

SUPREME COURT OF FLORIDA

Case No. **SC19-701**

BILL FURST, as Property Appraiser of
Sarasota County, Florida; and **LEON M.**
BIEGALSKI, as Executive Director of the
Florida Department of Revenue,
Petitioners,

Lower Tribunal Cases:
DCA: 2D17-3973
LT: 58 2015-CA-6511

vs.

SUSAN K. DEFRANCES,

Respondent.

_____ /

MOTION FOR LEAVE TO APPEAR AS AMICUS CURIAE

The Property Appraisers' Association of Florida, Inc. (PAAF), by and through the undersigned counsel and pursuant to Florida Rule of Appellate Procedure 9.370, respectfully moves this Court for leave to appear as amicus curiae in the above-styled cause. The position of the amicus curiae will be supportive of that of the petitioners, Bill Furst, Sarasota County Property Appraiser, and Jim Zingale, successor to Leon M. Biegalski, Executive Director of the Florida Department of Revenue, in asking this Court to reverse the Second District Court of Appeal's decision rendered on March 27, 2019.

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1. PAAF is a statewide professional association consisting of 59 duly elected property appraisers in various counties throughout the State of Florida.¹ PAAF's mission is to bring about uniform and equitable ad valorem tax assessments in Florida. PAAF also represents the interests of its members before the Florida Legislature, executive branch, judiciary, and regulatory agencies.

2. PAAF's members are interested in this case because it involves the proper interpretation and administration of the state's ad valorem tax laws. The issue presented in this case, i.e., whether the property appraiser may correct an error in the prior year's assessment resulting from a conversion of the computer assisted mass appraisal (CAMA) system to a new CAMA system, is of wide interest to property appraisers throughout Florida and should be explored from all points of view. The issue directly affects the constitutional duties and responsibilities of property appraisers in the assessment and administration of the ad valorem tax laws.

3. In particular, PAAF's amicus brief primarily will address this Court's prior decisions addressing the correction of errors in the assessment of

¹ PAAF's 2018-19 membership consists of property appraisers from the following 59 counties: Baker, Bay, Bradford, Brevard, Calhoun, Charlotte, Citrus, Clay, Collier, Columbia, Desoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lee, Leon, Levy, Liberty, Madison, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Santa Rosa, Sarasota, Seminole, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington.

property in prior tax years and construing sections 193.092, 193.155, and 197.122, Florida Statutes (2019). PAAF's position will be that the correction of a clerical or mathematical error in the assessment of property for prior years is statutorily required. In contrast, any change to an assessment based on a change in the property appraiser's judgment is not permissible.

4. PAAF has appeared as amicus curiae in the following reported cases:

- (a) *Crapo v. Academy for Five Element Acupuncture, Inc.*,
2019WL2909345 (Fla. 1st DCA Jul. 8, 2019)
- (b) *Portofino Tower One Ass'n at Pensacola Bch., Inc. v. Jones*,
231 So.3d 565 (Fla. 1st DCA 2017)
- (c) *Beach Club Towers Homeowners Ass'n, Inc. v. Jones*,
231 So.3d 566 (Fla. 1st DCA 2017)
- (d) *Garcia v. Dadeland Station Assocs., Ltd.*,
218 So.3d 474 (Fla. 3d DCA 2017)
- (e) *Garcia v. Andonie*,
101 So.3d 339 (Fla. 2012)
- (f) *Dep't of Revenue v. City of Gainesville*,
918 So.2d 250 (Fla. 2005)
- (g) *Dep't of Revenue v. Howard*,
916 So.2d 640 (Fla. 2005)
- (h) *Sunset Harbour Condo. Ass'n v. Robbins*,
914 So.2d 925 (Fla. 2005)
- (i) *Zingale v. Powell*,
885 So.2d 277 (Fla. 2004)

- (j) *Fuchs v. Robbins*,
818 So.2d 460 (Fla. 2002)
- (k) *Sebring Airport Auth. v. McIntyre*,
783 So.2d 238 (Fla. 2001)
- (l) *Leon Co. Educ. Facilities Auth. v. Hartsfield*,
698 So.2d 526 (Fla. 1997)
- (m) *Dep't of Revenue v. Printing House*,
644 So.2d 498 (Fla. 1994)
- (n) *Fuchs v. Wilkinson*,
630 So.2d 1044 (Fla. 1994)
- (o) *Schultz v. TM Florida-Ohio Realty Ltd. P'ship*,
577 So.2d 573 (Fla. 1991)
- (p) *Bystrom v. Whitman*,
488 So.2d 520 (Fla. 1986)
- (q) *Southards v. Motel Mgmt. Co.*,
610 So.2d 524 (Fla. 3d DCA 1992)
- (r) *Schultz v. Trs. of Skycrest Baptist Church, Inc.*,
508 So.2d 1314 (Fla. 2d DCA 1987)

5. PAAF, through its undersigned counsel, expects to be able to serve its amicus brief within the time period set forth in Florida Rule of Appellate Procedure 9.370(c).

6. Mr. Geoffrey Pflunger, counsel for petitioner Bill Furst, Sarasota County Property Appraiser, has been contacted and consents to the appearance of the PAAF as amicus curiae.

7. Mr. Robert Elson, counsel for petitioner Jim Zingale, successor to Leon M. Biegalski, Executive Director of the Department of Revenue, has been contacted and consents to the appearance of PAAF as an amicus curiae.

8. Ms. Sherri Johnson, counsel for the respondent Susan K. DeFrances has been contacted and consents to the appearance of the PAAF as an amicus curiae.

Wherefore, The Property Appraisers' Association of Florida, Inc., by and through the undersigned counsel and pursuant to Florida Rule of Appellate Procedure 9.370, respectfully moves this Court for leave to appear as amicus curiae in the above-styled cause in support of the petitioners.

/s/ Loren E. Levy

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed with the Clerk via the Florida Courts E-filing Portal and has been served via the portal on the following on the **25th** day of September 2019:

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