

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2007*

**CAROLYN J. WRIGHT, MICHAEL BORNSTEIN, ANITA MITCHELL,  
GLADYS D. VAN OTTEREN and PATRICIA M. HIGH,**  
Appellants,

v.

**LOIS FRANKEL**, as mayor of City of West Palm Beach, a municipality of the State of Florida; **ISAAC ROBINSON, JR.; GERALDINE MUOIO; JAMES EXLINE; KIMBERLY MITCHELL;** and **WILLIAM MOSS**, as city commissioners of the City of West Palm Beach, a municipality of the State of Florida, and **CITY OF WEST PALM BEACH**, a municipality of the State of Florida,  
Appellees.

Nos. 4D06-3386 & 4D06-3697

[December 31, 2007]

***ON MOTION FOR REHEARING EN BANC***

TAYLOR, J.

We deny the motion for rehearing en banc but certify the following question to the Florida Supreme Court as a question of great public importance:

WHERE A CITY CHARTER PROVIDES FOR A CITIZEN-INITIATED REFERENDUM PROCESS TO ENACT AN ORDINANCE, AND A CITY DECLINES TO PLACE A CITIZEN-INITIATED ORDINANCE ON THE BALLOT IN ACCORDANCE WITH THE CHARTER PROVISIONS, IS LACHES A DEFENSE TO A MANDAMUS PETITION BROUGHT BY THE CITIZENS TO REQUIRE THE CITY COMMISSION TO PLACE THE PROPOSED ORDINANCE ON THE BALLOT?

SHAHOOD, C.J., STONE, WARNER, POLEN, FARMER, STEVENSON, GROSS and MAY, JJ., concur.

GUNTHER, KLEIN and HAZOURI, JJ., recused.

\* \* \*

Consolidated appeals from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Amy L. Smith, Judge; L.T. Case No. 502006CA006094XXXXMB.

Thomas R. Julin and Patricia Acosta of Hunton & Williams LLP, Miami, for appellants.

Jane Kreuzler-Walsh and Rebecca Mercier Vargas of Kreuzler-Walsh, Compiani & Vargas, P.A., Brian B. Joslyn and Richard A. Jarolem of Casey, Ciklin, Lubitz, Martens, McBane & O'Connell, and Claudia M. McKenna, City Attorney, West Palm Beach, for appellees.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

December 31, 2007

**CASE NO.: 4D06-3386**

L.T. No. : 502006CA006094XXXX  
MB

CAROLYN J. WRIGHT,  
MICHAEL BORNSTEIN, ET AL.

v. LOIS FRANKEL, ETC., ISAAC  
ROBINSON, JR., ET AL.

Appellant / Petitioner(s),

Appellee / Respondent(s).

**BY ORDER OF THE COURT:**

ORDERED that appellant West Palm Beach Downtown Development Authority's motion filed October 18, 2007 for leave to intervene is hereby denied; further,

ORDERED that appellant Palm Beach County League of Cities, Inc.'s motion filed October 18, 2007, for leave to intervene is hereby denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Thomas R. Julin

Brian B. Joslyn

Rebecca Mercier Vargas

Patricia Acosta

Jane Kreuzler-Walsh

John Corbett

Claudia M. Mckenna

Richard Jarolem

Trela J. White

lc

*Marilyn Beuttenmuller*  
MARILYN BEUTTENMULLER, Clerk  
Fourth District Court of Appeal

