

IN THE SUPREME COURT OF FLORIDA

THE CROSSINGS AT FLEMING ISLAND
COMMUNITY DEVELOPMENT DISTRICT,
A UNIT OF SPECIAL PURPOSE GOVERNMENT,
AND JIMMY WEEKS, TAX COLLECTOR,
CLAY COUNTY, FLORIDA,

Petitioners,
v.

CASE NO.: SC 07-1556
L.T. Case No.: 1D06-2026;
1D06-2158

JIM ZINGALE, EXECUTIVE DIRECTOR, FLORIDA
DEPARTMENT OF REVENUE, ET AL.,

Respondents.

JURISDICTIONAL BRIEF OF RESPONDENT, JIM ZINGALE, EXECUTIVE
DIRECTOR, FLORIDA DEPARTMENT OF REVENUE

On Petition For Discretionary Review

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STATEMENT OF FACTS AND CASE

The Petitioner's statement of the case and facts fairly states the course of proceedings in the lower courts. The District Court of Appeal, First District, certified conflict with Sun 'N Lake of Sebring Improvement District v. McIntyre, 800 So.2d 715 (Fla. 2d DCA 2001), on the issue of whether the property appraiser, the Respondent Wayne Weeks, has standing to defensively raise the constitutionality of a state statute.

SUMMARY OF ARGUMENT

The decision below conflicts with the Sun 'N Lake decision of the Second District Court of Appeal and also expressly affects a class of constitutional or state officers.

ARGUMENT

I. THIS COURT HAS JURISDICTION TO GRANT REVIEW BASED ON THE CERTIFIED CONFLICT AND THE FACT THAT THE DECISION AFFECTS A CLASS OF CONSTITUTIONAL OR STATE OFFICERS.

This Court has jurisdiction to grant review pursuant to Article V, Section 3(b)(3) and (4), Florida Constitution. The First District Court of Appeal certified conflict with a decision of the Second District Court of Appeal, Sun 'N Lake of Sebring Improvement District v. McIntyre, 800 So. 2d 715 (Fla. 2d DCA 2001). Moreover, the decision expressly affects property appraisers, who constitute a class of constitutional or state officers pursuant to Article VIII, Section 1(d), Florida Constitution.

The issue of whether a property appraiser has standing to raise the validity of a state statute in a “defensive posture” has vexed the field of state tax law for some years. See Sunset Harbour Condominium Ass’n v. Robbins, 914 So. 2d 925, 933 (Fla. 2005) (Bell, J., concurring). The question should be resolved, and therefore this Court should grant review.

CONCLUSION

The Court should accept jurisdiction of this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been furnished by U.S. Mail
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CERTIFICATE OF COMPLIANCE

The undersigned certifies that the font used in this brief is Times New Roman 14-point font, in compliance with Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.

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