

*Endsley v. Broward County*, SC16-1070, 2016 WL 7163644, (Fla. Dec. 8, 2016) (declining to review *Endsley v. Broward County*, 189 So.3d 938 (4th DCA Mar. 23, 2016)).

### **Dual State Homestead Exemption Prohibited**

The Florida Supreme Court recently declined to hear an appeal from the Florida Fourth District Court of Appeal's ("Fourth DCA") decision that a Florida resident cannot claim a homestead exemption against the property tax due on a Florida home when her spouse is already claiming a homestead exemption in another state.

The Florida homestead exemption entitles qualified permanent Florida resident homeowners a property tax exemption up to \$50,000. It also helps cap the increase in the value of a home to a small percentage for the purposes of assessing Florida property tax. In March of 2016, the Fourth DCA decided an appeal of the Broward County property appraiser's decision to remove a Broward County woman's homestead tax exemption. Her husband was receiving a residency-based tax exemption for his out-of-state residence in Indiana during the same time period. When the county property appraiser learned that both spouses were claiming exemptions in different states, the appraiser removed the exemption on the Florida property for tax years 1996-2005. The appraiser's actions were based on Article VII, Section 6(b) of the Florida Constitution, which states that "[n]ot more than one exemption shall be allowed any individual or family unit..." The husband then cancelled his Indiana exemption in 2006, and the wife was then granted a Florida homestead exemption again in 2007. However, due to the cancellation, the appraiser reset the assessed value of the Florida home to its fair market value, rather than the lower value under the "Save Our Homes" provision in Article VII, section 4(d) of the Florida Constitution. The couple argued that the Florida Constitution only prohibited allowing homestead exemptions on two homes in Florida and did not prohibit an exemption in Florida and another exemption in another state.

The court relied on § 196.031(6), Florida Statutes, which prohibits a person who is receiving or claiming the benefit of an ad valorem tax exemption in another state where permanent residency is required as a basis for the grant of that exemption from claiming a Florida homestead exemption. The reduction of the overall tax liability the couple owed to the State of Indiana provided a direct economic benefit, which triggers the statute that disallows the Florida homestead exemption. The court further held that the Florida property was not entitled to be revalued under the "Save Our Homes" provision because Article VII, section 4(d)(6) of the Florida Constitution states that when a property loses homestead status, the property shall be assessed as provided by general law. The court ruled since the wife's Florida property lost homestead status, she also lost the protections of the "Save Our Homes" provision.