error" in federal court interpretations of religious exercise). In support, the District Court cited to the following portion of the Congressional Record regarding the adoption of the Federal Religious Freedom Restoration Act: "'[t]o say that the "exercise of religion" might include acts not necessarily compelled by a sincerely held religious belief is not to say that any act merely consistent with, or not proscribed by one's religion would be an exercise of religion.'" *Id.* at 1282 (quoting Hearings on H.R. 2797 Before the House Judiciary Comm., 102d Cong., 2d Sess. 128-30 (May 13, 1992)). Just because conduct is merely consistent with or not proscribed by one's religion, or is a matter of purely personal preference regarding the religion, does not mean it falls within the scope of "exercise of religion." *Id.*

In sum, while the Florida Legislature intended to expand the scope of protected religious exercise beyond previous judicial interpretations of the Federal Religious Freedom Restoration Act which had limited the scope of protected religious exercise, it did not go so far as to expand the concept to include any individual religious whim within the protections of FRFRA. This Court should agree with the District Court's interpretation of FRFRA's definition of "exercise of religion" because it strikes sensible middle ground between two extreme alternatives. One extreme limits the construction of religious exercise to only those beliefs that are compulsory or central

to a larger system of religious beliefs. The other extreme, asserted by Plaintiffs, expands the concept of "religious exercise" to include any religious belief, no matter how unusual, isolated, or idiosyncratic. Under Plaintiffs' extreme construction, sincerity of belief alone will suffice; no matter how personal or regardless of whether it is held by anyone else in the world.

The Court Should Reject Plaintiffs'
Extreme Construction of "Exercise of Religion"

There is little basis for Plaintiffs' assertion that their overbroad construction is supported by public policy. Courts and commentators alike have questioned the purported justification for such severe religious-based exemptions from generally applicable laws.

> It is rare, though clearly not unheard of, that local governments act in a manner that prohibits religious exercise generally or even substantially burdens religious exercise protected by the Constitution. In fact, in Florida, governing bodies are well versed in matters of land use equity and administration and generally are sensitive to the range of interests implicated in the decisions they make. RLUIPA, however, stems less from a concern that pervasive discrimination against religious uses is widespread on local planning boards, than it does from a growing presence of religion in American politics.
>
> E. Tyson Smith, *Do Unto Religious Uses As You Would Have Done Unto Nonreligious Uses: An Overview of the Religious Land Use and Institutionalized Persons Act of 2000*, FLA. BAR ENVT'L & LAND USE LAW SECTION REPORTER (Jan. 2002); *see also City of Boerne v. Flores*, 521 U.S. 507, 530 (1997) (noting no

widespread pattern of religious discrimination that would justify reduction in application of neutral, generally applicable land use regulations); *Village of Arlington Heights v. Metropolitan Hous. Dev. Corp.*, 429 U.S. 252, 268 (1977) (noting that such cases are rare).

Plaintiffs' Overbroad Construction Is Bad Public Policy

The four-part "test" employed by the District Court provides a reasonable framework to measure the balance between the rights of an individual versus the rights of society as a whole. Certainly it is not unreasonable to expect religiously motivated groups and individuals to respect and accommodate the needs of the surrounding community. Plaintiffs' construction would permit one individual to be exempt from virtually any secular rule based purely on personal preference or perception. This broad preemption from neutral regulations will jeopardize the fundamental duties that cities are charged with upholding. *See* Susan M. Parnas, Symposium: *State & Federal Religious Liberty Legislation: Is It Necessary? Is It Constitutional? Is It Good Policy?*, 21 CARDOZO L. REV. 781, 784 (1999) (hereinafter *"Parnas"*). Local governments' obligation to protect public health, safety and welfare necessarily requires balancing the interests of the individual versus the community at large, yet plaintiffs' construction offers no balance. It will allow religiously motivated individuals and entities to unfairly burden the rest of the community -- aesthetically, economically,

and so forth, by using religiously protected conduct to avoid complying with community standards.

. Local governments typically go out of their way to balance religious interests with governmental interests because religious institutions are usually regarded as "good neighbors." *Parnas* at 784. Even in the case at bar, the City attempted to accommodate the plaintiffs' desires. It postponed enforcement of the cemetery regulations pending further study and re-evaluation of the ordinance to see if modifications to the ordinance were possible. *Warner*, 64 F. Supp. 2d at 1278. In fact, the City revised the regulations to allow temporary decorations. *Id.* Moreover, the City conducted a survey of the cemetery plot owners to determine the desires of the majority of plot owners, which ultimately showed that a majority of plot owners wanted the regulations to be enforced. *Id.*

In essence, Plaintiffs are urging this Court to permit FRFRA to be used as a sword instead of a shield. There are scores of important local regulations that could be invalidated from application if this Court accepted Plaintiffs' arguments. The religious sword advocated by Plaintiffs will eviscerate laws relating to parking standards, height limitations, lot size and building setbacks, historic preservation, traffic impacts, noise levels, billboards and other signage requirements, homeless shelters and food banks, use of municipal property, and animal control regulations. Unilateral exemptions from

these legitimate local requirements, based purely upon "sincere" personal religious preference, will upset the balance between individual freedom and the overall public good. It will allow religiously motivated individuals to impose their will with utter disregard to others' rights in neighborhood tranquility, coherent zoning, aesthetic quality, economic and property interests, and general peace and quiet. The examples below are a small sampling of legitimate and neutral local laws that would fall victim to personal religious preference.

Consider the example of a small town less than one square mile in size and having a population of less than 4,400. It is flanked on either side by affluent, beachfront municipalities with thriving commercial districts. The town's two-block business district is essential for the small town's economic survival, because it relies heavily on revenue from real estate taxes, resort taxes, tourist taxes and bed taxes. However, the business district is struggling because of the prospering commercial area in the adjacent municipality. The town already has three churches and one synagogue, and a good history of accommodating special exception requests for such uses. The location of additional non-economic business establishments such as a church or government building in the business district would severely impact the town's economic stability. Nevertheless, the Plaintiffs' approach would preclude the town from preserving the balance of interests necessary for an economically healthy

community.

[1]

Under Plaintiffs' extreme notion of which religious exercises are entitled to a FRFRA exemption from local regulations, an orthodox synagogue that wishes to locate in the town's business district can use FRFRA as a sword to force the town to grant a special exception to allow the use. The synagogue could claim that it is substantially burdened by not being able to locate within the two-block business district, even though there are alternate locations available. The majority of the synagogue's congregation lives in an adjacent municipality, which has no synagogues. The synagogue claims that it is too far for its orthodox members who reside in the adjacent municipality to walk to services in the alternate location, but also admits that it does not like the alternate location because it believes it is run-down and shabby, and would trigger the loss of financial support from its wealthy members in the adjacent municipality. It would be absurd to construe FRFRA to go so far as to grant standing to an organization that wants to use it as a weapon to force its locational preferences

---

[1]One of the many legitimate purposes of zoning is to protect economic value of existing uses. *Watson v. Mayflower Property, Inc.*, 223 So. 2d 368 (Fla. 4th DCA 1969) (stating "[i]t is self-evident that the general welfare of a community demands that in some part or parts of its land area citizens may develop their homes without fear of losing a substantial segment of their economic investment or the comfort or enjoyment of their homes.")

like this upon a community. Yet, this is precisely what is happening today and will most certainly continue to occur if Plaintiffs' extreme construction of FRFRA holds sway. *See Midrash Sephardi, Inc., et al., v. Town of Surfside,* Case No. 99-1566-Civ. (S.D. Fla.) (case pending).

Plaintiffs' expansive construction of FRFRA would allow a group claiming a general religious belief in acts of kindness or benevolence to operate a homeless shelter in a residential neighborhood in violation of a local housing code, or to locate a food bank or shelter next to a school or similarly inappropriate land use. *See First Assembly of God of Naples, Florida, Inc. v. Collier County*, 775 F. Supp. 383 (M.D. Fla. 1991), *aff'd*, 20 F.3d 419 (11th Cir. 1994); *Daytona Rescue Mission, Inc. v. City of Daytona Beach*, 885 F. Supp. 1554 (M.D. Fla. 1995) (rejecting claim of substantial burden on religion, but recognizing that other courts have held that regulating religious conduct through zoning laws is a substantial burden on religion).[2] On the same basis, a

[2] Although these and other cases cited in this section pre-date FRFRA save one, they are nevertheless referenced to demonstrate the nature of religious-based claims that will undoubtedly resurface if Plaintiffs' construction of FRFRA were to prevail. It is notable that in *First Assembly*, plaintiffs initially argued that their religious tenets generally included acts of benevolence, but not specifically operating homeless shelters. *First Assembly*, 775 F. Supp. at 387. Later on appeal, plaintiffs claimed that sheltering the homeless was an essential aspect of their religion. *First Assembly*, 20 F. 3d 419, 422 (11th Cir. 1994). In the *Daytona Beach* case, the plaintiffs claimed that housing the homeless and feeding the poor were central to their religion. *Daytona Rescue Mission*, 885 F. Supp. at 1558.

religiously motivated person could violate laws relating to city park hours of operation, use of parks by special groups, or prohibitions on feeding homeless in public parks. Further, Plaintiffs' extreme construction of FRFRA would authorize exemptions from lot size and building setback requirements, as well as noise ordinances, that are essential to protecting the rights of neighboring property owners. *See, e.g., Miami-Dade County v. New Life Apostolic Church of Jesus Christ, Inc.*, 750 So. 2d 738 (Fla. 3d DCA 2000) (upholding denial of variance to allow sanctuary and daycare center on a one acre lot where evidence showed the variance would have an adverse noise impact on neighboring properties and perpetuate the extreme proliferation of churches in the area); *Rocking Church Riles Neighbors*, CHI. TRIB. July 9, 1999, § 2, at 8 (describing how church contended its loud evening services were protected under Alabama's RFRA after neighbors complained about excessive noise that exceeded local noise ordinance by thirteen decibel levels).

The potential impact of religious exemptions from local laws that protect the safety and quality of life in surrounding neighborhoods cannot be overstated. Many cities have local regulations that prohibit organized, publicly attended gatherings and commercial enterprises in single family neighborhoods. This is because any large gathering of people, whether religious in nature or not, will produce traffic, crowds, noise and disturbance. *See, e.g., Grosz v. City of Miami Beach*, 721 F.2d 729, 738 (11th Cir.

1983) (upholding ordinance that operated to prohibit plaintiff from holding organized religious services in home*)*, *cert. denied*, 469 U.S. 827 (1984)*; First Baptist Church of Perrine v. Miami-Dade County*, 768 So. 2d 1114 (Fla. 3d DCA 2000) (upholding denial of special use permit for expansion of religious school where applicant argued that having school was central part of religious ministry and that it was important to expand school into adolescent grades, where applicant failed to meet criteria regarding adverse traffic impact to adjacent residential area).

Plaintiffs' extreme reading of FRFRA would permit individuals having a perception that their religion required them to spread the word of their faith by any means possible to erect a large religious edifice that towered over adjacent signs and buildings in violation of local sign and height ordinances. A religiously motivated individual could claim entitlement to erect billboards in a no-billboard zone, or to post flyers on telephone poles, or to erect a portable or offsite sign in areas where anyone else is prohibited from doing so. Many local occupational regulation ordinances could be restricted, as well, particularly ordinances relating to street vendors and public events. For example, a government's interest in limiting the number of street vendors is justified by interests in controlling litter, sidewalk congestion, and pedestrian traffic. Sometimes these vendor licenses are issued on a lottery system to limit the number of vending carts in a crowded place. A religious group or person that is unsuccessful in the lottery or

failed to meet the application deadline could use FRFRA to force the local government to accept more than the permissible number of vendors.

Plaintiffs' construction would confer standing upon a substantial number of individuals and entities to challenge innumerable legitimate, neutral laws. FRFRA's protections extend to individuals and religious entities alike. *See* FLA. STAT. §761.03 (stating the "government shall not substantially burden a person's exercise of religion"). Anyone could potentially avail themselves of its remedies – individuals, churches, hospitals, schools, social halls, daycare centers, recreational facilities, soup kitchens and homeless shelters. Because FRFRA is retroactive, it applies to all current and future regulations. Fla. Stat. §761.05(1). Under Plaintiffs' expansive interpretation, the litigation costs imposed by FRFRA claims on Florida's municipalities will be staggering.

In sum, Plaintiffs' construction of "exercise of religion" creates a convenient cause of action for anyone unhappy with a local regulation because it provides an enormous preemption from compliance with standards to which the rest of the community must adhere. The U.S. Supreme Court has previously recognized the dangers of such overbroad protection of personal preferences, noting that such: "[s]weeping coverage ensures its intrusion at every level of government, displacing laws and prohibiting official actions of almost every description and regardless of subject matter. Any law

is subject to challenge at any time by an individual who alleges a substantial burden on his or her exercise of religion." *City of Boerne v. Flores*, 521 U.S. 507, 509 (1997). This virtually unilateral entitlement to an exemption from a neutral, generally applicable law provides religious groups "with a legal weapon that no atheist or agnostic can obtain." *Id*. at 537 (Stevens, J., concurring).

Plaintiffs' Overbroad Construction
Leads to Unconstitutional and Absurd Results

The District Court recognized the constitutional problems inherent in Plaintiffs' construction of the statute, stating that a "statute which operates to exempt religious but not secular conduct from compliance with neutral laws of general applicability, evidences a preference for religion which arguably runs afoul of the Establishment Clause of the First Amendment." *Warner*, 64 F. Supp. 2d at 1287 n.11. In other words, Plaintiffs' construction of FRFRA leads to the inescapable conclusion that FRFRA is entirely motivated by a preference for religion. It will equate to a government subsidy of religion.

[3]

[3] These same constitutional problems have been noted with respect to the federal counterpart to FRFRA. *See Lawson v. Singletary*, 85 F.3d 502, 513 n.2 (11th Cir. 1996); *Cheffer v. Reno*, 55 F.3d 1517, 1525 n.11 (11th Cir. 1995) (citing Scott C. Idleman, *The Religious Freedom Restoration Act: Pushing the Limits of Legislative Power*, 73 TEX. L. REV. 247 (1994)); *Gunning v. Runyon*, 3 F.Supp. 2d 1423 (S.D. Fla. 1998); *see also Boerne*, 521 U.S. at 536 (Stevens, J., concurring) ("In my opinion, the [Federal RFRA] is a 'law respecting an establishment of religion' that violates the

The effect of Plaintiffs' construction of FRFRA will create a separate system of laws for religious persons, leading to unfair and even absurd consequences. For example, many cities have ordinances regarding public demonstrations in residential areas. Plaintiffs' extreme construction of FRFRA would allow someone claiming a religiously motivated "pro-life" belief to picket in front of an abortion clinic doctor's house, but would not permit a person claiming a secular "pro-choice" belief to demonstrate in a similar manner. It would permit a religious school to not renew a pregnant teacher's contract based on a religiously motivated belief that mothers should stay home with preschool age children, regardless of local, state or federal anti-discrimination laws. Similarly, it would allow a landlord to wield personal preference as a sword to discriminate against potential tenants based on marital status, HIV status, sexual orientation, or race.

Finally, Plaintiffs' extreme construction could even undermine application of fire and safety codes by granting religious schools or hospitals standing to sue under FRFRA if charged with such code violations. *See Parnas* at 790. Although it might seem that such obvious public safety laws advance a compelling interest, a city would still be

---

First amendment to the Constitution."). As the City of Boca Raton has pointed out in its Brief to this Court, if the Court creates an exception from neutral laws only for religiously motivated conduct, the United States Court of Appeals will have to address the Establishment Clause question.

required to suffer the defense and perhaps delay enforcement. Moreover, public safety considerations may not be found compelling enough by some courts to outweigh a FRFRA claim. *Id.* (referencing *Cheema v. Thompson*, 67 F.3d 883, 886 (9th Cir. 1995) (holding that Federal RFRA required school district to accommodate Sikh children whose religious beliefs required them to wear 7" ceremonial knives to school)).

CONCLUSION

This Court should respond to the questions certified by the Eleventh Circuit Court of Appeals by rejecting Plaintiffs' argument that all conduct that is substantially motivated by a religious belief falls within the scope of the "exercise of religion" subject to the protections of FRFRA. Instead, this Court should agree with the federal district court's conclusion that "exercise of religion" need not be conduct motivated by a belief that is compulsory or a central to a larger system of religious beliefs, but that it must nevertheless reflect some tenet, practice, or custom of a larger system of religious beliefs.

. . . . . Respectfully submitted this ____ day of January 2002.

. . . . . _____
. . . . . Rebecca A. O'Hara

. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . Assistant General Counsel
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . Florida Bar No. 0015792
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . Florida League of Cities, Inc.
301 S. Bronough St., Suite 300
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . Post Office Box 1757
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .

. . . . . Tallahassee, Florida 32302
. . . . . .

. . . . . .

. . . . . .

. . . . . .

. . . . . .

. . . . . .

. . . . . .

. . . . . (850) 222-9684

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been delivered via U.S. Mail this _____ day of January, 2002 to: DOUGLAS LAYCOCK, 727 E. Dean Keeton Street, Austin, TX 78705; JAMES K. GREEN, 250 Australian Avenue, Suite 1503, West Palm Beach, Florida 33401; LYNN G. WAXMAN, 501 S. Flagler Drive, Suite 505, West Palm Beach, Florida 33401; CHARLOTTE H. DANCIU, 370 W. Camino Gardens Blvd., Ste. 210, Boca Raton, Florida 33432; BEVERLY A. POHL, BRUCE ROGOW; Broward Financial Centre, Suite 1930, 500 East Broward Boulevard, Fort Lauderdale, Florida 33394; DIANA GRUB FRIESER; City of Boca Raton, 201 West Palmetto Park Road, Boca Raton, Florida 33432-3795; CHARLES T. CANADY, Room 209, The Capitol, Tallahassee, Florida 32399-6507; DOUGLAS STOWELL, P.O. Box 11059, Tallahassee, Florida 32302.

_____
REBECCA A. O'HARA

CERTIFICATE OF COMPLIANCE

I CERTIFY that the foregoing Brief complies with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

. . . . . .
. . . . . .
. . . . . .

. . . . . .
. . . . . .
. . . . . .
. . . . . _____
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . REBECCA A. O’HARA
. . . . . .