

FREQUENTLY ASKED QUESTIONS & ANSWER SHEET PROPOSED CONSTITUTIONAL AMENDMENT 4: "HOMETOWN DEMOCRACY"

If approved at the November 2, 2010 election, proposed Constitutional Amendment 4: Hometown Democracy ("A4") will require a new vote by the electorate in your municipality or county whenever there is a proposed change to your community's local government comprehensive plan ("Comp Plan"). Changes to a Comp Plan include approving new development as well as approving community enhancing such as changes to allow transit and institute traffic calming devices. The Florida Bar's Real Property, Probate & Trust Law Section has drafted this information sheet to explain the technical issues raised by A4.

Q: How Will A4 Affect Different Types of Comp Plan Amendments?

A: A4 will affect all Comp Plan amendments. While A4 is intended to stop growth, as drafted A4 will also affect important health and safety matters, including public safety needs such as traffic calming; allowing community services such as hospitals, landfills and affordable housing; or even compliance with state and federal requirements in order to avoid losing state and federal money. These issues are important to the community as a whole. Nevertheless, those in the immediately impacted neighborhood known as "not in my back yard" (NIMBY) groups frequently are the only people who organize and vote to oppose these public safety needs. Thus, A4 undermines the process of orderly regular elections, blocking your elected councilpersons and commissioners, and planning professionals responsible to them, to institute thoughtful long-term planning and funding efforts.

Q: How Will A4 Impact Representative Democracy?

A: While the stated goal of A4 is anti-corruption and neighborhood control, instead it promotes more opportunities for developers and rich corporations to dominate and control media efforts that get out the vote, or stymie voting. We will see it at every special election – developers and their interest groups escalating spending and advertising for development oriented causes. Instead of encouraging public participation, and governmental officials and planning professionals to preserve a better Florida, growth will be driven by deep-pocket special interest groups that can pay for expensive advertising in communities where a plan change is desired.

Q: How Will A4 Impact Voters?

A: As Florida voters struggle to become adequately informed on possibly 200 to 300 intricate land use planning amendments each year, they will become less involved – abandoning the ballot box to a not-in-my-back-yard (NIMBY) mentality or parroting the opinions of the media and advertisers, if they bother to vote at all. By gutting representative democracy, A4 will turn important decisions over to unchecked special interest groups. Increased ballot length has led to longer lines at polling places, especially during Presidential elections.

Q: How Will A4 Fiscally Impact State and Local Governments?

A: A4 has the potential to clog future ballots with complex proposals for changes and repeatedly drag voters to the polls to approve every future change to a local or county government's comprehensive plan. A4 would cause local governments to incur additional costs depending on the kind and frequency of referendums and the expenses would include ballot preparation and administration.

Q: Will A4 Solve Development Issues and Limit Law Suits?

A: No, it will do neither. Vague and ambiguous language will inevitably lead to legal challenges, especially because of the clash between moneyed interests and NIMBY efforts. At the most fundamental level, the proposal does not define what types of amendments to a comprehensive land use plan require voter approval. As currently drafted, every change, whether technical, or otherwise, would necessitate a referendum. In addition, the proposal will spawn additional costly litigation concerning:

- * How or when the referendums must be held?
- * Whether each proposed change requires a separately vote, or collectively vote, or a separate election?
- * Who must, or who can write the ballot language?
- * How to summarize the hundreds of pages of proposed amendments into 75 words or less to comply with statutory requirements?
- * Who pays for the increased costs of these new, multiple elections?
- * What happens when a local government is unable to comply with state or federal laws when voters do not approve a required proposal?

These are just some of the legal challenges facing you, your municipality and county if A4 is adopted by the voters in November. For these reasons and others, The Florida Bar's Real Property, Probate & Trust Law Section opposes A4 and urges you to vote no on A4 in November.