

Editorial Page



Why I will vote 'no' on Amendment 4

By **Mary Hurley**

Pineloch Management Corp.

The purpose of a constitution is to define the principles of an autonomous political entity, to establish the relationship of its branches and the structure, procedures, powers and duties of a government.

The use of our Florida Constitution for any other purpose is a misuse. It should not be used to circumvent the powers of the duly elected - as this runs counter to the purpose of a constitution.

With that in mind, I will vote "no" on Amendment 4 because I see it as unconstitutional, and it has not been explained why it is not.

Amendment 4, as you may know, would require all amendments to local comprehensive plans to come before the voters for approval. I interpret Amendment 4 as imposing the fundamentals of a direct democracy upon the fundamentals of



Mary Hurley

the representative democracy under which this country and this state are governed.

The United States is a republic, and a republic doesn't practice direct democracy but, rather, has a government indirectly controlled by its people. The power to govern is granted to elected representatives.

The representatives are elected by the people to act in their interest; however, these representatives retain the freedom to exercise their own judgment as how best to do so. If the people do not agree with the judgment of the elected officials, then the officials may be voted out of office. In our political structure, nowhere is an elected official's decision affecting an individual's right subjected to a referendum.

Our founding fathers defined "republic" as a representative democracy rather than a direct democracy. They were very much aware that, under a direct democracy without constitutional protections for individual liberties, individuals would

be oppressed by the "tyranny of the majority." Civil liberties are protected for personal interests and are not subject to the majority.

Under our U.S. Constitution, individuals are guaranteed equality and freedom, and, as equals, all citizens are guaranteed equal access to power and have the right to petition elected officials for redress of grievances, due process, civil liberties and human rights without being subject to a majority vote.

The right to own property is an unalienable right - with all property owners having the right of equal access to elected officials regarding the use of their property. Amendment 4 does not limit itself to developers; it affects all property owners regardless of the size, location or use.

In the Federalist Papers authored by James Madison, it is noted that a democracy would become weaker as it became larger and would "suffer violently" from the effects of faction; whereas, a republic would

become stronger as it became larger and combat faction by its very structure because the rights of an individual are weighted against the majority.

I view Amendment 4 as running contrary to the individual rights guaranteed under our Constitution. Amendment 4, if passed, would set a very dangerous precedent and could endanger other constitutionally protected rights.

I will always vote to protect the unalienable rights of an individual to retain powers under the Constitution as a check against the will of a direct majority, and I will continue to vote to maintain the rightful and legitimate use of our Constitution.

For these reasons, I will vote "no" on Amendment 4 on Nov. 2, 2010.

Mary Hurley, CCIM, LEED AP, RPA, real estate and leasing manager of Pineloch Management Corp., Orlando, is 2010 president of NAIOP Central Florida, the Commercial Real Estate Development Association, and co-chairs Orlando's Task Force for the Orange/Michigan Vision Plan.

GUEST COLUMN

Florida Real Estate
Journal

Established 1993

150 Third Street, S.W.

Winter Haven, FL 33880-2907

Phone: 863-294-2812

Toll-Free: 800-274-2812

Fax: 863-299-3909

Web: www.FREJ.net

Publisher

Kenna Rogers

Editor

Robert Pitts

(rpitts@FREJ.net)

Chief Financial Officer

Denise Harwell

Creative and

Production Director

Ron Palfrey

Production Manager

Diane Traylor

IT Director

Jay Hook

Circulation

Cheryl Watwood

Contributing Editor

Larry Thornberry

RENI Publishing

President and CEO

D. Joe Jensen

Florida Real Estate Journal is published by RENI Publishing, with its coordinating headquarters at:

150 3rd St., S.W.,

Winter Haven, FL 33880-2907

For advertising and subscriptions, call 863-294-2812 or toll-free 1-800-274-2812. Subscription rates in the U.S. are \$110 a year, \$160 for two years or \$199 for three years. Single copies are \$10. Florida Real Estate Journal is published on the 1st and the 16th of each month by RENI Publishing.