

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

CASE NO. 1D10-5094

HON. JEFF ATWATER, *et al.*,

Appellants,

v.

CITY OF WESTON, *et al.*,

Appellees.

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APPELLANTS' SUGGESTION OF MOOTNESS  
AND MOTION TO RELINQUISH JURISDICTION

Appellants respectfully suggest that actions by the Florida Legislature in its 2011 session have rendered the issues in this appeal moot and therefore move for an order relinquishing jurisdiction to the lower court with directions to dismiss the case as moot, and as ground state:

1. This case was originally brought to challenge the constitutionality of chapter 2009-96, Laws of Florida, alleging that it violated article VII, section 18(a) of the Florida Constitution (the unfunded mandate provision) and article III, section 6 of the Florida Constitution (the single subject provision).

2. The court below ruled that the alleged single subject violation was rendered moot because chapter 2009-96 was reenacted during the 2010 legislative session by chapter 2010-3, Laws of Florida.

3. The court below also ruled that chapter 2009-96 did violate the unfunded mandate provision and declared the entire Law unconstitutional.

4. Upon filing of the notice of appeal by the government, the automatic stay in rule 9.310(b)(2), Fla. R. App. P., stayed the effectiveness of the Law. The Law has, therefore been in effect continuously since its original effective date.

5. During its 2011 session, the Legislature passed and the Governor has now signed into law H 93 (2011) - Security Cameras (Approved by Governor <http://www.flsenate.gov/Session/Bill/2011/93>) [Exhibits 1 and 2], H 7001 (2011) - Growth Management (Approved by Governor <http://www.flsenate.gov/Session/Bill/2011/7001>) [Exhibits 3 and 4],, and H 7003 (2011) - Affordable Housing) Approved by Governor <http://www.flsenate.gov/Session/Bill/2011/7003>) [Exhibits 5 and 6],.

6. These Bills substantively reenacted the identical language in Ch. 2009-96, Laws of Florida.

7. Since the identical language was reenacted in three separate bills (separated into the three subjects alleged by Plaintiffs in the case below), any remaining claim of a single subject violation is rendered moot, even if the initial reenactment did not cure the alleged violation as ruled by the court below.

8. With respect to the unfunded mandate claim, all three bills were passed by 2/3 majority or more, thereby satisfying one of the exceptions in article VII, section 18(a), Fla. Const.<sup>1</sup>

9. Because the substantive provisions of ch. 2009-96, Laws of Florida, have been reenacted in their entirety, with identical language, claims that the previous law violated either the single subject or unfunded mandate provision do not present an actual controversy and therefore have now been rendered moot. Godwin v. State, 593 So. 2d 211, 212 (Fla. 1992) (“A case is ‘moot’ when it presents no actual controversy or when the issues have ceased to exist.”) (citing Black’s Law Dictionary 1008 (6th ed. 1990)).

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<sup>1</sup> No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless: . . . the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature. Art. 7, § 18(a), Fla. Const.

WHEREFORE, Appellants respectfully request that this court relinquish jurisdiction to the court below with instructions to dismiss this case as moot.

Respectfully Submitted,

**PAMELA JO BONDI**  
**ATTORNEY GENERAL**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished  
this 29th day of April, 2011, by U.S. Mail, postage prepaid, and electronic  
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