

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

ROBERT BRUNER and
KATHERINE S. BRUNER,
husband and wife, DEBORAH E.
PLITNICK, and STANLEY C.
CHAMBERLIN, individually and
as representatives of similarly
situated persons,

Appellants/Cross-
Appellees,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D08-5524

v.

BERT HARTSFIELD, in his
official capacity as Property
Appraiser of Leon County,
Florida; DORIS MALOY, in her
official capacity as Tax Collector
of Leon County, Florida; LEON
COUNTY, a political subdivision
of the State of Florida; the LEON
COUNTY SCHOOL BOARD;
FRANK DESGUIN, in his official
capacity as Property Appraiser of
Charlotte County, Florida;
VICKIE L. POTTS, in her official
capacity as Tax Collector of
Charlotte County, Florida;
CHARLOTTE COUNTY, a
political subdivision of the State
of Florida; CHARLOTTE
COUNTY SCHOOL BOARD;
GARY NIKOLITS, in his official
capacity as Property Appraiser of
Palm Beach County, Florida;
ANNE M. GANNON, in her

official capacity as Tax Collector for Palm Beach County, Florida; PALM BEACH COUNTY, a political subdivision of the State of Florida; CITY OF NORTH PALM BEACH, a political subdivision of the State of Florida; PALM BEACH COUNTY SCHOOL BOARD, and LISA ECHEVERRI, in her official capacity as Executive Director of the FLORIDA DEPARTMENT OF REVENUE; and all named Defendants, individually and as representatives of similarly situated persons or entities,

Appellees/Cross-Appellants.

Opinion filed November 17, 2009.

An appeal and cross-appeal from the Circuit Court for Leon County.
Charles A. Francis, Judge.

Talbot D'Alemberte of D'Alemberte & Palmer, PLLC, Tallahassee; Marsha L. Lyons and Douglas S. Lyons of Lyons & Farrar, P.A., Tallahassee; William C. Owen of William C. Owen, LLC, Tallahassee; James G. Feiber, Jr., of Salter, Feiber, Murphy, Hutson & Menet, P.A., Gainesville; and William Slaughter of Haskell, Slaughter, Young & Rediker, LLC, Birmingham, Alabama, for Appellants/Cross-Appellees.

Bill McCollum, Attorney General, Scott D. Makar, Solicitor General, Timothy D. Osterhaus, Deputy Solicitor General, Joseph C. Mellichamp, III, Special Counsel, and Jarrell L. Murchison, Assistant Attorney General, Tallahassee; and C.B. Upton

of Arnstein & Lehr, LLP, Tampa, for Appellee/Cross-Appellant Lisa Echeverri, in her individual and official capacities.

Gregory T. Stewart, Harry F. Chiles, and Carly J. Schrader of Nabors, Giblin & Nickerson, P.A., Tallahassee, for Appellees Leon County, Leon County School Board, and Charlotte County School Board.

E. Bruce Johnson and Tamara M. Scrudgers of Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A., Fort Lauderdale, for Appellee Village of North Palm Beach.

Daniel E. Gallagher, Charlotte County Attorney's Office, for Appellee Charlotte County.

James D. Gordon III and Brian M. Beason of Wilkins Frohlich, P.A., Port Charlotte, for Appellee Vicki L. Potts, Charlotte County Tax Collector.

John L. Polk, Punta Gorda, for Appellee Frank Desguin in his official capacity as Property Appraiser of Charlotte County.

Michael R. McKinley and John L. Wideikis of McKinley, Ittersagen, Gunderson, Berntsson & Wideikis, P.A., Port Charlotte, for Appellee Charlotte County School Board.

J. Jeffry Wahlen, Ausley & McMullen, Tallahassee, for Appellee Leon County School Board.

Alice A. Hardy for Appellee Doris Maloy, Leon County Tax Collector.

Robert J. Sniffen, Todd D. Engelhardt and J. David Marsey of The Sniffen Law Firm, P.A., Tallahassee, for Appellee Bert Hartsfield, Property Appraiser of Leon County.

James M. Brako, Office of the Tax Collector, West Palm Beach, for Appellee Anne M. Gannon, Palm Beach County Tax Collector.

Jay R. Jacknin and Jeffrey M. Clyman for Appellee Gary R. Nikolits, Property Appraiser for Palm Beach County.

Andrew M. Pelino, Assistant County Attorney, for Appellee Palm Beach County.

Gerald A. Williams, Chief Counsel, Robert Glassman, and Randall D. Burks, Office of the Chief Counsel, for Appellee School Board of Palm Beach County.

PER CURIAM.

Appellants seek reversal of the final order which dismissed with prejudice their second amended complaint challenging the constitutionality of certain portions of section 4, Article VII of the Florida Constitution. More particularly, appellants have challenged the constitutionality of (i) the “Save Our Homes Amendment” (SOHA) which placed a cap on the amount the assessed value of homestead property could be increased annually, and (ii) Amendment 1, adopted by popular referendum in 2008, which, among other things, made a portion of a homesteader’s existing exemption portable to newly-purchased homestead property. Art. VII, §4(c)(1) and (8), Fla. Const. Appellants argue that these amendments violate several federal constitutional provisions.

This court has already considered and rejected virtually identical constitutional challenges to SOHA in Reinish v. Clark, 765 So. 2d 197 (Fla. 1st DCA 2000), and Lanning v. Pilcher, 16 So. 3d 294 (Fla. 1st DCA 2009). The holdings in Reinish and Lanning that section 4, Article VII is not unconstitutional

for the reasons claimed are not changed by the passage of Amendment 1. Accordingly, we affirm the final order of dismissal.

As for the issue raised on cross-appeal, that the trial court erred in concluding it had subject matter jurisdiction despite appellants/cross-appellees' failure to comply with section 194.171(1), Florida Statutes, this issue is governed by Lanning, 16 So. 3d at 296-97. Pursuant to that decision, we affirm the issue raised on cross-appeal.

The appeal and cross-appeal are AFFIRMED.

VAN NORTWICK, and PADOVANO, JJ., BROWNING, JR., EDWIN B.,
SENIOR JUDGE, CONCUR.