

RECEIVED, 9/14/2018 3:11 PM, Kristina Samuels, First District Court of Appeal

IN THE DISTRICT COURT OF APPEAL OF THE EIGHTH JUDICIAL  
CIRCUIT  
ALACHUA COUNTY, FLORIDA

ED CRAPO, as Alachua  
County Property Appraiser

Appellant/Cross-Appellee,

CASE NO.: 1D17-1895  
L.T. NO.: 2015-CA-001554

v.

ACADEMY FOR FIVE ELEMENT  
ACUPUNCTURE, INC. a Florida  
Non-Profit Corporation

Appellee/Cross-Appellant.

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**APPELLANT’S MOTION FOR REHEARING**

Appellant/Cross-Appellee, Ed Crapo, respectfully moves for a rehearing pursuant to Rule 9.330(2), Florida Rules of Appellant Procedure on the grounds that this Court has overlooked or misapprehended a controlling point of law. In support of this Motion the Appellant states as follows:

1. This Court’s opinion results in the granting of a vested right to an ad valorem tax exemption based upon an unappealed decision of the VAB. It would not only apply to a property appraiser but also to taxpayers.

2. The application of the doctrine of res judicata i.e. administration finality should be applied with great caution. *Thompson v. Department of Environmental Regulation*, 511 So. 2d 989 (Fla. 1987). In this case, after the fact

of a decision by Crapo to not appeal the 2008 VAB decision, with the understanding of the tenet that each year stands alone, this Court's decision now applies a doctrine of finality prohibiting a reconsideration of that exemption in a subsequent year. The case law, at the time Crapo made his decision not to file a circuit court action of the 2008 VAB decision, would allow him to revisit the issue. This is in conflict not only with, as noted by this decision, other cases of this Court, but decisions of other district courts. *Container Corp. of Am. v. Long*, 274 So. 2d 571, 573 (Fla. 1<sup>st</sup> DCA 1973); *Davis v. Macedonia Hous. Auth.*, 641 So. 2d 131 (Fla. 1<sup>st</sup> DCA 1994); *Spencer Estates of Fla., LLC v. Havill*, 125 So. 3d 795 (Fla. 5<sup>th</sup> DCA 2012); *Keith Investments v. James*, 220 So. 2d 695 (Fla. 4<sup>th</sup> DCA 1969).

3. This decision also works to the detriment of taxpayers. If a taxpayer fails to sue on an adverse VAB decision establishing a point of law, then that taxpayer would be foreclosed for any future challenges.

4. If the VAB in a value challenge rules that a particular approach is legally applicable, that determination would prevent the taxpayer from a later challenge involving that methodology or if a taxpayer is denied an exemption or classification, the taxpayer is subject to the doctrine of administration finality in a potential future challenge. See *Southern Bell Tel. S. Tel. Co. v. Broward County*, 665 So. 2d 272 (Fla. 4<sup>th</sup> DCA 1995); *Bystrom v. Equitable Life Assurance Soc.*, 416 So. 2d 1133 (Fla. 3<sup>rd</sup> DCA 1982).

5. This Court's decision is also contrary to the legislative scheme for each year's tax roll. *Sowell v. Pan. Commons L.P.*, 192 So. 3d 27 (Fla. 2016); *City of Largo v. AHF-Bay Fund, LLC*, 215 So. 3d 10 (Fla. 2017).

6. See also Motion for Rehearing En Banc.

WHEREFORE, APPELLANT, ED CRAPO, respectfully requests that the Court grant a rehearing so that it may reconsider these matters.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email to: Paul A. Donnelly, Esquire and Jung Yoon, Esquire, Donnelly & Gross, P.A., 2421 NW 41<sup>st</sup> Street, Suite A-1, Gainesville, Florida 32606, at [paul@donnellygross.com](mailto:paul@donnellygross.com), [jung@donnellygross.com](mailto:jung@donnellygross.com) and [elecdocs@donnellygross.com](mailto:elecdocs@donnellygross.com) on this 14<sup>th</sup> day of September, 2018.

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