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March 10, 2006

Ms. Amy J. Baker
Coordinator
Office of Economic and Demographic Research
The Florida Legislature
Room 576, The Pepper Building
Tallahassee, Florida 32399

Dear Ms. Baker:

These comments are submitted on behalf of Florida Hometown Democracy, Inc. ("FHD"). FHD is a political action committee that is the sponsor of a citizen's initiative to amend the Florida Constitution. The petition was filed with the Division of Elections on June 20, 2005 and was assigned Serial Number 05-18.

The text of the FHD initiative is identical to the text that was reviewed previously and which FHD briefed in Case No. SC04-1479. The Florida Supreme Court did not consider the merits of that case, however, since the 2003 initiative was not approved for ballot consideration.

Section 100.371, Florida Statutes (2005) speaks to the "estimated increase or decrease of any revenues or costs to state or local governments resulting from the proposed initiative."

Under present general law, many local government amendments to existing comprehensive land use plans may be submitted for local referenda consideration pursuant to Section 163.3167(12), Florida Statutes. As noted by the Florida Supreme Court, the proposed amendment expands a procedure that is already authorized by that statute [citing Section 163.3167(12), Florida Statutes (2004)].

The frequency with which existing local governments adopt comprehensive land use plan amendments under existing statutes is highly variable. It is probable that the requirement of a referendum election to consider whether or not to adopt an amendment will decrease the frequency of such amendment proposals, thereby resulting in decrease costs. Of course, the Legislature is free to place limitations on the frequency of plan amendments.

The timing of elections to consider comprehensive land use plan/amendment referenda could coincide with a scheduled general election, or a special election on another matter such as a bond referendum. If so, then the additional cost to place the referendum on the ballot would be minimal. FHD previously provided "cost of election" information in conjunction with the similar 2003 initiative. Supervisors of Elections are the best source of "cost of election" information.

In point of fact, the "probable financial impact" of the initiative, if any, cannot be readily determined and that the Financial Impact Statement should state:

The financial impact of this measure, if any, cannot be reasonably determined at this time.

I have reviewed the comments submitted by John French, Esquire, and by Hank Fishkind in late February, 2006, and offer the following remarks with regard to those comments.

Mr. French's letter

According to the Division of Corporation's records, Mr. French is not affiliated with the "Foundation to Protect Florida's Future. Inc."

Mr. French's comments are roughly based upon existing Florida Statutes, but the Legislature is free to amend the statutes concerning local governments, comprehensive planning, and elections, consistent with the Florida Constitution.

The proposed initiative does not preclude a local government from the requirement that an applicant for a comprehensive plan amendment pay the cost of a special election called to consider a referendum on the applicant's plan amendment. Existing law recognizes that an applicant can be required to pay for public notice. Section 163.3187(5), Florida Statutes (2005). In practice, local governments sometimes charge an application fee for plan amendments initiated by landowners or developers.

The incremental cost of conducting a referendum in conjunction with either a general election, or a special election at which another issue is to be considered, would be minimal.

Florida Statutes anticipate that elections may be conducted under some circumstances by "secure electronic means. Section 101.697, Florida Statutes (2005). Nothing in the proposed initiative prevents the broader use of electronic voting, which could be expected to reduce costs to local governments for conducting elections.

The number of plan amendment cycles is highly variable. Although there is a twice-per-year limitation, some local governments do not amend the Plan that often. One cannot make the assumption that "referenda are likely to occur in counties comprising at least 95% of the registered voters of the State."

Obviously, an additional cost of special elections would serve as a disincentive on the frequency of plan amendments.

Dr. Fishkind's letter

Most of the highly speculative and unsubstantiated economic impacts are irrelevant to the development of a financial impact statement since they are simply not related to the "estimated

increase or decrease of any revenues or costs to state or local governments resulting from the proposed initiative."

Dr. Fishkind's "analysis" lacks any citation to authority, apart from reference to an unadopted "Fiscal Impact Analysis Model" -- the stated purpose of which is unrelated to the implementation of the proposed Constitutional amendment.

Dr. Fishkind apparently assumes that voters would always vote against "up-planning" or increases in development densities or intensities, while local governing bodies will vote in favor of plan amendments. Such assumptions are mere speculation. No one can know how voters or commissioners will vote on future proposed plan amendments.

It is unlikely that local governments, or State government, would expend money for "campaigns" and Dr. Fishkind's speculation about a \$25,000,000 cost per year is not an impact to state or local government, even if it had any basis in fact (which it lacks).

There is no documented basis in fact to state that "new development not only fully pays its own share of added infrastructure and costs, but often provides significant fiscal surpluses for local governments" and that "existing development typically does not pay its own share of the costs necessary to provide governmental services and infrastructure." To the contrary, the Florida Impact Fee Review Task Force (Task Force) Final Report (February 1, 2006) documents that many local governments do not charge impact fees that fully mitigate costs to local governments. The "White Paper" submitted by Dr. Nicholas to the Task Force contains a table that indicates impact fee use by counties for 12 categories. (page 6). Moreover, if new growth had fully paid for itself, the passage of CS/CS/CS for SB 360 in 2005 "pay as you grow" legislation would not have been necessary. Even if new growth was shown to pay for itself, Dr. Fishkind appears to assume that the referendum requirement would result in denial of increases in the density or intensity of new development, but that local governing bodies would reach a contrary result; which is not necessarily true in either circumstance.

Dr. Fishkind omits to mention that most local government comprehensive plans are "overallocated" and without any plan amendments to increase density or intensity, existing land use density and intensity limits can accommodate projected population growth for many years.

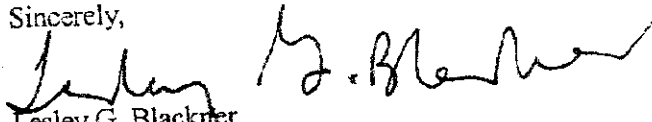
Conclusion

FHD believes that the "probable financial impact" of the initiative, if any, cannot be readily determined and that the Financial Impact Statement should state:

The financial impact of this measure, if any, cannot be reasonably determined at this time.

Thank you for your consideration.

Sincerely,



Lesley G. Blackner

President, Florida Hometown Democracy, Inc.