IN THE SUPREME COURT OF FLORIDA

Case No. SC08-318

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:
Florida Growth Management Initiative Giving Citizens the Right to Decide Local Growth Management Plan Changes

ANSWER BRIEF OF THE SPONSOR,
FLORIDIANS FOR SMARTER GROWTH, INC.

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STATEMENT OF THE CASE AND FACTS

The Answer Brief filed by Hometown Democracy, which has sponsored a competing amendment on the same subject and thus opposes the Smarter Growth amendment, begins by taking issue with how Floridians for Smarter Growth worded the Statement of the Case and Facts in its own Initial Brief. [HD A. Br. 1-3] For instance, Hometown Democracy criticizes the wording Floridians used in its brief for summarizing the chief purpose of the Smarter Growth amendment, complains that one sentence of Floridians' Initial Brief describes the Smarter Growth amendment without including *in that one sentence* all of the operational details of the amendment, and accuses Floridians of neglecting to note in its Statement of the Case and Facts that the Smarter Growth amendment is intended to defeat the competing Hometown Democracy amendment. These criticisms are unfounded, because Floridians fairly and accurately disclosed and described all of the terms of the Smarter Growth amendment in its Initial Brief.

SUMMARY OF THE ARGUMENT

The opponent's Answer Brief for the most part repeats in superficial form the arguments raised in its Initial Brief, while appearing to abandon other claims such as that the Smarter Growth amendment substantially affects other provisions of the Florida Constitution dealing with elections and local governments. [HD In. Br. 7-8, 13-14] The opponent presses only two arguments in its Answer Brief.

The opponent's <u>first</u> point of attack is that the Smarter Growth amendment "amends" the right to privacy under Article I, section 23 of the Florida Constitutiuon, and violates both the single-subject rule and the accuracy requirement as a result of allegedly failing to disclose that "amending" effect. The opponent's <u>second</u> argument is that the ballot summary fails to adequately reflect the chief purpose of the measure or to advise the voter that the measure will preempt or supersede other measures such as the Hometown Democracy proposal. Neither of these arguments has any merit, and neither rises to the level of requiring the Court to strike the Smarter Growth amendment from the ballot.

The Smarter Growth amendment correctly identifies the single provision of the Constitution that it substantially amends, Article II, section 7, which is the section into which it will be placed. The Smarter Growth amendment does not substantially affect any other provisions of the Florida Constitution, including the right to privacy under Article I, section 23, because that section does not apply to any records made public by law, which would necessarily include records made public by the Smarter Growth amendment. The next section, Article I, section 24, likewise provides that all records "made or received in connection with the official business" of any public entity are public records. The petition information required by the Smarter Growth amendment must be submitted to elections officials, and thus falls under Article I, section 24. Together, these two constitutional provisions

make it clear that the disclosures required by the Smarter Growth amendment are not subject to any right of privacy in the first place; thus there can be no "amendment" of the right to privacy, nor any flaw in the proposal for failing to "disclose" such "amendment."

Even if there were a valid privacy issue, the question of whether the Smarter Growth amendment *violates* the right to privacy is not justiciable in this proceeding. Further, disclosures very much analogous to those required under the Smarter Growth amendment are already required by existing Florida law, including the requirement of full and public disclosure of financial interests and ownership interests by candidates and committees, under the Elections Code and the Code of Ethics. After all, in all of these contexts including the Smarter Growth amendment, anyone not wishing to provide the information can simply decline to put themselves in that position. That the Smarter Growth amendment imposes similar requirements in the context of initiating a public referendum may be viewed as adding to these *statutory* requirements, which the amendment is not required to disclose; but it does not amend any provision of the Florida Constitution.

The opponent's claim that the ballot summary is inadequate in describing the preamble language about the sponsor's intent to defeat competing proposals, is equally meritless. Although the opponent apparently would have chosen different

or more verbose language to describe the chief purpose of the amendment in the ballot summary, the law only requires that the chief purpose and legal effect be disclosed, and this summary complies with that requirement. There is no requirement that the ballot summary also describe the preamble, a device frequently used in initiatives to set the stage and explain the sponsor's intent in offering the amendment, which does not form part of the constitutional text. Further, the principle of law that the amendment, if passed, will control over any inconsistent law is self-evident, and always true of a successful constitutional amendment, and need not be disclosed separately within the ballot summary. None of the opponent's single-subject or accuracy arguments has any merit, and therefore the Court should approve the Smarter Growth amendment for placement on the ballot.

ARGUMENT

I. THE SMARTER GROWTH AMENDMENT DOES NOT AMEND THE RIGHT TO PRIVACY.

The opponent argues that the Smarter Growth amendment "amends" the right to privacy in article I, section 23, of the Florida Constitution, and fails to disclose that alleged amendment in its ballot summary, and therefore violates the single-subject rule. [HD A. Br. 5-6] The pertinent part of the Smarter Growth amendment is as set forth below:

> The individuals completing the form [Florida Growth Management Initiative Petition form] must provide identification information, including name, address, telephone numbers, any Internet address or website owned, operated or used by the individuals which contains or will contain information on the particular plan or amendment which is the subject of the Petition, and any information indicating whether they have a financial interest in the particular plan or amendment which is the subject of the Petition (including interests involving personal, commercial or other land uses affected by the plan or amendment), and if so, describing the financial interest. The identification information shall be made available to the public, along with notice of the availability of the Petition; posting of this information on the Internet, in a manner reasonably calculated by the election authority to inform the public, shall be considered sufficient public availability of this information.

This is matter "directly connected with" the single subject of the Smarter Growth amendment, which is expressly permitted under article XI, section 5, of the Florida Constitution.

On closer inspection of the opponent's argument, it becomes clear that the real claim is that this part of the Smarter Growth amendment will *violate* the disclosural privacy rights of whomever chooses to petition for a referendum as set forth in the amendment. This argument is unfounded for at least three reasons. First, the Smarter Growth amendment does not either expressly or impliedly amend article I, section 23, of the Florida Constitution. Second, an alleged violation of the right to privacy would not be justiciable in this proceeding. Third, the disclosure requirements of the Smarter Growth amendment will not run afoul of any constitutional right to privacy.

To the extent that the opponent aims this same argument at the ballot summary, the accuracy attack is likewise without merit. The summary advises the voter that anyone invoking the process must provide "certain information," and that further details are provided in the text. The amendment is allowed to include implementing details so long as they are directly connected with the chief purpose of the amendment. The summary is not required to provide a complete listing of the amendment's implementing details, and as a practical matter could not do so.

A. ***Does Not Amend The Privacy Provision.*** The Smarter Growth amendment does not expressly or impliedly amend article I, section 23, of the Florida Constitution. The right of disclosural privacy that exists under Florida law remains completely intact under the Smarter Growth amendment. This is true because Article I, section 23 by its express terms does not apply to any information made public by law: "This section shall not be construed to limit the public's right of access to public records and meetings ***as provided by law."*** (Emphasis added.) This provision creates an open-ended exception, allowing records and meetings to be declared public "by law," in which case there is not a *violation* of the right to privacy, but rather there is no right to privacy to begin with. Once someone chooses to invoke the petition process as set forth in the Smarter Growth amendment, the law requires the enumerated disclosures to be made, and therefore under the express exception in article I, section 23, the subject records are not

"private." *See Forsberg v. Housing Authority of City of Miami Beach,* 455 So. 2d 373, 374 (Fla. 1984) (no constitutional right of privacy applies to records made public by Public Records Act). At most, then, the Smarter Growth amendment may be said to amend the Public Records Act (Chapter 119, Florida Statutes), or perhaps the State's elections laws (chapter 106), or ethics laws (chapter 112). But a constitutional amendment is not required to disclose any provisions of statutory law that it amends, and does not violate the single-subject rule by failing to disclose impact upon statutes, [cite]

The information a petitioner is required to provide is likewise not subject to the right of privacy because it will become part of the official business records of elections officials, and thus public under article I, section 24, of the Florida Constitution:

> Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board and commission or entity created pursuant to law or this Constitution.

The information required of a petitioner under the Smarter Growth amendment must be submitted to the local government elections official, "the County Supervisor of Elections or City Clerk (or similar election authority for the local

government)." Smarter Growth Am. § (c)(4). Accordingly, the information will become part of the business records of these elections officials, and expressly outside the scope of any right to privacy, by operation of Article I, section 24, of the Florida Constitution.

B. ***Constitutionality Not Justiciable.*** This issue is rendered moot as a matter of law because, as demonstrated above, the constitutional right to privacy does not extend to any record or meeting made public by law, nor to business records of any public body. In any event, it remains clear that if a valid constitutional issue were to be asserted against an initiative (other than those limited issues that are expressly within the scope of these proceedings), the Court would lack jurisdiction to adjudicate such issues. *See Advisory Op. to Atty. Gen. Re Tax Limitation,* 644 So. 2d 486, 489 (Fla. 1994) (Court lacks authority to pass on merits, wisdom, draftsmanship, or constitutionality in advisory-opinion proceedings).

C. ***No Violation of Risht to Privacy.*** Finally, although this issue too is rendered moot by the law holding that no right to privacy attaches to the pertinent records in the first place, it is equally clear that the required disclosures would not run afoul of the right to privacy if it did apply. It merits mention here that the opponent lifts one word out of its context from the Smarter Growth amendment,

changes its intended meaning, and then proceeds to build a privacy argument that

has no foundation whatsoever. That is, the opponent argues that the Smarter Growth amendment requires the petitioner to disclose all Internet sites that the petitioner "visits," which the opponent then portrays as a violation of privacy rights. The argument fails if for no other reason than that it misconstrues the language of the amendment.

In its proper context, the amendment requires the petitioning person to disclose "any Internet address or website owned, operated, or used by the individuals which contains or will contain information on the particular plan or amendment." This requirement is not properly construed as asking the Petitioner to disclose all web sites "visited," as the opponent asserts. [H.D. A. Br. 9-10] In context, the phrase "owned, operated, or used" must be construed in para material, as an attempt to encompass all web sites that the Petitioner may be utilizing, whether through a technical "ownership" status or otherwise, to advance or comment upon the proposed land-use plan change that is the subject of the petition. The phrase is intended to use synonyms to close loopholes that Petitioners might otherwise assert in an attempt to deprive interested persons of a full understanding of the Petitioner's goals and reasons for filing the Petition. There is no constitutional violation in requiring the person initiating this petition process to provide full and frank access to the reasons it is being done.

The opponent advances another misplaced argument by comparing the disclosure requirements for persons initiating a Growth Management petition to the disclosures required to register to vote. [HD A. Br. 8-9] That is the wrong analogy. The right analogy is to compare petitioners to candidates, and to committees supporting or opposing candidates or issues. Like candidates and committees, anyone filing a petition for a referendum as provided for in the Smarter Growth amendment is invoking the public elections process, on a specific issue. Under these circumstances, Florida law already imposes substantial disclosure requirements, extending to information generally considered very personal. Candidates must make "full and public disclosure of financial interests," which includes information about net worth, assets, household goods and personal effects, liabilities, sources of income, and ownership interests in business entities. § 112.3144, Fla. Stat. (2007); *see* Form 6, financial disclosure form promulgated by the Florida Commission on Ethics under Rule 34-8, Florida Administrative Code. By law, all such information is public record. § 112.3145, Fla. Stat. (2007).

Similarly, any political committee desiring to support or oppose a candidate or an issue must file organization papers and regular periodic finance reports with the Division of Elections, disclosing extensive information about the officers and finances of the committee, including banking information and all sources and uses of funds. *See, e.g.,* § 106.03, Fla. Stat. (2007). These are all public records.

The Smarter Growth amendment may have the effect of "amending" these and similar existing statutes relating to public records, but the amendment is not required to disclose its impact on statutory law. *See Advisory Op. to Atty. Gen. Re: Prohibiting Public Funding of Political Candidates' Campaigns,* 693 So. 2d 972, 975-76 (Fla. 1997) ("opponents argue that the language is misleading ... [because] the amendment effectively invalidates existing statutory law permitting the public financing of the campaigns for some of the offices at issue ... [thus] has a significant collateral effect, of which many voters may be unaware. We reject this contention."); *Advisory Op. to Atty. Gen. - Limitation of Non-economic Damages in Civil Actions,* 520 So. 2d 284, (Fla. 1988) (amendment approved although not mentioning existing statutory law; "statutes and jury instructions which are inconsistent with the constitution, if it is amended, will simply have to give way. ... [P]roposed amendments to the constitution are not required to be consistent with statutory law or jury instructions and may require modification in such law or instructions.").

Requiring disclosure of financial interests so that affected persons and voters may discern any potential conflicts of interest is a principle already well-grounded in Florida law, and does not amend any provision of the Florida Constitution. As already noted, candidates and committees are required to disclose their financial interests including ownership interests in business entities and property. These

requirements are very similar to the Smarter Growth amendment's requirement that a petitioner disclose "any information indicating whether they have a financial interest in the particular plan or amendment which is the subject of the Petition (including interests involving personal, commercial or other land uses affected by the plan or amendment)." Smarter Growth Am. (c)(4). This requirement is, obviously, intended to provide voters with pertinent information about the motivation and potential gain being sought by someone invoking the petition process.

An individual who seeks to invoke this petition process, at great public expense, ought to expect to be subject to scrutiny as to motivation and interests. Someone who is trying to manipulate a real estate market, or make a personal or business profit by supporting or opposing any given land-use change, or to thwart a competitor's plans, and to do so at public expense, in fairness ought to be forthcoming with this information. The public has a right to know, in order to evaluate the referendum question in light of all relevant circumstances.

This is the same reasoning that underlies all current laws mandating disclosure of financial information and information about ownership interests. Similar requirements are imposed in many contexts, such as laws requiring lenders to disclose any ownership interest they may have in title insurers and property appraisal companies, or requiring doctors to disclose their ownership interests in

health care facilities or equipment before referring patients there. *See, e.g.,* § 456.052, Fla. Stat. (2007) (forbidding health care providers to refer patients to other providers in which the referring physicians have any investment interest, without disclosing that interest); § 193.1556, Fla. Stat. (2007) (as amended by SB 1588 (2008), requiring persons or entities that own real property to notify the Property Appraiser of changes in ownership or control in certain circumstances). It is no violation of the right to privacy to require disclosure of this information in order to avoid conflicts of interest and provide all relevant information. To bring it back to the present context, it does not amount to an amendment of any provision of the Florida Constitution, the right of privacy or any other, to mandate this kind of disclosure. The Court should reject these arguments and approve the Smarter Growth amendment for placement on the ballot.

II. THE BALLOT TITLE AND SUMMARY ARE ACCURATE AND NOT MISLEADING.

The opponent asserts that the summary is misleading for failing to disclose its impact on the right to privacy [H.D. A. Br. 4], which was demonstrated to be without merit in the preceding discussion. In further attacks on the ballot summary, the opponent argues that the summary is misleading by failing to include additional detail about the requirements of the petition process [H.D. A. Br. 13-20], and by failing to explain that the sponsors intend for the Smarter Growth amendment to defeat the Hometown Democracy amendment or other competing measures on the

same subject matter. [H.D. A. Br. 21] Neither argument provides a sufficient reason to strike the amendment from the ballot.

A. *The Summary Description of the Process is Accurate and Not Misleading.* The opponent presents substantially the same argument on this point in its Initial and Answer Briefs [H.D. In. Br. 24-29; H.D. A. Br. 13-20] The gist of the argument is that the opponent believes the ballot summary should have included much more information about the implementing details of the amendment. The opponent argues that the summary should have done the following:

- included the specific phrase "limited opportunity" from the preamble to the amendment;
- set forth a list of the definitions provided in the text of the amendment, including the defined phrases "Florida Growth Management Initiative Petition," "Offer a Florida Growth Management Initiative Petition," and "Growth Management Plan";
- explained how the terms are defined in the text, rather than merely advising the voter that the amendment "defines terms and establishes petition requirements";
- explained in detail the requirements for initiating and signing a growth-management initiative petition; and

• that the text of the amendment should have used more or different synonyms for "growth management plan," of which the opponent identifies approximately seven, rather than using the catch-all phrase "or similar document."

The last alleged flaw does not go to the ballot summary at all, but rather to a defined term within the text. Even putting that aside, the ballot summary could not possibly satisfy the opponent's demands within the 75-word limit. If it included all of that, it would cease to be a summary at all.

The 75-word limit (which, tellingly, does not apply to Legislatively-sponsored amendments) is surely inadequate in some cases, but there it is, and the drafters of amendments must work within its strict limits. Complex concepts and detailed provisions must be boiled down to their core essentials. Recognizing those constraints, the Court has always understood that ballot summaries cannot, and therefore *need not,* include every detail of the amendments. Rather, the rule is that the summary must disclose ***only*** the "chief purpose" of the amendment: "The substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure." § 101.161(1), Fla. Stat. (2007). The summary must do this in language that is not "materially misleading to the public." *Advisory Op. to the Att'y Gen. English-The Official Language of Florida,* 520 So. 2d 11, 13 (Fla. 1988) (differences in wording between summary and text of amendment will be approved if not

materially misleading). These rules of law do not demand so much of the ballot summary as Hometown Democracy demands here, and therefore the Court should reject the opponent's arguments.

Because most of the opponent's arguments on this point were raised in its Initial Brief and already addressed in Floridians' Initial Brief, discussion of this point threatens to deteriorate into a "does not-does too" exchange. To recap the argument briefly, the ballot summary of this amendment fairly and accurately discloses the "chief purpose" of this measure, as follows:

> Allows Floridians to call for voter approval of changes to local growth management plans through a citizen petition.

That one sentence completely captures, in fair, accurate, and not misleading summary fashion, the chief purpose of the amendment. The summary nevertheless proceeds to disclose key details of the implementing provisions contained in the text of the amendment:

> Voter approval of growth management plan changes will be required if 10% of the voters in the city or county sign a petition calling for such a referendum. Defines terms and establishes petition requirements.

These additional disclosures advise the voter that there are certain requirements attached to the petition process, which details are available upon review of the text of the amendment itself. The requirement that 10% of voters in the pertinent jurisdiction sign the petition is disclosed. The fact that the

amendment itself defines terms is disclosed. In short, the summary discloses the chief purpose of the amendment, and provides enough additional information for the voter to understand what is at issue, and to know that further details are included in the amendment itself. This is all that the law requires, and probably more than is strictly required. The law is not as demanding as the opponent portrays it.

The majority of the opponent's arguments in this section challenge the Smarter Growth amendment on its merits, not on its summary. The opponent claims that the "right" is not what the opponent considers much of a right, because it is subject to detailed requirements. At present, citizens have no right to force a referendum on changes to their growth management plans, and this initiative is not intended to allow citizens to attack their growth management plans at the drop of a hat (in contrast to the Hometown Democracy amendment which would require referenda on *every* change). However, if the Smarter Growth Initiative is adopted, citizens will have an opportunity to seek a referendum that they did not have before. The opponents are simply complaining about the requirements necessary to exercise that opportunity. That is a matter of opinion, and the title and summary certainly do not pretend that there are no requirements attached to exercising that right; quite the opposite, they fairly disclose that there are additional requirements.

Hometown Democracy also argues that the summary should have disclosed that voters wishing to sign the petition must go to a governmental office to do so, which the opponent considers a "unique new requirement," and one that rises to constitutional proportions because of the price of gas. [H.D. A. Br. 17] Presumably, then, if the price of gas drops or voters are able to use public transportation or other means to go sign the petitions, the alleged constitutional crisis is averted?

Hometown Democracy overlooks the existing statutory example on which the in-person signature requirement was based, although that statute is specifically referenced in the preamble to the Smarter Growth amendment. Section 550.175, Florida Statutes (2007), requires voters to go to the court clerk's office *and* sign in the presence of the board of county commissioners to petition to revoke a pari-mutuel permit: "in the presence of the clerk of the board of county commissioners at the office of the clerk of the circuit court of the county." There is ample additional precedent for being required to visit a governmental office in order to obtain a governmental benefit or permit or certificate or take advantage of some other governmental process. In recent years in particular, a very large number of voters have taken advantage of "early voting," which requires them to go to the courthouse to cast their ballot. The argument that the in-person requirement is

unprecedent and too onerous is merely another expression of the opponent's opinion on the merits of the proposal, which is irrelevant here.

The specifics of the petition process, including the specifics of voters' signing in support of the petition, are implementing details that are directly connected with the chief purpose of the amendment and thus properly included in the amendment, but need not be disclosed in the summary. This summary expressly discloses that a sufficient number of voters must sign the petition, and that the amendment "establishes petition requirements." This satisfies the legal requirements and does not mislead the public. The Court should reject this argument as well, and approve the Smarter Growth amendment for placement on the ballot.

B. *The Intent to Defeat Competing Measures Need Not Be Disclosed.*

It merits emphasis at the outset that this attack is directed to language that forms no part of the constitutional language itself. Rather, the challenged language appears only in the "preamble" describing the context in which the amendment is offered and the sponsor's political motivations for offering it. The preamble does not become a part of the Florida Constitution. *See Advisory Op. to Att'y Gen. re Protect People From The Health Hazards Of Second-Hand Smoke,* 814 So. 2d 415, 422 n.8 (Fla. 2002) (preamble language did not become part of constitutional text and therefore did not create a single-subject issue).

Further, the opponent is inappropriately taking the language out of its context. The challenged language appears at the end of that prefatory discussion: "This amendment is intended to modify existing law, permit flexibility in future growth management-related legislation (except rules which would affect voters' ability to petition for referenda), and pre-empt or supersede recent proposals to subject all comprehensive land use plans and amendments to votes, thus balancing competing interests without over-burdening voters." *After* this statement, comes the actual language of the constitutional amendment.

This language is exactly what it seems to be, given its placement in the preamble and its stated purpose of explaining why it is being presented. The sponsor has made no secret of the fact that it opposes the Hometown Democracy amendment, which would require a vote on *all* land-use plan changes, precisely because it does impose such a "vote on everything" requirement. The very reason for the existence of the Smarter Growth amendment - down to its title, phrased in the comparative - is to offer a more reasonable alternative that would allow referenda under controlled circumstances, when the seriousness or potential ramifications of a proposed land-use change merits voter intervention, but without subjecting local governments, voters, and interested persons (affected landowners) to the very substantial financial and logistical burdens of a "vote on everything." Obviously, then, this amendment is being offered to defeat the Hometown

Democracy amendment, or anything like it. That the preamble says so is no reason to strike the amendment itself from the ballot.

There is no requirement that the summary explain the sponsor's political motivation. Quite the contrary, the Court has repeatedly and decisively ruled that the ballot summary is no place for political rhetoric. The summary is to "tell the voter the legal effect of the amendment, *and no more." Evans v. Firestone,* 457 So. 2d 1351, 1355 (Fla. 1984) (emphasis added). The Court need look no further than the original Hometown Democracy proposal to resolve this issue, because there the Court struck the amendment from the ballot because its summary related the sponsor's motivation for promoting the amendment, which was not an accurate reflection of the chief purpose of the amendment. *Advisory Op. to the Att'y Gen. re Referenda Required for Adoption and Amendment of Local Government Comprehensive Land Use Plans,* 902 So. 2d 763, 771 (Fla. 2005) ("Although this [preserving scenic beauty and natural resources] may be the sponsors' reason for promoting the amendment, the chief purpose of the amendment itself is to require referenda before there can be *any* changes to or adoptions of comprehensive land-use plans.")

Under these authorities, if Floridians had expressed in the summary the group's political motivations as explained in the preamble, the summary would have been subject to attack for doing so. As written, the ballot summary fairly and

accurately discloses the chief purpose and legal effect of the amendment, and goes further to provide key details and to advise the voter to refer to the text of the amendment for additional information. The summary is required to do no more.

Finally, the Court should reject outright Hometown Democracy's attempt to twist the preamble into a substantive change in the law of elections. [H.D. A. Br. 21] This language forms no part of the operative language of the amendment and will not appear in the constitution. In its context, it is correctly seen to be a statement of political purpose and not an attempt to restate or remake Florida law on elections.

CONCLUSION

The Smarter Growth amendment satisfies the governing legal requirements for the title, ballot summary, and text of a citizens' initiative. The Court should approve it for placement on the ballot.

Respectfully submitted this 17th day of July, 2008.

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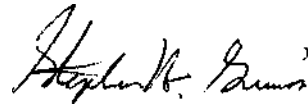
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by United States mail to the Honorable Bill McCollum, Attorney General, The Capitol, PL-01, Tallahassee, FL 32399-1050; and to counsel for the opponent, Hometown Democracy, Ross Stafford Burnaman, 1018 Holland Dr., Tallahassee, FL 32301, this 17th day of July, 2008.

Attorney

CERTIFICATE OF TYPEFACE COMPLIANCE

Pursuant to Florida Rule of Appellate Procedure 9.210(a)(2), I HEREBY CERTIFY that this brief was prepared using Times New Roman 14 point type, a font that is proportionately spaced.



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