

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.

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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.