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## Court's Blown Call Caused Property Tax Woes

By Robert F. Sanchez

Florida's current property-tax woes could have been avoided if the state's Supreme Court had been more consistent. Twice the Court ruled on lawsuits that easily could have been termed *Neighbor v. Neighbor* because they dealt with glaring inequities in property taxes. The Court got it right the first time but not the second.

That first ruling came in 1982. State officials – fearful of a Florida tax revolt on the heels of California's Proposition 87 – secured passage of a constitutional amendment boosting the homestead exemption to \$25,000.

However, new residents had to wait five years to enjoy the \$25,000 exemption. That provision was challenged in a lawsuit, and the Florida Supreme Court correctly held that the waiting period violated the U.S. Constitution.

A decade later, however, when the proposed Save Our Homes amendment was challenged on similar grounds, the Court wrongly upheld the amendment capping annual hikes in a homestead property's taxable value at 3 percent or the inflation rate, whichever is less. To clarify the Court's contradictory views, consider the core issue in Q&A form:

**State, in 1982:** May we force new residents to wait five years to enjoy the \$25,000 homestead exemption?

**Court:** No, that would create an intolerable inequity: two neighbors, living side-by-side in homes of identical value, but with one paying slightly more in property taxes for five long years.

**State, in 1992:** Suppose two neighbors live side-by-side in homes of identical value, but one must pay substantially higher property taxes -- and the inequity never ends?

**Court:** OK.

Granted, the Court's majority imagined that the legal issues differed slightly. Taxing different properties differently can be constitutional, its decision correctly noted, *if* there's an overriding public purpose such as preserving farm land or, in the Save Our Homes case, promoting the societal benefits of home ownership.

In his perceptive dissent, however, Justice Ben Overton prophetically warned that the cumulative effects of Save Our Homes eventually could have the unintended consequence of actually impeding home ownership.

He was prescient. Consider the plight faced by young couples eager to buy their first home. Often they're on the lower rungs of their career ladders, possibly with a baby on the way and college loans to repay. And saving up for a down payment is hard when they're paying rents inflated

by the property taxes that their landlords pay and pass along.

Then, when they finally seek a mortgage to buy a home of their own, they may well find themselves stymied by property taxes that are double or triple the amount paid by older neighbors who've stayed put in homes of identical value.

Meanwhile, some of those older neighbors – empty-nesters and retirees, rattling around in a large house – may want to move to smaller quarters but are stymied by the prospect of paying much higher property taxes. No wonder so many retirees showed up at recent legislative hearings to complain that they're "trapped" in their homes.

Lawmakers also heard from business owners squeezed by higher property taxes atop rising property insurance. And seasonal residents – "snowbirds" who own homes in Florida but aren't eligible for homestead exemption or the Save Our Homes amendment's tax break – also showed up to complain that they pay higher taxes than homestead-eligible folks who live in Florida year-round and, thus, use government services year-round instead of a few months a year.

Many fiscal conservatives supported the Save Our Homes amendment in good faith, believing that it would force local governments to be more prudent and prevent people from being taxed out of their homes.

Sadly, the amendment has had the unintended consequence of rendering thousands of homeowners indifferent to rash increases in government spending because others bear the tax burden while they reap the perceived benefits. When homeowners -- the folks most likely to participate in the political process – are shielded from the full impact of rising property taxes, local officials see it as a

chance to raise tax rates without incurring significant political grief.

Fortunately, the courts may yet get a chance to revisit the core issue. As The Democrat recently reported, four Alabamans who own homes in the Florida Panhandle have filed a lawsuit challenging Florida's discriminatory tax policies.

A lawsuit may represent the best hope for restoring equity to Florida's tax structure, and why not? Even the refs officiating on the basketball courts during "March Madness" can review certain plays to ensure that they made the right call.

The "refs" in Florida's courts likewise ought to review their call that let Save Our Homes become law when they should have blown the whistle.

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