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Appeals court upholds Save Our Homes ruling

Judges reject challenges to portability, recapture rule

The News-Press staff and wire reports

TALLAHASSEE - A state appeals court has rejected a second challenge to tax breaks for Florida's primary homeowners.

A three-judge panel in the 1st District Court of Appeal on Tuesday cited its prior decision in upholding Save Our Homes, the amendment limiting annual assessment increases to no more than 3 percent for homesteads.

Lee County Property Appraiser Ken Wilkinson authored the amendment voters passed in 1992. He said challenges to the amendment have come and gone.

"There are so many precedents on this," Wilkinson said.

The judges also upheld a new state constitutional amendment passed last year allowing homeowners to take at least part of their Save Our Homes benefits with them when they move. That option is called portability.

The first challenge is on appeal to the Florida Supreme Court.

Wilkinson said he expects those challenging the amendment to push all the way to the U.S. Supreme Court if possible.

"I'll be dead before that happens," Wilkinson said.

For the past three years as property values have declined, homeowners with Save Our Homes have been affected differently due to the recapture rule.

The rule requires appraisers to raise assessments by 3 percent or the cost of living, whichever is lower, when the market value of a home drops, but remains higher than its assessed value.

For example, if a home value is lowered to \$150,000, but the homeowner pays taxes on \$75,000, the taxable value can increase up to 3 percent, even though the property value decreased.

Due to recapture, Wilkinson said property owners without Save Our Homes, or those who added it in recent years, received larger property tax breaks than those with Save Our Homes for many years.

Property values have plummeted in Lee County by 22.7 percent this year compared to last year, according to the appraiser's office.
