

Florida Hometown Democracy to Ask for Rehearing. We released this statement to the press last Friday: *Hometown Democracy to ask for rehearing on Florida Chamber of Commerce sponsored, "Vote on Nothing" petition.* In a close, 4-3 ruling this week, the Florida Supreme Court narrowly upheld the constitutional amendment proposed by "Floridians for Smarter Growth." That Chamber-backed petition was created **to foil Florida Hometown Democracy**, the people's reform constitutional amendment that would allow local voters to approve or reject comprehensive growth plan amendments approved by their local elected officials. In contrast, the "*Vote on Nothing*" proposal allows a referendum on a growth plan amendment *only* if 10% of the electorate travel to the office of the supervisor of elections to sign a petition within 60 days of the date of the first signature on the petition. The Hometown Democracy sponsors predict that, because of those impossible logistical hurdles to clear, a referendum occurring under those circumstances would be highly unlikely, which, they assert, is the Chamber's plan in the first place. Florida Hometown Democracy will seek rehearing. The full opinion is available at this link: <http://www.floridasupremecourt.org/decisions/2008/sc08-318.pdf> <<http://www.floridasupremecourt.org/decisions/2008/sc08-318.pdf>>

### **Competing planning amendment OK for Fla. ballot By BILL KACZOR**

**Associated Press Writer** TALLAHASSEE, Fla. (AP) -- Florida's 2010 ballot may include two competing citizen initiatives on growth management because the state Supreme Court narrowly cleared a business-backed proposal Thursday. A 4-3 majority ruled the ballot title and summary of the proposed Smarter Growth state constitutional amendment "are not materially misleading." But dissenting justices said "significant details" were left out of the title and summary that also **makes a "patently misleading" promise of a right to decide changes in growth plans.** The title and summary of the other initiative, Florida Hometown Democracy, previously had been cleared by the Supreme Court. It would require voter approval of changes in local comprehensive plans that say what kind of growth can take place and where. Smarter Growth would offer the same thing but only through petitions signed by 10 percent of registered voters in a city or county. What its ballot summary doesn't say, though, is petitions could be signed only in the offices of city clerks and county supervisors of elections and must be completed in just 60 days. "For a retired senior citizen who is living on a fixed income, or a citizen

barely meeting expenses and feeding his or her family, an attempt to invoke this purported 'right' to a referendum would consume both significant time and money," wrote dissenting Justice R. Fred Lewis. He added that gathering the required signatures would "be a practical impossibility." The Hometown Democracy group challenged Smarter Growth, citing the summary omissions, but Justice Charles Wells rejected that argument in the majority opinion, noting citizens currently have no right to approve plan changes. "Because Smarter Growth will not conflict with or restrict any existing rights to subject local growth management plans to local referenda, the lack of detail concerning the petition process does not render the title and summary misleading," Wells wrote.

Hometown Democracy spokesman John Hedrick said the group will ask for a rehearing. It's hopes may lie with Justice Harry Lee Anstead, who indicated he concurred only with the result of the majority opinion, not its reasoning. Anstead's days on the high court, though, are numbered. He's retiring Jan. 5. Hedrick called Smarter Growth a "Trojan horse" because "nothing really is going to change if it's approved." The Smarter Growth group, supported by developers and other business interests, called the ruling a major victory. The group's executive director accused Hometown Democracy of hypocrisy for saying it supports "the will of the people" while trying to keep Smarter Growth off the ballot. That's "just more false statements," Hedrick said. Neither measure yet has gathered enough signatures to get on the ballot. Election officials have not yet calculated minimum signature levels, which will be based on turnout in last month's general election. This year's requirement of 611,009 signatures is expected to increase.

Hometown Democracy is close at 616,571 plus about 13,000 more that are in dispute. That compares to 443,511 for Smarter Growth. It takes a 60 percent vote at the polls to amend the constitution. If both measures pass, Smarter Growth includes a clause saying it takes precedence over any similar measure. Justices Charles Canady and Ricky Polston round out the majority. Justice Barbara Pariente wrote a dissent concurred in by Lewis and Chief Justice Peggy Quince. Pariente also concurred with Lewis' dissent.