

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC13-1882

L.T. Case No. 1D12-2116

WALTER E. HEADLEY, JR., MIAMI LODGE #20,
FRATERNAL ORDER OF POLICE, INC.,

Petitioner,

vs.

CITY OF MIAMI,

Respondent.

**RESPONDENT'S SUPPLEMENTAL
JURIDICAL BRIEF**

ON DISCRETIONARY REVIEW
FROM THE FIRST DISTRICT COURT OF APPEAL

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OTHER AUTHORITIES

§ 447.4095, Fla. Stat. 1-2

SUMMARY OF ARGUMENT

The Union asserts that this Court should accept review of the decision of the First District Court of Appeal in this case based on conflict with the Fourth District Court of Appeal decision in *Hollywood Firefighters v. City of Hollywood*, 39 Fla. L. Weekly D 107 (Fla. 4th DCA Jan. 8, 2014). Review in this case is neither necessary nor warranted. The interpretation of section 47.4095, Florida Statutes, by the First District did not violate the Florida Constitution. The financial circumstances faced by the City of Miami were not comparable with the situation faced by the City of Hollywood. In any event, there was competent substantial evidence that funds were not available from any other possible reasonable source which would have satisfied the standard set forth in *Chiles v. United Faculty of Florida*, 615 So. 2d 671 (Fla. 1993). Thus, the Supreme Court should decline jurisdiction over this case.

ARGUMENT**THIS COURT SHOULD DECLINE TO EXERCISE ITS JURISDICTION IN THE PRESENT CASE.**

Following the original briefs on jurisdiction, the Fourth District Court of Appeal filed its opinion in *Hollywood Firefighters v. City of Hollywood*, 39 Fla. L. Weekly D 107 (Fla. 4th DCA Jan. 8, 2014), certifying conflict with the opinion of the First District in this case. The City submits that notwithstanding the certification of conflict, review should be declined in this case.

The interpretation of section 47.4095, Florida Statutes, by the First District did not violate the Florida Constitution. The definition of financial urgency formulated by PERC and the First District requires proof of a compelling state interest as required by the Constitution. The First District did not adopt the rational basis test or any other deferential standard. As stated in the City's original jurisdictional brief, this test for evaluating the existence of a financial urgency does not expressly and directly conflict with the decision in *Chiles v. United Faculty of Florida*, 615 So. 2d 671 (Fla. 1993). The First District did not suggest that its standard differed "significantly" from *Chiles*. This standard set forth by the First District may be worded slightly differently, but it is substantially similar, if not the same

in actual application, as the test enunciated in *Chiles* and meets constitutional standards.

The First District found that the evidence established that the City's budget was approximately \$500 million and that it faced a deficit of approximately \$140 million for the 2010/2011 fiscal year; that the City had already implemented hiring freezes, completed all previously contemplated layoffs, ceased procurement, and instituted elimination of jobs as employees left; that labor costs comprised 80% of the City's expenses; that, if additional action was not taken to reduce expenditures, the City's labor costs would exceed its available funds, which would leave the City unable to pay for utilities, gas, and other necessities and render it unable to provide essential services to its residents; and that the City's unemployment rate was 13.5% and property values were in decline, with 49% of homes in the City having a negative equity.

As summarized above, the circumstances under which the City of Miami declared a financial urgency under the statute were not comparable to the situation facing the City of Hollywood. As argued before the First District, there was an abundance of competent substantial evidence in support of the fact that the funds were not available from any other possible

reasonable source which would have satisfied the standard in *Chiles* in any event. Therefore, this Court should decline review in this case.

CONCLUSION

Based on the foregoing, and the arguments and authorities in the City's original jurisdictional brief, the City of Miami respectfully requests that this Court decline discretionary jurisdiction over the decision of the First District Court of Appeal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been emailed

this 25th day of MARCH, 2014 to:

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this brief was prepared using Times New Roman and the size is 14-point font.

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