

# Environmental & Land Use Law Center, Inc.

Shepard Broad Law Center · Nova Southeastern University  
3305 College Avenue · Ft. Lauderdale, Florida 33314  
Phone (954) 262-6140 · Fax (954) 262-3992

Treasure Coast Office  
224 Datura Street, Suite 201  
West Palm Beach, Florida 33401  
Phone: (561) 653-0040  
Fax: (561) 653-0041

Martin County Office  
2336 SE Ocean Blvd. PMP 110  
Stuart, Florida 34996  
Phone: (561) 463-9598  
Fax: (561) 288-2261

*A tax exempt Florida not-for-profit corporation pursuant to Section 501(c)(3) of the Internal Revenue Code.  
Dedicated to representing the public interest in environmental and land use matters.*

## Board of Directors

Thomas T. Ankersen, President  
Richard Hamann, Treasurer  
Laurie Ann MacDonald  
Joel Mintz  
David White  
Janet Reno

## Executive Director / General Counsel

Richard J. Grosso

## Treasure Coast Regional Counsel

Lisa B. Interlandi

## Martin County Regional Counsel

Joan Perry Wilcox

## Of Counsel

Brion L. Blackwelder

August 15, 2003

## **STATEMENT ON THE FLORIDA HOMETOWN DEMOCRACY INITIATIVE**

Citizen initiatives requiring voter approval of land use plan amendments (known as “direct democracy”) have consistently been approved by the courts. The proposed “Florida Hometown Democracy” Initiative, which would require local citizen approval of changes to city and county land use plans, appears to be a proactive response to the widespread lack of effective implementation and enforcement of the current growth management law. People have seen Florida’s special communities and natural resources be lost or forever changed for the worse even though we have had a strong growth management law on the books for nearly twenty years. That law leaves much room for interpretation and allows either excellent planning or terrible planning. Unfortunately, the law has frequently not been applied or interpreted to protect what it was intended to protect or accomplish what it was intended to accomplish. One of the primary reasons for this failure is the typical inability of local officials to resist the influence of developers, landowners, and related industries, coupled with the state’s failure to use its legal authority to intervene. Despite the abundant legal authority, modern planning tools, and facts which show that good planning is also good economic policy, in too many places, too often, it has been as if the law and the facts did not exist.

There is a huge disconnect between the best short and long term interests of Florida and the actions that have typically been taken by Florida’s political structure. With apologies to the many state and local officials and planners who have made great efforts to plan in the public interest, the bad planning decisions have far outweighed the good in terms of numbers and impact. A true growth management ethic - that strong planning is good for Florida and not something to be “gotten around” - has not predominated. A process which affects everything from public health and ecosystem protection to affordable housing, school crowding, community preservation, traffic congestion and crime has instead been wrongly treated as speed bump on the road to economic nirvana. Tragically, the reality of why it is important to manage growth has been overwhelmed by political influence. The Hometown Democracy Amendment represents the taxpayers and residents of Florida stepping in to fill the leadership void that has long existed in this state on growth issues.

Growth management needs to be a front page issue, and the Hometown Democracy amendment has made it that, focusing attention on the failure of the state and so many local governments to do what is best for the majority of Floridians. Florida's growth problems have only gotten worse in recent years, and public demand for increased enforcement and state oversight under the existing law has been largely ignored. People are seeing the state they love ruined and know that we must act now - and act boldly- if we are to save Florida.

While the concern has been raised that the Hometown Democracy Initiative may be over-broad in its protections, the current state of affairs is exceedingly "under-broad" in its protection. Currently, changes that weaken comprehensive plans and allow bad planning decisions far out number changes that strengthen plans and require good development decisions.

Other concerns have been raised about how the proposed Initiative would be implemented. It is argued that the Initiative would increase the time it takes to amend land use plans by requiring all proposals to be considered at the same time on an election ballot. That is good. Currently, land use plans are amended far too frequently and typically in response to applications by developers for individual projects. Consequently, planning that is supposed to be "comprehensive" by considering changes in terms of their collective impact on the entire community, is instead not planning at all; it is simply a process of reacting to individual specific development proposals.

What's more, frequent amendment of land use plans is unnecessary. Current plans now in effect already allow much more development than is expected to actually occur. There is no real need to expand urban development into rural and environmentally sensitive areas. Far greater is the need to strictly protect our farms, ecosystems and communities as much as possible. What is at stake in Florida - its natural character, its unique communities, its children's future - is too high not to err on the side of caution. Under the current practice, growth will continue until it meets some unavoidable limiting factor. Given the previous track record and ambitions of major landowners and developers to manipulate water resources, natural habitats like wetlands, and the political landscape, that point will likely only be reached when Florida is no longer a desirable place to live. As stated by noted Harvard ecologist E.O. Wilson, "growth only for the sake of more growth is the strategy of a cancer cell."

Another concern expressed is that requiring voter approval of comprehensive plan changes will take these decisions out of the hands of the "professionals" who understand planning and turn them over to uninformed popular opinion. The notion that the voters can't understand basic facts about community and environmental impacts affecting their lives is offensive. Currently, the facts and the opinions of informed expert planners are frequently ignored by the politicians, in favor of the dominant political interests. Anyone who has been forced to spend hundreds of thousands of dollars and several years of their life to bring a successful lawsuit overturning a development decision which ignored the facts and law knows how much respect the best facts and information currently receive. The state's political structure has failed the trust and responsibility granted to it by the people, who almost assuredly can do a better job if they take that power back. Fears that voters will not approve good development projects - like necessary affordable housing and public facilities - are unfounded. The majority of citizens are smarter and better - motivated than those who would rather continue to control the process privately would lead you to think. What the Initiative process would foster is local political leadership and private - sector campaigns to "sell" good planning and development proposals to the public. The professional planning "facts" and "opinion" would likely have more influence under that system than they do under the current system.

The state's growth management policy must change drastically, and immediately, if we really care about the future of Florida. The Florida Hometown Democracy Initiative can help lead that change.