

RESOLUTION NO. 2024- _____

A RESOLUTION OF THE VILLAGE OF PINECREST, FLORIDA, AUTHORIZING PARTICIPATION IN A LAWSUIT SEEKING A DECLARATION THAT THE PROVISIONS OF SECTION 112.144(1)(d), FLORIDA STATUTES, THAT REQUIRE MUNICIPAL ELECTED OFFICIALS TO FILE FORM 6 FINANCIAL DISCLOSURE FORMS IS UNCONSTITUTIONAL AND INVALID; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, since 1976, Article II, Section 8 of the Florida Constitution has required that all elected State constitutional officers file a full and public disclosure of their financial interests, which is done through a state-adopted form ("Form 6") that requires, among other things, the disclosure of the specific amounts of an official's net worth, income and asset values; and

WHEREAS, historically, municipal elected officials have been required to make a more limited financial disclosure that is done through a different state-adopted form ("Form 1") that requires, among other things, the disclosure of information related to sources of income, real property, intangible personal property liabilities and interests in specified businesses, but does not include the specific amounts of an official's net worth, income and asset values; and

WHEREAS, the Mayor and all current elected members of the Village of Pinecrest (the "Village Elected Officials") were elected by the voters of the Village subject to and in reliance upon Florida law that required the Mayor and Council to annually file Form 1 (not Form 6) financial disclosures forms; and

WHEREAS, although the State Legislature has the power in the Florida Constitution to require that additional public officers file a full and public disclosure of their financial interests, it must do so consistent with other constitutional limitations; and

WHEREAS, in 1980, the voters of Florida amended the Florida Constitution by adopting Article 1, Section 23, the "Right to Privacy," which states that "[e]very natural

person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein"; and

WHEREAS, because the right of privacy is a fundamental right within Florida's Constitution, the Florida Supreme Court has consistently required that any law intruding on the right is presumptively unconstitutional and must be justified by a "compelling state interest" which the law serves or protects through the "least restrictive means;" and

WHEREAS, the First Amendment to the United States Constitution, and Article 1, Section 4 of the Florida Constitution, protects the freedom of speech, which includes the right to choose what to say and what not to say, any impairment of which must be justified by a "compelling state interest" which the law serves or protects through the "least restrictive means;" and

WHEREAS, during the 2023 legislative session, Senate Bill 774 was passed and codified at Law of Florida 2023-09, amending Fla. Stat. § 112.3144, to change the financial disclosure requirements and now require that all elected municipal mayors and elected members of the governing board file a Form 6 financial disclosure, which is substantially more burdensome and personally intrusive than the Form 1; and

WHEREAS, the imposition of the Form 6 disclosure requirements at the municipal level (a) represents an unwarranted intrusion into the privacy rights of municipal elected officials, most of which receive little or no compensation for their service, (b) unnecessarily risks the safety of such officials (making them targets of, among other things, burglary, identity theft and extortion), and (c) will deter many otherwise qualified and interested citizens from running for office; and

WHEREAS, in fact, many municipal officials resigned from office prior to December 31, 2023, as a result of the new disclosure requirements, disrupting the ability of some local governments to operate for lack of a quorum; and

WHEREAS, the imposition of the intrusive Form 6 disclosure requirements at the municipal level is not the least restrictive means of serving the governmental interests of

preventing abuse of the public trust, as demonstrated by, among other things, the lack of such requirements at the municipal level in other states and at the federal level (even the President of the United States and members of the U.S. Congress are not required to make such extensive disclosures); and

WHEREAS, requiring that unpaid (or low paid) municipal elected officials disclose their precise net worth, income and assets does not serve (let alone constitute the least restrictive means of serving) any compelling interest – Form 1 disclosures constitutes sufficient transparency to inform the public of potential conflicts; and

WHEREAS, the imposition of new financial disclosure requirements upon municipal elected officials who were elected without such requirements violates due process, is fundamentally unfair and violates fundamental constitutional rights; and

WHEREAS, the Village desires to participate in a lawsuit seeking a declaration that the provisions of Section 112.3144(1)(d), Florida Statutes, that require municipal elected officials to file Form 6 financial disclosure forms are unconstitutional and invalid and should be enjoined (the “Lawsuit”); and

WHEREAS, the Village Council believes it is in the best interest of the citizens and residents of the Village to participate in the Lawsuit and urges other municipalities and their elected officials to also participate as plaintiffs.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PINECREST, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Authorization. The Village Council hereby authorizes the participation of the Village, and any of individual members of the Village Council who choose to participate as plaintiffs, in a lawsuit seeking declaratory, injunctive and other appropriate relief challenging the provisions of Section 112.3144(1)(d), Florida Statutes, that require municipal elected officials to file Form 6 financial disclosure forms, based upon any

appropriate legal theories, including those set forth above, subject to the participation of at least ten municipalities.

Section 3. Representation. That Weiss Serota Helfman Cole + Bierman, PL (the “Firm”) is hereby retained to represent the Village in this litigation. The Firm will charge the Village a flat fee, inclusive of attorneys’ fees and costs, of \$10,000 to represent the Village and the individual elected officials who choose to participate as plaintiffs, for the litigation in the trial court. The Village and elected officials recognize that such flat fee may be less than the actual attorneys’ fees and costs incurred, and that if the Village and elected officials prevail in the Lawsuit, the Firm may apply with the Court for its actual reasonable attorneys’ and costs from the defendants. The filing of any appeals will be authorized by separate resolution under the terms thereof. The Village and its elected officials also acknowledge that the Firm will be representing other local governments and officials in this lawsuit and waives any conflicts related to such representation.

Section 4. Urging. That the Village Council hereby urges invites and urges other local governments and elected officials to join the Village as plaintiffs in the Lawsuit and to coordinate their efforts with the Village.

Section 5. Transmittal. That the Village Clerk is directed to transmit a copy of this Resolution to the Miami-Dade County League of Cities.

Section 6. Implementation. That the Village Manager and Village Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution.

Section 7. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this ___ day, of March 2024.

Joseph M. Corradino, Mayor

Attest:

Priscilla Torres, MMC
Village Clerk

Approved as to Form and Legal Sufficiency:

Mitchell Bierman
Village Attorney

Motion by:
Second by:
Vote:

Request and Agreement to Serve as Named Plaintiff

On March __, 2024, the Village of Pinecrest approved Resolution No. 2024-____ (the “Resolution”), authorizing the participation of the Village of Pinecrest, and any of its elected officials who choose to participate, in a lawsuit as a plaintiff seeking a declaration that the provisions of Section 112.144(1)(d), Florida Statutes, that require municipal elected officials to file Form 6 Financial Disclosure Forms is unconstitutional and invalid (the “Lawsuit”). I hereby request and agree to serve as a named plaintiff in the Lawsuit, pursuant to the terms of the Resolution, including the section related to conflicts of interest, and for the law firm of Weiss Serota Helfman Cole + Bierman PL to represent me in the Lawsuit.

Signature: _____

Name: Joseph M. Corradino

Position: Mayor

Municipality: Village of Pinecrest

Date: March __, 2024

Request and Agreement to Serve as Named Plaintiff

On March __, 2024, the Village of Pinecrest approved Resolution No. 2024-____ (the “Resolution”), authorizing the participation of the Village of Pinecrest, and any of its elected officials who choose to participate, in a lawsuit as a plaintiff seeking a declaration that the provisions of Section 112.144(1)(d), Florida Statutes, that require municipal elected officials to file Form 6 Financial Disclosure Forms is unconstitutional and invalid (the “Lawsuit”). I hereby request and agree to serve as a named plaintiff in the Lawsuit, pursuant to the terms of the Resolution, including the section related to conflicts of interest, and for the law firm of Weiss Serota Helfman Cole + Bierman PL to represent me in the Lawsuit.

Signature: _____

Name: Shannon del Prado

Position: Vice Mayor

Municipality: Village of Pinecrest

Date: March __, 2024

Request and Agreement to Serve as Named Plaintiff

On March __, 2024, the Village of Pinecrest approved Resolution No. 2024-____ (the “Resolution”), authorizing the participation of the Village of Pinecrest, and any of its elected officials who choose to participate, in a lawsuit as a plaintiff seeking a declaration that the provisions of Section 112.144(1)(d), Florida Statutes, that require municipal elected officials to file Form 6 Financial Disclosure Forms is unconstitutional and invalid (the “Lawsuit”). I hereby request and agree to serve as a named plaintiff in the Lawsuit, pursuant to the terms of the Resolution, including the section related to conflicts of interest, and for the law firm of Weiss Serota Helfman Cole + Bierman PL to represent me in the Lawsuit.

Signature: _____

Name: Anna Hochkammer

Position: Councilmember

Municipality: Village of Pinecrest

Date: March __, 2024

Request and Agreement to Serve as Named Plaintiff

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Signature: _____

Name: Katie Abbott

Position: Councilmember

Municipality: Village of Pinecrest

Date: March __, 2024

Request and Agreement to Serve as Named Plaintiff

On March __, 2024, the Village of Pinecrest approved Resolution No. 2024-____ (the “Resolution”), authorizing the participation of the Village of Pinecrest, and any of its elected officials who choose to participate, in a lawsuit as a plaintiff seeking a declaration that the provisions of Section 112.144(1)(d), Florida Statutes, that require municipal elected officials to file Form 6 Financial Disclosure Forms is unconstitutional and invalid (the “Lawsuit”). I hereby request and agree to serve as a named plaintiff in the Lawsuit, pursuant to the terms of the Resolution, including the section related to conflicts of interest, and for the law firm of Weiss Serota Helfman Cole + Bierman PL to represent me in the Lawsuit.

Signature: _____

Name: Ken Fairman

Position: Councilmember

Municipality: Village of Pinecrest

Date: March __, 2024