

# Florida Real Estate Journal

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## Amendment 4 to deal RE an equal-opportunity blow

By **Robert Pitts**

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Between regulation and - often - community opposition, retail development in Florida can be a difficult undertaking. So you might think the possible passage of Amendment 4 in November 2010 would have a disproportionate impact on new retail properties as they become subject to voter approval.



**Patrick Slevin**

But that's not the case according to sources well-acquainted with the ballot box planning initiative. Amendment 4, they say, will be an equal-opportunity impediment to commercial development.

"Immediately after Amendment 4 - if it passes - it would shut off the valve of investment capital coming into Florida. That investment capital is crucial in developing shopping centers, malls and other retail properties. The uncertainty would affect growth. The question is whether the voters will really think about that kind of byproduct," said Patrick Slevin of The Slevin Group, which represents developer clients whose projects might be affected by Not-In-My-Back-Yard (NIMBY) opposition.

"We're in a rocky economy

with finite investment capital.

What investor will risk capital in the political chaos and litigation if Amendment 4 were to pass? There's a lot of speculation out there, but this is an absolute certainty."

If it is passed in the November 2010 election, Amendment 4 would require voter approval of any changes to local comprehensive plans. Many business leaders in Florida fear that would stop development - vital for the state's economy - in its tracks. The effort is the brainchild of Palm Beach County attorney Lesley Blackner and Tallahassee lawyer Ross Burnaman.

"What Amendment 4 does is put every project through the crucible of a political campaign," said Ryan Houck, executive director of Floridians for Smarter Growth, a coalition of business, civic and other groups opposed to Amendment 4.

Houck said small and medium-sized businesses would suffer most under Amendment 4, since most lack the financial resources to fund a public relations campaign for their projects or defend the inevitable lawsuits that follow even voter-approved construction - as has happened recently in St. Pete Beach.

"It's telling because even when voters do approve new development or new reinvestment, Amendment 4 supporters are still going to take it to court.

### RETAIL

They're not interested in what people think. They're interested in their agenda," Houck said.

"They call it Hometown Democracy, but the fact is it's bad for hometowns and horrible for democracy."

Most voters will likely go to the polls in November with the mistaken idea that Amendment 4 applies only to extremely large projects, said ICSC Florida State Director Dale Scott, senior executive vice president for SIKON Construction Corp. in Deerfield Beach.

"Most of the retail projects that are done - especially of any size - always require an adjustment to the comprehensive plan," Scott said.

"One thing a lot of people don't understand is that there will be a lot of parcels that will become useless. As people want to develop them in some manner, it will entail going through that entire election process. It will just bring development of all types to a screeching halt."

Scott added that as commercial development slows, residential property taxes will have to

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*Dale Scott,  
ICSC Florida  
State Director*

"It would be a crippling thing. Truly, I'm concerned it's going to pass. If you read that amendment, to the average person it sounds like a pretty good thing."

"The very fact there's a stampede of landowners filing their comp plan amendments before November 2010 is not an encouraging sign that we're going to defeat Amendment 4," said Slevin. He said S216, passed by the Florida Legislature this year and signed by Gov. Charlie Crist, prohibits local officials from using their offices to speak out against proposals like Amendment 4.

"We need to have more voices - other than someone from Tallahassee - educating local voters. Who are we hearing from arguing against Hometown Democracy," Slevin asked.

"Land use politics is a local issue. To educate the voters as to

what's best for the community will take a word of mouth, grassroots campaign to defeat Hometown. Right now, Lesley Blackner and Ross Burnaman are winning that battle."

Slevin said the hard economic times may have the unforeseen consequence of boosting support for Amendment 4.

"Will Floridians - who have already suffered a recession and a foreclosure crisis - be that concerned about money coming out of Manhattan for the benefit of developers? I don't think that will resonate," he said.

"There is still a high level of anti-development sentiment across the state, which the founders of Hometown are effectively exploiting and channeling toward a potential victory in November 2010."

Scott drew a parallel between Amendment 4 and the Tax Reform Act of 1986, saying knowledge of the Tax Reform Act's dire consequences for business was so widespread that most thought it was too ridiculous to pass. But it did pass, he said, changing the way business - and especially the real estate business - is done.

"You can't let that happen with Amendment 4," Scott said. "If you like the recession, you'll love Amendment 4. It'll bring this state to its knees."