

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
APPELLATE DIVISION**

**THE FLORIDA TRUST FOR HISTORIC  
PRESERVATION, INC.; FRIENDS OF  
THE BELLEVIEW BILTMORE, INC.;  
NATIONAL TRUST FOR HISTORIC  
PRESERVATION; DORIS HANSON;  
RAE CLAIRE JOHNSON; AND  
MARY LOU WHITE,  
Petitioners,**

**Case No.: 15-000039AP-88A  
UCN: 522015AP000028XXXXCV**

**v.**

**THE TOWN OF BELLEAIR; JMC  
COMMUNITIES, INC.; and BB  
HOTEL, LLC,  
Respondents.**

**ORDER DISMISSING PETITION FOR WRIT OF CERTIORARI; DENYING AS MOOT  
MOTION TO AMEND PETITION FOR WRIT OF CERTIORARI**

**THIS MATTER** is before the Court on Petitioners, the Florida Trust for Historic Preservation, Inc.; Friends of the Belleview Biltmore, Inc.; National Trust for Historic Preservation; Doris Hanson; Rae Claire Johnson; and Mary Lou White's, "Petition for Writ of Certiorari;" the June 11, 2015, trial court "Order Granting Plaintiffs' 'Motion To Sever Count IX and Transfer To Appellate Division'; Transferring Count IX To The Appellate Division Of The Circuit Court As A Petition For Writ Of Certiorari" entered in The Florida Trust for Historic Preservation, Inc.; Friends of the Belleview Biltmore, Inc.; National Trust for Historic Preservation; Doris Hanson; Rae Claire Johnson; and Mary Lou White v. The Town of Belleair; JMC Communities, Inc.; and BB Hotel, LLC, Case No. 15-000141CI-21 (Fla. 6th Cir. Ct.); and Petitioners' "Motion to Amend Petition for Certiorari" filed on June 13, 2015. Upon consideration of the motion, the trial court order, the Petition, and applicable law, the Court finds as follows:

This Court has taken judicial notice of the pleadings, motions, and orders in the Civil Division of the Circuit Court, case number 15-000141CI-21. The Court notes that the parties are the same in this petition and in case number 15-000141CI-21.

**Action filed in the Civil Division of the Circuit Court**

On January 8, 2015, in the Civil Division of the Circuit Court, case number 15-000141CI-21, Plaintiffs/Petitioners, the Florida Trust for Historic Preservation, Inc.; Friends of the Belleview Biltmore, Inc.; National Trust for Historic Preservation; Doris Hanson; Rae Claire Johnson; and Mary Lou White, (hereinafter collectively "Florida Trust"), filed a seven-count Complaint seeking declaratory relief (counts I – VI) and for injunctive and declaratory relief (Count VII). The Defendants/Respondents, JMC Communities, Inc.; BB Hotel, LLC; and the Town of Belleair, filed motions to dismiss. On March 20, 2015, in case number 15-000141CI-21, Plaintiffs/Petitioners filed an "Amended Complaint and Petition for Certiorari" seeking declaratory relief (counts I – VI)<sup>1</sup> and for injunctive and declaratory relief (Count VIII). The amended pleading included a new Count "IX – Petition for Certiorari." Count IX states as the basis for jurisdiction:

Petitioners invoke this Court's jurisdiction pursuant to Rules 9.030(c)(3) and 9.100, Florida Rules of Appellate Procedure. As certain aspects of the review and relief sought in the January 8, 2015 Complaint may be more properly sought through certiorari, the Complaint is amended pursuant to Rule 1.190(a), Florida Rules of Civil Procedure, to add this count seeking certiorari review. This amendment is permissible as a matter of course as the Defendants/Respondents to this action have not filed a responsive pleading.

On June 11, 2015, the trial court in case number 15-000141CI-21, granted Florida Trust's "Motion to Sever Count IX and Transfer to Appellate Division." The trial court order states in part: "The Petition shall retain the original March 20, 2015, filing date. As to appellate jurisdiction, the appellate court shall determine if the filing of the Petition relates back to the January 8, 2015, filing date of the original Complaint.

**The Petition for Writ of Certiorari**

In the Petition, Florida Trust is seeking to have this Court grant certiorari and quash the Town's approval of both Town of Belleair Ordinance 499 (App. O) and the Town's Special Certificate of Appropriateness ("SCA") (App. P). This Court notes that

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<sup>1</sup> The Amended Complaint does not contain a Count VII

the Table of Contents for the Appendix states that the SCA issued on December 29, 2014. This same statement is included on the cover page for Appendix item P. This representation is incorrect.

This Court notes that Ordinance 499 signed by the Mayor states: "PASSED ON SECOND AND FINAL READING: December 9, 2014." Ordinance 499 pertaining to rezoning became final on December 9, 2014.

The SCA is signed by the Town Manager and sets out an approval date of December 9, 2014. The certificate states in part:

**Work Approved:** Demolition of the Bellevue Biltmore Hotel Structure except that portion to be relocated and rehabilitated in accordance with the provisions of Ordinance 499 of the Town of Belleair, FL approving rezoning, preliminary development plan, and development agreement.

Attached to the SCA is a three-page legal description designated as Exhibit A.

Town of Belleair Ordinance section 74-332 governs historic preservation in the Town.<sup>2</sup> Ordinance section 74-332 does not provide for time period to elapse before a SCA is final. Although Ordinance section 74-332 requires the decision on an application for a SCA to be in writing, only when the application has been denied is the Town required to provide a written explanation of its decision. See §§ 74-332(e)(2)(c), 74-332(f)(1). The Court concludes that the Special Certificate of Appropriateness approving rezoning, the preliminary development plan, and the development agreement meets the requirement of Ordinance section 74-332 and the date of the final issuance of the SCA is December 9, 2014.

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<sup>2</sup> Ordinance section 74-332(e) governs applications for Certificates of Appropriateness. With regard to Special Certificates of Appropriateness, Ordinance section 74-332(e)(2)(c) states in part:

The town commission shall consider the recommendation of the historic preservation board at a public hearing. . . . The decision of the town commission shall be issued in writing. Evidence of approval of the application shall be by certificate of appropriateness issued by the town commission. When an application is denied, the town commission shall provide a written explanation of its decision to disapprove the application.

With regard to demolition, Ordinance section 74-332(f)(1) states:

No permit for voluntary demolition of a designated building, structure, improvement or site shall be issued to the owner thereof until an application for a special certificate of appropriateness has been submitted and approved pursuant to the procedures in this paragraph, and all other applicable requirements of the Town Code have been met. Denial by the town commission of a special certificate of appropriateness to demolish shall be evidenced by written order detailing the public interest which is sought to be preserved. The town commission shall be guided by the criteria contained in subparagraph (4) below.

[https://www.municode.com/library/fl/belleair/codes/code\\_of\\_ordinances?nodeId=SPBLADECO\\_CH74LAUSRE\\_ARTVOVFLZO\\_S74-332HIPR](https://www.municode.com/library/fl/belleair/codes/code_of_ordinances?nodeId=SPBLADECO_CH74LAUSRE_ARTVOVFLZO_S74-332HIPR) (last visited June 15, 2015).

With regard to the SCA, Ordinance section 74-332(j) states:

**Appeals of a decision.** An appeal of the decision of the town commission to approve or deny a historic designation or certificate of appropriateness may be made to the circuit court for the county by filing a petition for writ of certiorari as provided under the Florida Rules of Appellate Procedure for the review of the quasi-judicial rulings of municipal agencies

In response to Ordinance 499 and the SCA, Florida Trust did not file a petition for writ of certiorari in the Appellate Division of the Circuit Court. Instead, on January 8, 2015, in case number 15-000141CI-21 Florida Trust filed the seven-count Complaint seeking declaratory and injunctive relief, as has been described above. Thereafter, on March 20, 2015, prior to any responsive pleadings being filed by the Defendants, Florida Trust filed the Amended Complaint in the Civil Division of the Circuit Court in case number 15-000141CI-21 that included a new count entitled "Petition for Writ of Certiorari."

In the "Motion To Sever Count IX and Transfer To Appellate Division" filed in case number 15-000141CI-21, Florida Trust states that pursuant to Florida Rule of Civil Procedure 1.190(c), the amendment to add Count IX relates back to the January 8, 2015, date of the original Complaint. (Exhibit A). In the motion, Florida Trust cites to Payette v. Clark, 559 So. 2d 630, 633 (Fla. 2d DCA 1990), and West v. West, 126 So. 3d 437, 438-39 (Fla. 4th DCA 2013), to support its argument that "where a claim or cause of action is filed in the proper *court*, but in the wrong *division* of that court, then the proper disposition is for the court to sever the claim in question and transfer it to the proper division (as opposed to striking or dismissing the claim)." Florida Trust requested that the trial court transfer Count IX to the Appellate Division of this Circuit Court.

The trial court's June 11, 2015, order in case number 15-000141CI-21, states in part: "The Petition shall retain the original March 20, 2015, filing date. As to appellate jurisdiction, the appellate court shall determine if the filing of the Petition relates back to the January 8, 2015, filing date of the original Complaint."

### **Analysis**

A petition for writ of certiorari is governed by Florida Rule of Appellate Procedure 9.100. The thirty-day filing deadline established by rule 9.100(c) is jurisdictional in

nature and not merely a matter of procedure. Serifsoy v. City of Lake Worth, 789 So. 2d 1173, 1175 (Fla. 4th DCA 2001); see State, Dep't of Highway Safety and Motor Vehicles v. Melendez, 132 So. 3d 1237, 1238 (Fla. 3d DCA 2014).

The thirty-day jurisdictional deadline for a petition to be filed in the Florida District Courts of Appeal or in the appellate division of a circuit court should not be circumvented by the belated amendment to a pending complaint in the Civil Division of the Circuit Court months, or even years, after that jurisdictional deadline has passed.

The March 20, 2015, amendment to add Count IX to the original complaint filed in the Civil Division of the Circuit Court does not relate back under civil procedure rule 1.190(c) to provide jurisdiction to this Court to consider the petition for writ of certiorari that should have been filed in the Appellate Division of the Circuit Court more than two months earlier. The Payette and West probate cases do not involve rule 1.190(a) and are distinguishable.

This Court concludes that the Petition for Writ of Certiorari deemed filed on March 20, 2015, by the trial court's June 11, 2015 order, is untimely. This Court is without jurisdiction to consider the petition.

Accordingly, it is

**ORDERED AND ADJUDGED** that the Petition for Writ of Certiorari is **DISMISSED**.

**IT IS FURTHER ORDERED AND ADJUDGED** that this Court sua sponte has determined jurisdiction and has not made any ruling on the merits of the Petition. The Petitioners' Motion to Amend the Petition for Writ of Certiorari is **DENIED AS MOOT**.

**DONE AND ORDERED** in Chambers, in Clearwater and St. Petersburg, Pinellas County, Florida, this 17<sup>th</sup> day of June, 2015.

Original Order entered on June 17, 2015, by Circuit Judges Linda R. Allan, Amy M. Williams, and Patricia Muscarella.

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**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA**

THE FLORIDA TRUST FOR HISTORIC  
PRESERVATION, INC., FRIENDS OF THE  
BELLEVIEW BILTMORE, INC., NATIONAL  
TRUST FOR HISTORIC PRESERVATION,  
DORIS HANSON, RAE CLAIRE JOHNSON,  
and MARY LOU WHITE,

Plaintiffs/Petitioners,

vs.

Case No.: 15-000141-CI

THE TOWN OF BELLEAIR, JMC  
COMMUNITIES, INC., and  
BB HOTEL, LLC,

Defendants/Respondents.

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**MOTION TO SEVER COUNT IX  
AND TRANSFER TO APPELLATE DIVISION**

Plaintiffs/Petitioners, by and through their undersigned counsel, hereby move this Court to sever and transfer to the Appellate Division of this Court Count IX of Plaintiffs/Petitioners Amended Complaint filed March 20, 2015, and in support hereof state as follows:

1. On December 9, 2014 Defendant Town of Belleair approved the issuance of a special certificate of appropriateness ("the SCA") for the Belleview Biltmore Hotel ("Hotel") to Defendant BB Hotel, LLC.
2. On December 9, 2014 Defendant Town of Belleair also approved Ordinance 499 "on second and final reading," (*See Exhibit A to Complaint filed January 8, 2015*), which ordinance has the effect of rezoning the Hotel property and approving Defendant BB Hotel, LLC's and/or Defendant JMC Communities, Inc.'s plans to purportedly relocate a portion of the Hotel,

**EXHIBIT A**

demolish the rest of the Hotel structure, and construct townhouses and high-rise condominiums on the property.

3. On January 8th, 2015 Plaintiffs/Petitioners filed their Complaint in this action.

4. The Complaint alleges that the Town of Belleair acted contrary to the law in enacting Ordinance 499 and issuing the SCA and challenged these actions on various procedural and substantive grounds by way of multiple counts for declaratory judgment.

5. On January 29, 2015 Defendants each filed motions to dismiss on various grounds, including that some of the relief sought in the Complaint was not properly sought by declaratory judgment.

6. Over the course of the following weeks, Plaintiffs' counsel attempted to contact the Defendants' counsel to discuss the motion but was unable to learn from Defendants' counsel the legal authority supporting Defendants' assertion that Plaintiffs had sought improper relief.

7. In order to prevent unnecessary delays, Plaintiffs' counsel researched the issue and determined that some of the relief sought in the Complaint may be more appropriately sought by requesting a writ of certiorari.

8. Without any of the Defendants' counsel having contacted Plaintiffs' counsel to propose a time to conduct a hearing on their motions to dismiss, Plaintiffs amended the Complaint to include Count IX seeking certiorari relief for the same actions Plaintiffs previously sought to remedy by declaratory judgment: to wit, the Town of Belleair's enactment of Ordinance 499 and issuance of the SCA.

9. Pursuant to Rule 1.190(c), Florida Rules of Civil Procedure, this amendment relates back to the date the original Complaint was filed (January 8, 2015) as the relief sought in Count IX is



based on the same conduct, transactions, and occurrences giving rise to the original Complaint, i.e. the Town of Belleair's enactment of Ordinance 499 and issuance of the SCA.

10. Count IX primarily challenges Ordinance 499 and the SCA on the basis that Defendant Town of Belleair failed to comply with the applicable laws, ordinances, and land development regulations in approving them.

11. On April 1, 2015 Defendants each filed a motion to strike or sever Count IX concurrently with their answer and defenses to the amended complaint and other motions.

12. Defendants seek to strike or sever Count IX on the grounds that this Court's Local Rule 1(A)(1) requires a petition for certiorari to be assigned to this Court's Appellate Division.

13. Plaintiffs/Petitioners do not object to this Court severing Count IX from the Amended Complaint and transferring the Count IX to this Court's Appellate Division.

14. As result, Plaintiffs/Petitioners' counsel contacted Defendants' counsel to try to agree to the form of a proposed order under which this Court would sever Count IX and transfer it to the Appellate Division.

15. Unfortunately, Plaintiffs/Petitioners' counsel was unable to reach an agreement as Defendants' counsel insisted Count IX either be "dismissed" or "stricken" from this action, while Plaintiffs/Petitioners' counsel sought to have Count IX "severed and transferred."

16. Plaintiffs/Petitioners counsel revised the proposed order and again tried to reach an agreement with Defendants' counsel, this time supporting Plaintiffs/Petitioners' position, *e.g.* that the proper disposition of this matter is to sever Count IX and transfer it to the Appellate Division, by citing *Payette v. Clark*, 559 So.2d 630, 633 (Fla. 2d DCA 1990) and *West v. West*, 126 So.3d 437, 438-39 (Fla. 4th DCA 2013).

17. *Payette* and *West* establish that where a claim or cause of action is filed in the proper court, but in the wrong *division* of that court, then the proper disposition is for the court to sever the claim in question and transfer it to the proper division (as opposed to striking or dismissing the claim). Copies of *Payette* and *West* with relevant portions highlighted are attached hereto for this Court's convenience as Exhibits "A" and "B," respectively.

18. In spite of being provided with these authorities, Defendants' counsel maintained its position that Count IX be "dismissed" or "stricken," although no legal authority for this position was provided to Petitioners' counsel.

19. As a result, and in order to avoid any further delay of Plaintiffs/Petitioners' pursuit of justice in this cause, Plaintiffs/Petitioners have filed this motion seeking to sever Count IX and transfer it to this Court's Appellate Division so that it may be properly heard on the merits or otherwise disposed of.

WHEREFORE, Plaintiffs/Petitioners respectfully request this Court to sever Count IX from the Amended Complaint and Petition for Certiorari filed in this action and transfer Count IX to this Court's Appellate Division, in addition to any other and further relief this Court deems just and proper.

Respectfully submitted this 24th day of April, 2015.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to Scott McLaren, Esq. (scott.mclaren@hwhlaw.com) and Jill K. Bell, Esq. (jill.bell@hwhlaw.com), attorneys for JMC Communities, Inc. and BB Hotel, LLC, and to Robert E. Johnson, Esq. (robert.johnson@gray-robinson.com) and David J. Ottinger, Esq. (david.ottinger@gray-robinson.com), attorneys for the Town of Belleair, through the Florida Courts' E-Filing Portal System via email service on this 24th day of April, 2015.

**SPARTAN LAW GROUP**

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**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
APPELLATE DIVISION**

**THE FLORIDA TRUST FOR HISTORIC  
PRESERVATION, INC.; FRIENDS OF  
THE BELLEVIEW BILTMORE, INC.;  
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Petitioners,**

**Case No.: 15-000039AP-88A  
UCN: 522015AP000028XXXXCV**

**v.**

**THE TOWN OF BELLEAIR; JMC  
COMMUNITIES, INC.; and BB  
HOTEL, LLC,  
Respondents.**

**ORDER DENYING PETITIONERS' EMERGENCY VERIFIED  
MOTION FOR REHEARING**

**THIS MATTER** is before the Court on Petitioners, the Florida Trust for Historic Preservation, Inc.; Friends of the Belleview Biltmore, Inc.; National Trust for Historic Preservation; Doris Hanson; Rae Claire Johnson; and Mary Lou White's, "Emergency Verified Motion for Rehearing" filed on June 17, 2015; Respondents, JMC Communities, Inc.; and BB Hotel, LLC's, Responses filed on June 18, 2015, and June 24, 2015; Respondent, the Town of Belleair's, Response filed on June 24, 2015; and Petitioner's Reply filed on June 29, 2015. Upon consideration of the motion, the responses, the reply, the record, and applicable law, the Court finds as follows:

**Motion for Rehearing**

On June 17, 2015, this Court entered the "Order Dismissing Petition for Writ of Certiorari; Denying as Moot Motion to Amend Petition for Writ of Certiorari." In the "Petitioners' Emergency Verified Motion for Rehearing" the Petitioners state that this Court has misapprehended the law applicable to jurisdiction over the petition. The



jurisdictional argument Petitioners rely upon allegedly was presented to the trial court in The Florida Trust for Historic Preservation, Inc.; Friends of the Belleview Biltmore, Inc.; National Trust for Historic Preservation; Doris Hanson; Rae Claire Johnson; and Mary Lou White v. The Town of Belleair; JMC Communities, Inc.; and BB Hotel, LLC, Case No. 15-000141CI-21 (Fla. 6th Cir. Ct.) (hereinafter "the civil case"), in the "Supplemental Argument and Memorandum of Law in Support of Petitioners' Verified Emergency Motion to Stay Pending Appeal" filed in the civil case on April 1, 2015. The Petitioners assert that they did not have the opportunity to present this argument to this Court before the petition was dismissed based on the Court's own review.

Petitioners assert that under Florida Rule of Civil Procedure 1.190, the Petition for Writ of Certiorari in the appellate division of the circuit court, deemed filed March 20, 2015, relates back to the January 8, 2015, filing date of the original complaint filed in the civil case because applicable case law and Florida Rule of Appellate Procedure 9.040(c) require it. In support of their argument, Petitioners cite to Reed v. City of Hollywood, 483 So. 2d 759 (Fla. 4th DCA 1986)(holding rather than dismissal, the trial court should treat improperly filed complaint for injunctive relief as petition for writ of certiorari and transfer matter to the appellate division of the circuit court); DeSmedt v. City of North Miami Beach, 591 So. 2d 1077 (Fla. 3d DCA 1991)(holding rather than dismissal, the trial court should treat improperly filed complaint for declaratory relief as notice of appeal); City of Fort Pierce v. Dickerson, 588 So. 2d 1080 (Fla. 4th DCA 1991)(holding complaint for declaratory and injunctive relief was improperly filed, but if timely filed "a trial court can treat it as a petition for writ of certiorari"); Pridgen v. Board of County Commissioners of Orange County, 389 So. 2d 259 (Fla. 5th DCA 1980)(holding petition for writ of mandamus filed in circuit court should have been treated as petition for writ of certiorari); Thomas v. Suwannee County, 734 So. 2d 492, 496-97 (Fla. 1st DCA 1999)(holding rather than dismiss with prejudice, if "deemed a petition for writ of certiorari," trial court should have permitted procedurally defective counts of "complaint and/or appeal" to be amended; "if viewed as a petition for writ of certiorari, the verified 'appeal and/or complaint' [sic] was timely filed"); and Holden Avenue Inter-Neighborhood Council, Inc. v. Orange County, 719 So. 2d 1002 (Fla. 5th

DCA 1998)(holding petitioner's "notice of intent to file petition" filed within ten days after decision, per Orange County Code, was timely attempt to invoke the certiorari jurisdiction of the court; "in the interest of justice" notice of intent treated as initial petition for writ of certiorari, with subsequent petitions treated as amended petitions).

At page four of the Reply on Rehearing, Petitioners state: "This [appellate division of the circuit] Court must treat Counts I-VI and parts of Count VII of Petitioners' original complaint as a petition for writ of certiorari and accept jurisdiction over the petition . . . ." On page nine of the Reply Brief, Petitioners state, "Once again, Petitioners are essentially requesting this [appellate division of the circuit court] determine that the original January 8, 2015 complaint *is* a petition for certiorari to the extent it raised issues other than comprehensive plan consistency." (Emphasis in original).

### **Analysis**

The cases relied upon by Petitioners are distinguishable on their facts from the present case. In the cited cases, District Courts of Appeal concluded that rather than dismissing the improperly filed pleadings, the trial court could or should have treated the pleadings as petitions for writ of certiorari or notices of appeal and transferred the cases to the appellate divisions of the court. In the present case, Petitioners requested that only Count IX of the March 20, 2015, Amended Complaint be transferred by the trial court to the appellate division of the circuit court. The trial court granted all the relief requested. Petitioners did not ask the trial court to treat Counts I through VII of the original complaint as a timely filed petition for writ of certiorari and transfer it to the appellate division of the circuit court.

Additionally, unlike the cited cases, Counts I through VI and VIII of the Amended Complaint<sup>1</sup> remain pending before the trial court in the civil case and Petitioners have indicated their intent to proceed with the civil case and also pursue the untimely filed petition for writ of certiorari. The Petitioners cannot pursue both a civil action challenging the quasi-judicial action of the Town and the untimely petition for writ of certiorari at the same time under the facts of this case.

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<sup>1</sup> There is no Count VII in the Amended Complaint.



As set forth above, Petitioner suggest at pages four and nine of the Reply on Rehearing that this Court treat or determine that the original January 8, 2015, complaint is a petition for certiorari. This Court only has Count IX of the Amended Complaint before us for consideration. Rule 9.040(c) states: "If a party seeks an improper remedy, the cause shall be treated as if the proper remedy had been sought; provided it shall not be the responsibility of the court to seek the proper remedy." (Emphasis added). This Court does not have the ability, and it is not the responsibility of this Court, to convert the original complaint pending in the trial court into a petition for writ of certiorari.

### **Conclusion**

Petitioners are improperly attempting to maintain both a civil action in the trial court and an untimely filed petition for writ of certiorari challenging the Town's quasi-judicial actions. As this Court found in the order denying the petition, under rule of civil procedure 1.190(c), Count IX filed on March 20, 2015, in the civil case and transferred to this Court as a petition for writ of certiorari, does not relate back to the January 8, 2015, filing date of the original complaint. The timely filed January 8, 2015, original complaint has not been transferred to the appellate division of the court.

This Court properly dismissed as untimely the Petition for Writ of Certiorari, deemed filed on March 20, 2015. The decisions to dismiss the March 20, 2015, Petition for Writ of Certiorari and to deny the motion for rehearing are based solely on the jurisdictional issue and not on the merits of the petition. Further, this Court makes no ruling on whether the automatic stay contained in Town of Belleair Ordinance 1-16 was triggered after Count IX of the Amended Complaint was transferred to the appellate division of the circuit court and filed with the Clerk of Court as a Petition for Writ of Certiorari.

Accordingly, it is

**ORDERED AND ADJUDGED** that the Petitioners, the Florida Trust for Historic Preservation, Inc.; Friends of the Belleview Biltmore, Inc.; National Trust for Historic Preservation; Doris Hanson; Rae Claire Johnson; and Mary Lou White's, "Emergency Verified Motion for Rehearing" is **DENIED**.

**IT IS FURTHER ORDERED AND ADJUDGED** that this ruling is based solely on the jurisdictional issue, not on the merits of the petition, and no ruling has been made concerning the automatic stay provision contained in Town of Belleair Ordinance 1-16.

**DONE AND ORDERED** in Chambers, in Clearwater and St. Petersburg, Pinellas County, Florida, this 15<sup>th</sup> day of July, 2015.

Original Order entered on July 15, 2015, by Circuit Judges Linda R. Allan, Amy M. Williams, and Patricia Muscarella.

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