

STUDENT WORKS

PILLOW TALK AND PROPERTY TAXES: FLORIDA'S FAMILY UNIT REQUIREMENT FOR HOMESTEAD EXEMPTION AND THE MODERN MARRIAGE

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Property taxes rarely become the subject of romantic imaginings. Property tax *exemptions*, on the other hand, have the potential for an active love life, thanks to the Florida Constitution, which drags love and marriage into the mix by stating that only one homestead property tax exemption shall be granted to “any individual or *family unit*.”¹ This raises the question: what is a “family unit”? Does being married automatically make a “family unit” under the constitution? And how can a couple determine whether their love life, or plans of marriage, might interfere with valuable tax exemptions? Florida statutes do not provide a definition for the term “family unit”; therefore, it is ambiguous whether and when a married couple can qualify for more than one exemption. In the face of this uncertainty, dreams of creating a family might now include visions of lost property tax exemptions. It is conceivable that, when planning a romantic down-on-one-knee marriage proposal, a beau might now wonder: How will this impact my homestead exemption?

Equally dispiriting for Florida's romantics, the lack of a definition for the term “family unit” puts property appraisers in the

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1. Fla. Const. art. VII, § 6(b) (emphasis added).

position of investigating and making significant determinations about a couple's relationship in pursuit of answering the questions: (1) are they a family unit? and, (2) how many exemptions do they qualify for?² The search for answers to these questions, which can lead the property appraiser through a couple's private life, determines the ultimate fate of what could be thousands of dollars in property taxes.

Article VII, section 6 of the Florida Constitution states:

- (a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law
- (b) Not more than one exemption shall be allowed any individual or *family unit* or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.³

As the value of a homestead exemption increases,⁴ and the number of non-traditional marriages and families rises,⁵ more

2. Fla. Const. art. VII, § 6(d). County property appraisers are the constitutional officers vested with the duty to administer property tax exemptions. Fla. Stat. § 196.011 (2009).

3. Fla. Const. art. VII, § 6 (emphasis added).

4. *Infra* pt. I.

5. Through personal experience, we know that same-sex couples, single parents, married couples who live apart, grandparents raising grandchildren, and people in a myriad of other family types do not fit the iconic but naive "Leave it to Beaver" standard of a nuclear family. *Leave it to Beaver*, TV Series (CBS 1957–1958, ABC 1958–1963) (information available at <http://imdb.com/title/tt0050032/>). See Douglas E. Abrams et al., *Contemporary Family Law* 1 (2d ed., West 2009) ("Nuclear" families comprised of married couples living with their children . . . now constitute less than a quarter of all American

married couples—often with the wherewithal to maintain separate finances and homes—wish to reap the benefits of dual homesteads.⁶ At the same time, local-government and school-district budgets are struggling with the decline in property-tax revenue.⁷ If separate exemptions are granted to married couples, they should be granted in a uniform fashion from county to county; otherwise, there will be inequitable impacts on individual homeowners and on various government agencies, as different property appraisers develop independent standards for defining a “family unit” and granting exemptions. It is crucial for the Florida legislature to provide guidance to property appraisers (not to mention practitioners and judges) in determining what constitutes a “family unit,” and when a married couple may qualify for more than one homestead exemption. This Comment will explore the ambiguity surrounding the term “family unit” in the context of the Article VII homestead exemption, the current state of the law interpreting the term, and several alternative solutions that could either keep the determination of “family unit” out of, or

households. In their place, the U.S. Census Bureau has found dramatic growth in alternative family arrangements . . .”); see also Sam Roberts, *Study Finds Wider View of ‘Family’*, N.Y. Times A14 (Sept. 15, 2010) (available at 2010 WLNR 18244554) (hailing the release of a new book that analyzes survey results indicating significant changes in public acceptance of gay and lesbian couples). Even the federal government has had to acknowledge the changing demographics in family structure. See Dep’t of Labor Wage and Hour Div., [U.S.] Department of Labor Clarifies FMLA Definition of ‘Son and Daughter,’ Interpretation Is a Win for All Families No Matter What They Look Like, Release Number: 10-0877-NAT (June 22, 2010) (available at <http://www.dol.gov/opa/media/press/WHD/WHD20100877.htm>) (acknowledging the rise in non-traditional families “including families in the lesbian-gay-bisexual-transgender community,” and stating that non-traditional families are eligible for benefits under the Family Medical Leave Act).

6. See e.g. *Finegold v. Kelly*, No. 432007-CA-001889, at 16–17 (Fla. 19th Cir. Dec. 23, 2009) (detailing a case in which a happily married couple worth millions of dollars attempted to claim separate family units for tax purposes).

7. See e.g. John Davis, *In North Port, More Cuts Are Put on the Table*, Sarasota Herald-Trib. BN1 (July 20, 2010) (available at <http://www.heraldtribune.com/article/20100720/ARTICLE/7201040>) (discussing a city’s use of furloughs and layoffs to offset budget losses due to decreased property tax revenue); Andy Reid, *Palm Beach County Faces 13 Percent Property Tax Rate Increase: County Commissioners Increased Property Taxes by Nearly 15 Percent for 2010*, Sun Sentinel (June 8, 2010) (available at http://articles.sun-sentinel.com/2010-06-08/news/fl-budget-shortfall-palm-20100607_1_cities-and-other-taxes-tallahassee-based-research-group-tax-rate) (stating that Palm Beach County has cut over seven hundred positions since 2007 in response to budget woes); Danny Valentine, *Hillsborough Property Values Decline 11 Percent*, St. Petersburg Times (posted June 3, 2010 at 9:28a.m.) (available at <http://www.tampabay.com/news/growth/hillsborough-property-values-decline-11-percent/1099682>) (“The shrinking tax base will increase pressure on local governments to cut spending or raise taxes.”).

move it further into, the bedrooms of homeowners. Part I introduces the term “family unit,” and argues that it must be clearly defined by the legislature to ensure equitable administration of exemptions. Part II discusses the origins of the “family unit” requirement and potential interpretations of the term, while Part III addresses the inequities that can be caused by the lack of a standard definition. Part IV summarizes the Attorney General Opinions and recent Florida circuit and appellate cases on the subject of separate family units. Part V offers three potential resolutions to the current ambiguity surrounding the term: abolishing all property tax exemptions; defining a “family unit” as a married couple; and proposing a model statute defining “family unit.” The Comment concludes with Part VI.

I. HOMESTEAD EXEMPTION: HIGH VALUE, HIGH STAKES

Perhaps in 1968, when the Florida constitution was amended to add the phrase “family unit,”⁸ the legislature may have believed that the term held universal significance, and therefore did not need to be defined. If the definition of a “family unit” was ever simple, it certainly is no longer. As family dynamics continue to evolve,⁹ it becomes more difficult for property appraisers to ascertain who constitutes a “family unit,” and when a married couple, which is arguably a technical “family unit,” might qualify for more than one exemption.¹⁰

Property appraisers are therefore forced to examine the personal lives, living arrangements, emotional attachments, and finances of homeowners in an effort to pinpoint that elusive element of “family unit” before granting valuable exemptions.¹¹

8. Talbot “Sandy” D’Alemberte, *Commentary*, 26A West’s Fla. Stat. Ann. 10, 10–12 (2010) (commenting on Florida’s 1968 constitutional revision of Article 7, section 6).

9. *Supra* n. 5.

10. *Infra* pt. IV (discussing a number of recent circuit court cases that examine the difficulty in ascertaining what constitutes a “family unit”); *infra* pt. II (describing the legal background behind the “family unit” language as it pertains to homestead exemption).

11. See e.g. Or. Granting Defs. Mot. for S.J. and Or. Denying Pls. Mot. for S.J., *Palmer v. Turner*, No. 08-CA-28411, slip op. at 7 (Fla. 13th Cir. Jan. 8, 2010) (discussing as relevant to the determination of homestead exemption the couple’s “degree of . . . personal connections,” including the amount of time they spend in each other’s homes and on vacation together as well as how their financial assets are held).

Consider the following hypothetical:

Frank and Jane are middle-aged and well established, and each owns a home. They meet one fateful day at the tennis court, fall madly in love, and decide to marry. Jane takes Frank's last name, but they decide to keep all their finances separate, mostly to avoid worrying their respective children. The besotted pair eat together every night, spend the night at each other's homes, vacation together, and introduce themselves as a married couple; however, they do not commingle their money or possessions. Jane's belongings stay at her house, where she still spends plenty of time; Frank's belongings stay at his house. The reason? Frank has cats, and Jane has dogs, and neither is willing to discomfort the pets by moving them in together. Frank and Jane each had their own homestead exemption before marriage, and claim that they are still separate family units entitled to keep both exemptions. These exemptions are both valuable—saving thousands of dollars in property taxes annually on each home.

The property appraiser is now in the position of making judgments about Frank and Jane's relationship, and the intent of the Florida Constitution, to determine whether the couple should be allowed to retain two tax exemptions when most married couples are only allowed one. Does it matter where Frank and Jane sleep, and with whom, or how often? Is it significant that Jane changed her name? Should the property appraiser's decision be impacted by the fact that Frank and Jane are not only married but also in love? Would the determination be different if they were at the end, instead of the beginning, of the marriage, living apart due to impending divorce instead of due to dueling pets? Should the decision be swayed by the fact that they have the ability to keep separate homes, bank accounts, bills, and mortgages, because of their level of wealth?

These are difficult questions that pertain to very personal, and often private, aspects of Frank and Jane's lives. But under the current law, their county property appraiser must either grant them a single exemption, as a married couple, and ignore the fact that the constitution uses the term "family unit" instead of "married couple"; or, the appraiser must investigate and weigh private facts about Frank and Jane's relationship and intentions

to ascertain whether they are truly a “family unit” before deciding whether to grant the couple dual homestead exemptions.

For couples like Frank and Jane, the financial difference between maintaining one homestead exemption and two can be dramatic; therefore, the motivation for property owners to attempt to maintain separate “family units” may be quite strong. Since its inception, Florida’s homestead property tax exemption has become increasingly valuable to homeowners:¹² not only has it expanded from \$5,000 to \$50,000, but it has been augmented by the Save-Our-Homes cap.¹³ The cap limits annual increases in the assessed value of homestead property to no more than three percent or the percent change in the consumer price index, whichever is lower, beginning the second year of the homestead exemption.¹⁴ The first year of the homestead exemption is “base year” for the cap, when the initial property values subject to the cap are established.¹⁵ This creates a substantial benefit to long-time homesteaders by insulating their tax base—and therefore taxes—from dramatic increases, regardless of the activity in the real-estate market.¹⁶ In recent years, the cap has eclipsed the homestead exemption in terms of value as a tax benefit.¹⁷

In *Zingale v. Powell*,¹⁸ the Powells, homeowners, did not apply for homestead exemption in 2000 when they first qualified for it; therefore, they did not have the benefit of the Save-Our-Homes

12. Fla. Const. art. VII, § 6; Fla. Stat. § 193.155 (2009).

13. For a history of Florida property tax exemptions, including the expansion of the homestead exemption and creation of the Save-Our-Homes cap, see Pamela M. Dubov, *Circumventing the Florida Constitution: Property Taxes and Special Assessments, Today’s Illusory Distinction*, 30 Stetson L. Rev. 1469, 1471–1478 (2001).

14. Fla. Stat. § 193.155(1). A list of the Save-Our-Homes cap rates by year can be found on the Florida Department of Revenue website. Fla. Dep’t of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, <http://dor.myflorida.com/dor/property/resources/limitations.html> (accessed Jan. 6, 2012).

15. Fla. Stat. § 193.155(1).

16. *Id.*

17. In 2009, according to the Department of Revenue, the original \$25,000 homestead exemption statewide exempted \$112 billion in property value, equating to approximately 5% of the value of real property. Fla. Dep’t Revenue, *2009 Florida Property Valuations & Tax Data*, tbls. 1, 5 (Apr. 2010) (available at <http://dor.myflorida.com/dor/property/rp/pdf/09FLpropdata.pdf>). In the same year, the Save-Our-Homes cap exempted from the tax roll more than \$168 billion, or approximately 8% of the value of real property statewide. *Id.* at tbls. 1, 41. In its peak year in 2007, the cap exempted \$427.5 billion from the roll, which is more than four times the \$112 billion kept off the roll by the homestead exemption. *Id.*

18. 885 So. 2d 277 (Fla. 2004).

cap in 2001, when the market value of their home increased from \$2.3 million to almost \$3.9 million, causing their taxes to increase by almost \$40,000.¹⁹ The Powells sought to have the Save-Our-Homes cap applied to their 2001 value, which would have effectively made the year 2000 the base year for their cap, even though they did not receive the homestead exemption until 2001.²⁰ The Powells argued that the legal requirements for homestead exemption, which include a timely application, did not apply to the Save-Our-Homes cap.²¹ The Court ultimately ruled against the Powells, finding that the grant of a homestead exemption was necessary for a person to qualify for the cap, because the exemption and cap are entwined as part of a “coordinated constitutional scheme.”²² Linking the cap to the homestead exemption further, the Court concluded that “a successful application for a homestead [exemption] is necessary both to obtain the exemption and to qualify for the cap.”²³ The cap’s immense value as a companion to the homestead exemption is illustrated by the \$40,000 tax savings the Powells sought to obtain through the cap alone.²⁴ Because of the close relationship between the two, any discussion of the value of homestead exemption must acknowledge the desirability of the attendant Save-Our-Homes cap.²⁵

The Florida legislature, apparently to appeal to a constituency troubled by a poor economy, continues to construct new proposals for further expansion of the homestead exemption, any of which would make the exemption even more valuable to homeowners. For example, 2011 House Joint Resolution 381 proposes a constitutional amendment to increase the homestead exemption to half the property value in certain circumstances.²⁶ In 2010, a

19. *Id.* at 280.

20. *Id.*

21. *Id.* at 282.

22. *Id.* at 285.

23. *Id.*; accord *Haddock v. Carmody*, 1 So. 3d 1133, 1136 (Fla. 1st Dist. App. 2009) (confirming that “there is no self-executing right to the ‘[Save-Our-Homes]’ tax cap,” which is granted only to those who apply and qualify for the homestead exemption).

24. *Zingale*, 885 So. 2d at 280.

25. *Id.*; see generally *Dubov*, *supra* n. 13, at 1477–1478 (comparing the Save-Our-Homes cap to California’s notoriously valuable Proposition 13 tax benefit, which limited increases in the assessed value of all property in California); Fla. Dep’t of Revenue, *supra* n. 17 (illustrating the value of the Save-Our-Homes cap statewide).

26. Fla. H. Jt. Res. 381, 2011 Reg. Sess. (Jan. 24, 2011) (signed by the Governor on June 2, 2011) (available at <http://www.flsenate.gov/Session/Bill/2011/0381>).

bill proposed to make Save-Our-Homes cap inheritable.²⁷ If such proposals continue to be raised, and eventually pass, the impetus for homeowners to seek multiple exemptions will increase with the value of the exemption.²⁸

The homestead exemption and Save-Our-Homes cap are both so valuable, and there is so much temptation for property owners to improve their own tax status at the expense of other taxpayers, that property appraisers must use particular care to grant only valid exemptions to qualifying individuals or family units.²⁹ But property appraisers need assistance to unravel the meaning of “family unit,” which otherwise remains enigmatic, a cipher based on some elusive and perhaps ideological notion of family, penned without explanation by legislators over forty years ago. Some insight—although no complete answers—can be found by examining the origins of the exemption.

II. THE ORIGIN AND MEANING OF “FAMILY UNIT” IN ARTICLE VII

The property tax homestead exemption originated as part of the Constitution’s Article X homestead exemption, which was designed to protect a family home from forced sale and devise.³⁰ The

27. Fla. Sen. Jt. Res. 112, 2010 Reg. Sess. (Mar. 2, 2010) (available at <http://www.flsenate.gov/data/session/2010/Senate/bills/billtext/pdf/s0112.pdf>). Other proposed (but ultimately unsuccessful) bills in both 2010 and 2011 show the Florida legislature’s continued efforts to increase the benefit of property tax exemptions for permanent residents. *E.g.* Fla. Sen. Jt. Res. 1402, 2010 Reg. Sess. (Mar. 2, 2010) (available at <http://www.flsenate.gov/data/session/2010/Senate/bills/billtext/pdf/s1402.pdf>) (increasing the homestead exemption to the median value of homes in the county, while limiting the tax rate and increasing the exemption for low-income seniors); Fla. Sen. Jt. Res. 1578, 2011 Reg. Sess. (Mar. 9, 2011) (available at <http://www.flsenate.gov/Session/Bill/2011/1578/>) (creating an alternative homestead exemption of 40% of the property’s just value between \$75,000 and \$500,000).

28. See Teresa Lane & Rachel Simmons, *Nabbing Homestead Cheats Could Be Boon to Counties*, Palm Beach Post (Fla.) 1A (May 6, 2007) (available at 2007 WLNR 8608090) (outlining the success of homestead fraud investigation units in various county property appraiser offices and stating that the Martin County Property Appraiser “fears that the incentive to cheat [in order to receive homestead exemption] will only worsen if lawmakers grant more benefits to those with homesteads”).

29. Stephen Hudak, *Hunting for Homestead Tax Cheats*, Orlando Sent. (Fla.) A1 (July 7, 2010) (available at 2010 WLNR 13597389) (stating that homestead fraud has increased due to the increased value of the exemption and outlining the steps some property appraisers take to ensure exemptions are granted properly).

30. Fla. Cont. art. X, § 4. The property-tax exemption (initially \$5,000) was added to the Article X creditor protection “homestead” provision by House Joint Resolution 20, as

separation of the homestead property tax exemption into Article VII in 1968 created a distinct area of law that must be analyzed separately from Article X,³¹ which retains the original protectionist functions of the homestead law.³²

While there is a significant amount of common law concerning the Article X homestead,³³ guidance on interpreting the “family unit” language of the Article VII exemption is scarce, save for a few Attorney General’s Opinions, and little published case law.³⁴ This dearth leaves little option for those looking to resolve the ambiguities caused by the “family unit” language but to look back to Article X for some hint of meaning. As the property tax

part of the 1933 amendment to the 1885 Constitution. Fla. H. Jt. Res. 20, 1933 Reg. Sess. (approved May 27, 1933) (available at: <http://www.law.fsu.edu/crc/conhist/1934amen.html>); see also *Gray v. Moss*, 156 So. 262, 266 (Fla. 1934) (ruling to allow the property tax exemption amendment to remain on the ballot).

31. A copy of the 1968 Constitution is available on the Florida Constitutional Revision Commission website. Fla. Const. Rev. Comm’n, *Constitution of 1968: Constitution of the State of Florida as Revised in 1968*, <http://www.law.fsu.edu/crc/conhist/1968con.html> (accessed Aug. 7, 2010).

32. See *Phillips v. Hirshon*, 958 So. 2d 425, 427 (Fla. 3d Dist. App. 2007) (outlining the various contexts of “homestead” under Florida law and stating that the definition of homestead for Article VII is not determinative of homestead for Article X); see also *Karayiannakis v. Nikolits*, 23 So. 3d 844, 846 n. 1 (Fla. 4th Dist. App. 2009) (citing *Crain v. Putnam*, 687 So. 2d 1325, 1326 (Fla. 4th Dist. App. 1997)) (“We recognize that the homestead provisions found in Article VII and Article X of our constitution are separate and distinct, and principles relating to one do not necessarily govern the other.”).

The gulf between Article VII and Article X cases includes a difference in the burden of proof at different stages of qualification for each exemption:

In cases addressing nonconstitutional exemptions, Florida courts have generally held that tax exemptions are to be construed against the individual claiming the exemption. Therefore, the burden favors the property appraiser during the initial qualification phase.

By contrast, once the right to homestead has been established, Florida and federal courts have generally been protective of the right in cases both when homestead is used as a shield against creditors and when the established right to homestead has been called into question.

Mark A. Rothenberg & Kara L. Cannizzaro, *The Loss of Homestead through Rental*, 84 Fla. B.J. 34, 35 (Jan. 2010) (footnotes omitted).

33. The supplemental information provided on LexisNexis for Fla. Const. art. X, § 4 contains 447 Case Notes, each for a different sub-topic concerning Article X homestead protections, and each citing one or more relevant cases. LexisNexis, *Fla. Const. Art. X, § 4*, <http://www.lexisnexis.com>; search citation “Fla. Const. X s. 4”, select Case Notes (accessed July 4, 2011). A similar search for Article VII returns only 32 case notes, most of which do not discuss the “family unit” requirement. LexisNexis, *Fla. Const. art. VII, § 6*, <http://www.lexisnexis.com>; search citation “Fla. Const. VII s. 6”, select Case Notes (accessed Jan. 4, 2012).

34. See *infra* pt. IV (discussing the relevant Attorney General Opinions and recent court cases concerning family units and homestead exemption).

exemption springs from the creditor-protection exemption, it is presumable that they both share the same basic or ideological purpose, despite differences in their application.

The stated purpose of the Article X homestead is “to protect families from destitution and want by preserving their homes.”³⁵ This protectionist objective has also been attributed to the property tax exemption; therefore, interpretations of the term “family unit” should reflect the goal of keeping families from losing their homes due to excessive taxation.³⁶

Under Article X homestead, protectionism is advanced by defining a family unit as an “*intact* marriage.”³⁷ Such a definition applied to “family unit” for the Article VII homestead exemption would require a property appraiser to determine, through review of personal and private information, whether a married couple is in an *intact* relationship or whether, despite the marriage, there are actually two distinct families, each needing protection.³⁸

This initially appears to be a useful solution for defining family unit, despite concerns about the intersection between government interests and personal privacy; however, simply applying the intent of Article X to Article VII, while informative, cannot ultimately resolve the issue because the courts have declared that the two homesteads are separate and distinct, and should not be analyzed using the same criteria.³⁹ In fact, the “principles relating to one do not necessarily govern the other.”⁴⁰ This leaves property appraisers and practitioners floundering for a solid method to determine the meaning of, and verify the existence of, a “family unit.”

35. *In re Quraeshi*, 289 B.R. 240, 243 (Bankr. S.D. Fla. 2002) (quoting *In re Kellogg*, 197 F.3d 1116, 1120 (11th Cir. 1999)).

36. *Zingale*, 885 So. 2d at 285 (stating that the homestead exemption and Save-Our-Homes cap “have as their underlying purpose the protection and preservation of homestead property”); see also *Smith v. Welton*, 729 So. 2d 371, 372–373 (Fla. 1999) (stating that the purpose of the Save-Our-Homes cap is to keep low-income property owners from losing their homes when property values increase); *Reinish v. Clark*, 765 So. 2d 197, 210 (Fla. 1st Dist. App. 2000) (arguing that the homestead exemption furthers a valid State objective: protecting a homeowner’s ability to afford and maintain a primary residence).

37. *Law v. Law*, 738 So. 2d 522, 524–525 (Fla. 4th Dist. App. 1999) (emphasis added).

38. See *id.* at 525 (“We see nothing inconsistent with our public policy if we extend a homestead exemption to each of two people who are married, but legitimately live apart in separate residences, if they otherwise meet the requirements of the exemption.”).

39. *Crain*, 687 So. 2d at 1326 (Fla. 4th Dist. App. 1997).

40. *Id.*

Pinellas County Property Appraiser Pam Dubov explained the dilemma succinctly: the law is “as clear as mud.”⁴¹ Part of the problem is that there is little evidence of the intent behind the inclusion of the term “family unit” as a limitation on qualifications for the homestead property tax exemption.⁴²

A. The Definition of Family Unit

One place to look for guidance is to determine how the term “family unit” is defined in other settings. As it turns out, the definition of family unit is equally complex in other areas of the law.⁴³ Common areas of the law that delve into the meaning of family provide diverse interpretations; no consensus exists.

For example, for the purpose of domestic violence law,

“Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.⁴⁴

This definition is more inclusive than the “family unit” interpretation used for property-tax purposes should be. While domestic violence laws need to provide protection from a wide range of potential violators, it would be unreasonable to limit one homestead exemption to every family unit if that included all ex-spouses, parental couples, or anyone who had at one time cohabited.

As another example, the provision for respite for elders living in everyday families provides an equally expansive definition of “family unit”:

41. Notes from Interview with Pam Dubov, CFA, CAE, Pinellas County Property Appraiser (Mar. 29, 2010) (on file with author).

42. *Id.*

43. One author dramatically called the definition of family units (for negative income tax purposes) “the single most difficult legal and administrative problem.” James Tobin et al., *Is a Negative Income Tax Practical?* 77 *Yale L.J.* 1, 9 (1967).

44. Fla. Stat. § 741.28(3) (2009).

[O]ne or more individuals whose primary residence is with a homebound elderly individual specifically for the purpose of providing care for that homebound elderly individual. The family does not necessarily need to be related by blood or marriage to the homebound elderly individual.⁴⁵

If the spirit of this definition—that a family is made up of those who live together and care for one another—was applied to the homestead exemption, then it would reemphasize the limitation that only one exemption is allowed per *residential unit*, regardless of who is married to whom.⁴⁶ In other areas of the law, the term “family unit” is similarly associated with a residential unit or home, not to a relational group of people.⁴⁷ Such an interpretation would basically eliminate the need for the family unit requirement. Since Article VII includes limitations of one exemption per residential unit *in addition to* one per family unit, however, the family unit limitation must be construed to have some independent meaning.⁴⁸

The search for the meaning of “family unit” leads back, again and again, to a desire to know the original intent of the legislature.⁴⁹ But there are too many possible intentions to provide much insight. After all, it is completely possible that the intent was to keep those who are otherwise benefiting from a family arrangement—presumably a stand-in for financial and housing support—from taking advantage of the homestead exemption. In that case, a simple financial-separateness test for “family unit,” including children and parents, would be appropriate.⁵⁰ This could produce

45. Fla. Stat. § 430.071(a) (2009).

46. Fla. Const. art. VII, § 6(b).

47. See e.g. Fla. Stat. § 553.792(2) (2009) (building permits); Fla. Stat. § 420.9075 (2009) (social welfare); Fla. Stat. § 420.511 (2009) (affordable housing).

48. When interpreting the constitutional provision governing homestead exemption, the Florida Supreme Court has held that courts must examine and give weight to the provision’s “explicit language.” *Zingale*, 885 So. 2d at 282 (Fla. 1986) (citing *Fla. Soc’y of Ophthalmology v. Fla. Optometric Ass’n*, 489 So. 2d 1118, 1119 (Fla. 1986)); See also *Forsythe v. Longboat Key Beach Erosion Control Dist.*, 604 So. 2d 452, 456 (Fla. 1992) (“It is a cardinal rule of statutory interpretation that courts should avoid readings that would render part of a statute meaningless.”); cf. *Marbury v. Madison*, 5 U.S. 137, 174 (1803) (referring to the United States Constitution: “It cannot be presumed that any clau[s]e in the constitution is intended to be without effect”).

49. “The fundamental object to be sought in construing a constitutional provision is to ascertain the intent of the framers.” *Zingale*, 885 So. 2d at 282 (quoting *Gray v. Bryant*, 125 So. 2d 846, 852 (Fla. 1960)) (emphasis removed).

50. See Fla. Att’y Gen. Op. 075-146, 1975 Annual Rpt. of the Att’y Gen. Fla. 252, 253

absurd results, however, such as denying homestead exemptions to adult children with their own homes because they continue to receive some financial help from their parents.

The potential meaning is incongruous with reality, as the term “family unit” in Article VII has never been interpreted or administered in a way that it would cover extended family; interpretations have always been limited to married couples.⁵¹ Therefore, despite any potential interpretations, the primary concern of any definition should be to distinguish when a *married couple* is and is not a family unit.

This is supported by understandings of “family” outside of the law. The Encyclopedia Britannica describes a “family” this way:

A group of persons united by the ties of marriage, blood, or adoption, constituting a single household and interacting with each other in their respective social positions, usually those of spouses, parents, children, and siblings. . . . *Frequently the family is not differentiated from the marriage pair. . . .*⁵²

Equating a family unit with the marriage pair, as done here, approaches the definition property appraisers are currently using to determine who qualifies for a homestead exemption.⁵³ It does not, however, answer the question of when a married couple ceases to be a family unit, and whether cessation requires the separation of one or more of the emotional, physical, financial, and legal bonds of marriage

The separation quandary is heightened by the “duality of meaning” ascribed to marriage: that is, the legal aspect of mar-

(May 28, 1975) (available at <http://myfloridalegal.com/ago.nsf/Opinions>; *select Jump To: 1975, select AGO 75-146*) (establishing the test for financial separateness when attempting to determine whether *spouses* are in fact “separate family units”).

51. *Id.* While there is at least one documented instance in which parents have attempted to obtain a second homestead exemption on a home they owned on behalf of an adult child who lived in the home, no cases exist in which a property owner has been denied homestead exemption because of the individual homestead status of the owner’s parents or children. Fla. Att’y Gen. Op. 2008-13, 2008 Annual Rpt. of the Att’y Gen. Fla. 54, 56–57 (Apr. 1, 2008) (available at <http://myfloridalegal.com/ago.nsf/Opinions>; *select Jump To: 2008, select AGO 2008-13*). Instead, “family unit” and “separate residency” cases focus exclusively on the relative homestead status of spouses. *Infra* pt. IV.

52. Encyclopedia Britannica, *History & Society: Family*, <http://www.britannica.com/EBchecked/topic/201237/family> (accessed Aug. 7, 2010) (emphasis added).

53. *Supra* n. 51 and accompanying text; *Infra* pt. III.

riage as opposed to the religious or social aspect of marriage.⁵⁴ The duality of the legal and nonlegal elements of a marriage relationship can make a married couple's understanding of their togetherness or separateness quite different from that of the law or that of a property appraiser's office.

Considering this, the legal definition of "marriage" could be more relevant to the definition of "family unit" than discussions of "family" in other areas of the law or in common parlance.

B. The Definition of Marriage

In 2008, the Florida Constitution was amended to include a "one man, one woman" definition of marriage: "Inasmuch as marriage is the legal union of only one man and one woman as husband and wife, no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized."⁵⁵

This amendment, which affirms decisive boundaries for marriage in the state, could be construed to define a "family unit" by limiting legitimate families to those including a married man and woman (and presumably, their joint minor children). In that case, same-sex couples would never be considered a "family unit," regardless of their actual relationship. The traditional focus of the "one man, one woman" bill could also be read as supporting other traditional notions of families, such as the idea that a married couple, while wed, is always a family unit (despite the valiant efforts of *Judd v. Schooley* to liberate women from patriarchal tradition).⁵⁶ It is too far a stretch for property appraisers to apply the marriage amendment to property taxes, however, without more direction—particularly since the impetus behind the

54. Marc R. Poirier, *Gender, Place, and Discursive Space: Where is Same-Sex Marriage?* 3 FIU L. Rev. 307, 332–333 (2008).

55. Fla. Const. art. I, § 27 (adopted 2008).

56. In *Judd*, the court drily justifies a woman's right to establish her own residence separate from her husband:

Indeed, the rule was as Milton expressed it in *Paradise Lost*, Book X, Line 195:

And to thy husband's will Thine shall submit; he over thee shall rule.

However, we have traveled a long way since Milton, as every husband knows. We deem it unnecessary to continue to cloud the law with the mist of an out-moded fiction that has been dispelled by the light of present-day realities.

Judd v. Schooley, 158 So. 2d 514, 516 (Fla. 1963).

amendment was, for many, an emotional one based on cultural anxiety and family values, not on a practical intent to simplify exemptions.⁵⁷

Further, future changes in the law that acknowledge the shift in the culture of family and relationships, such as the proposed 2010 domestic-partnership act, could have equal impact on the legal concept of family.⁵⁸

Multiple diverse and legitimate notions of family and marriage coexist in modern society and law. Any proposed definition of “family unit,” therefore, must explicitly account for an expanded concept of family—either by encompassing a broad range of potential families, or by clearly excluding all but “traditional” married couples—while providing a narrow-enough scope to be realistically applicable on a case-by-case basis.

III. AMBIGUITY'S INEQUITIES

The ambiguity of the current law and the lack of definition for “family unit” have led to the development of the current tests used to ascertain separate family units, which entail a more or less subjective review of one or more of the following criteria:

- (1) Marital status;
- (2) Separate residency;
- (3) Financial interdependence or separateness; and
- (4) Social relationships.⁵⁹

The potential variations on this test can cause inequities between property owners based on situation or location, as different

57. See *Our Recommendations*, Tallahassee Democrat 2B (Oct. 5, 2008) (recommending that voters vote “No” on the one man/one woman amendment, calling the amendment “a duplicative, unnecessary means of privately objecting to cultural change and nontraditional families”).

58. Florida Senate Bill 232 unsuccessfully proposed the creation of legal domestic partnerships in Florida. Fla. Sen. 232, 2010 Reg. Sess. (Mar. 2, 2010) (available at <http://www.flsenate.gov/data/session/2010/Senate/bills/billtext/pdf/s0232.pdf>).

59. These criteria spring from several sources, including the Article X homestead exemption, Florida Attorney General Opinions and circuit and appellate cases on the subject of separate family units. *Supra* pt. II; *see infra* pt. IV (summarizing and citing the Attorney General Opinions and recent Florida circuit and appellate cases regarding the subject of separate family units).

county property appraisers choose to define family unit using disparate criteria. Contrasting tests also impact the government agencies in each county differently, as their tax revenue is impacted by the number of exemptions granted in that county. To illustrate the diversity of interpretations being used, the Pasco County Property Appraiser defines all married couples as “family units,” regardless of circumstances;⁶⁰ the Property Appraiser in neighboring Pinellas County instead reviews the individual circumstances of each married couple to determine separateness.⁶¹ Hernando County requires that both husband and wife prove there is “no [commingling] or cohabitating” between them.⁶²

Even within one county, different homeowners can find themselves treated differently because any one of the factors under consideration for “family unit” is subjective or creates loopholes. For example, under a financial-separateness test, a couple who has established separate permanent residences and separate finances may qualify for two exemptions while a couple in an identical situation but with fewer financial resources may not be able to do so. This is a “wealth” loophole that cannot be closed until a definitive meaning of “family unit” is provided by the legislature. Similarly, if a property appraiser elects to interpret “family unit” as a “married couple,” then a married couple retaining two homes may be eligible for only one exemption while a same-sex couple (who cannot yet legally marry but is otherwise situated similarly) may be able to claim two exemptions. This might be called the “unwed” loophole.

The difficulty of administering the exemption, caused by ambiguous semantics, is thus compounded by the myriad of family and relationship configurations that can raise potential family unit questions and create exemption loopholes.⁶³

60. *Skipper v. Wells*, No. 51-2009-CA-3363-WS/G (Fla. 6th Cir. Jan. 12, 2010),) *aff'd*, 60 So. 3d 400 (Fla. 2d Dist. App. 2011).

61. Notes from Interview with Pam Dubov, *supra* n. 41.

62. Email from Paulette Stearns, Dir., Pub. Servs. & Exemptions, Hernando Co. Prop. Appraiser's Off. to Amanda Coffey, Author, “*Separate Residency*” & “*Family Unit*”—*Recent Laws* (Mar. 19, 2010, 4:33 p.m. EST) (copy on file with Author).

63. Under Florida law, applications for homestead exemption are considered returns and are exempt from public records; therefore, real-life examples of dual exemptions and the situations in which real couples are claiming or attempting to claim separate residency are not available. Fla. Stat. § 193.074 (2010); Fla. Att’y Gen. Op. 2005-04, 2005 Annual Rpt. of the Att’y Gen. Fla. (Feb. 9, 2005) (available at <http://myfloridalegal.com/ago.nsf/Opinions>; *select* Jump To: 2005, *select* AGO 2005-04). It is therefore necessary to illustrate

For example, it is not uncommon in the modern world for a couple who married later in life to keep their own homes, hosting their own adult children in their own homes, and maintaining their own bank accounts. Is this couple a family unit? What about a devoutly religious man who, although he and his wife have not lived together or even seen each other for twenty-five years, will not divorce his wife due to religious reasons, and continues to support her? Does his support make them a family unit, despite their social and emotional distance?

A recent article in the *New York Times* discussed an upsurge in the number of the “un-divorced” (couples who remained married for long periods after separating).⁶⁴ The cited couples re-remained married for reasons ranging from nonchalance—Why divorce if there are no plans to remarry?—to the financial perks of marriage such as tax breaks and insurance coverage.⁶⁵ This raises the question: What forms of financial assistance contribute to the creation of a “family unit”? Florida Attorney General Opinion 075-146 states that property-based maintenance, such as one spouse paying the other’s mortgage, is evidence that they are not separate family units.⁶⁶ Does that conclusion extend to non-property based assistance? How much reliance must one spouse have on the other to create a “family unit”?

The *New York Times* article on the “un-divorced” included a story of a separated couple who alternated living in the family home with the children, and living in a shared apartment, so that the children did not need to shuffle back and forth.⁶⁷ Does post-separation-time-sharing of two homes make a married couple a “family unit”?

What about an unmarried couple with two homes who have adopted children together? Or Frank and Jane, who live separately for the sake of their pets, and maintain completely discrete finances, but who are truly in love? Does the fact that they are a

the difficulty of determining separate residency using hypothetical scenarios based on anecdote, currently recognized changes in family configurations, and recent circuit court cases, which are discussed below in Part IV.

64. Pamela Paul, *The Un-Divorced*, *N.Y. Times* ST1 (Aug. 2, 2010) (available at <http://www.nytimes.com/2010/08/01/fashion/01Undivorced.html?sq=un-divorced&st=nyt&adxnml=1&scp=1&adxnmlx=1317270509-JzRKQnfFqUNIP55ej4gM0Q>).

65. *Id.*

66. Fla. Att’y Gen. Op. 075-146, *supra* n. 50, at 254–255.

67. Paul, *supra* n. 64, at ST1.

family unit in the social sense make them a family unit for the Article VII homestead exemption? What if Jane had retained her own last name instead of taking Frank's, or what if they were not married?

In each of these scenarios, a couple might qualify for two homestead exemptions, depending on whether the property appraiser considers marital status, financial separateness, social relationships, or all of the above. The current state of the law does not fully answer the question of which test is preferable, but recent court cases seem to be moving toward a thorough examination of the *entire* marriage relationship, including financial, social, and emotional attachments.

IV. CURRENT STATE OF THE LAW

To see how the "family unit" tests have evolved in an attempt to address the myriad of possible family situations, we turn first to a review of Attorney General Opinions. Although Attorney General Opinions are not primary law, they are persuasive, and in the case of interpreting the family-unit provision for homestead exemption, they provide the primary source of guidance to property appraisers.⁶⁸

A. AGOs and Financial Separateness

In 1975, the Attorney General reaffirmed the 1963 Florida Supreme Court ruling in *Judd v. Schooley* that a woman may claim a permanent residence separate from her husband without showing "impelling reasons" for doing so,⁶⁹ furthering the modern idea that a woman can break away from her marriage without having to prove bad behavior on the part of her husband.⁷⁰ The Attorney General Opinion applies the rule from *Judd*, stating

68. *Beverly v. Div. of Beverage Dep't of Bus. Reg.*, 282 So. 2d 657, 660 (Fla. 1st Dist. App. 1973) (stating that Attorney General Opinions are entitled to "great weight" in construing Florida laws).

69. 158 So. 2d 514.

70. Fla. Att'y Gen. Op. 075-146, *supra* n. 50, at 252; *accord* Fla. Admin. Code Ann. r. 12D-7.007(7) (2007) ("If it is determined by the property appraiser that separate permanent residences and separate 'family units' have been established by the husband and wife, and they are otherwise qualified, each may be granted homestead exemption from ad valorem taxation under Article VII, Section 6, 1968 State Constitution.").

that a married couple can qualify for two homestead exemptions provided that they establish (1) bona fide separate permanent residences *and* (2) separate family units.⁷¹

The threshold requirement of separate residency⁷² is a prerequisite to, and is independent from, the contemplation of separate family units.⁷³ Although the opinion does not provide a test for determining separate residency, it gives a common-sense analysis that seems consistent with ordinary notions of residency: separate, permanent residences cannot be established while the individuals comprising a couple live “each alone, during periods of time, while at other periods of time they reside together” in one dwelling or another.⁷⁴

This standard is sufficient for review of the threshold question, since residency requirements are fairly straightforward as set forth in statute⁷⁵ and clarified in case law.⁷⁶ Unfortunately, as consideration of residency *also* plays a part in determining whether a couple constitutes a family unit, discussion of residency can create a pattern of redundant reasoning that does little to clarify the issue. The argument goes: (1) Does Jane have separate residency? Yes, Jane lives in her own home; therefore, she has separate residency; (2) Is Jane a separate “family unit” from Frank? Yes, Jane lives in her own home and has separate residency; therefore, she is a separate “family unit.” This conflation of separate residency and family unit provisions fails to acknowledge that the legislature specifically limited the exemption to one per “family unit,” making the “unit” a unique

71. Fla. Att’y Gen. Op. 075-146, *supra* n. 50, at 254.

72. Fla. Stat. § 196.015 (2010).

73. “It is my opinion, pending judicial or legislative clarification otherwise, that upon establishment of separate, bona fide permanent residences, the husband and wife *may also establish* separate family units” Fla. Att’y Gen. Op. 075-146, *supra* n. 50, at 254 (emphasis added).

74. *Id.* at 253.

75. The factors property appraisers should consider when determining residency include, among other things: declarations of residency, the location of applicant’s place of employment, and the address on the applicant’s voter registration, driver’s license, vehicle registration, IRS return, bank statements, and utility bills. Fla. Stat. § 196.015.

76. See e.g. *DeQuervain v. Desguin*, 927 So. 2d 232 (Fla. 2d Dist. App. 2006) (denying a homeowner’s application for homestead exemption because, as an immigrant without legal permanent residency status, he could not claim his Florida home as his permanent residence).

requirement that cannot be identical to the residency requirement, even if the two are related.⁷⁷

The second prong of the qualification test examines whether a married couple is a “family unit” for homestead-exemption purposes. Here, the opinion develops a focus on financial standing in determining whether a couple, living apart, is still a family unit: “[I]f one spouse should continue to maintain the home of the other, such as by making the payments on the mortgage, and for insurance and taxes, it would appear that the spouses under such circumstances have not established separate family units.”⁷⁸

Thus, after separate residency, financial separateness becomes the primary focus in future discussions of “family unit.” In 2005 and 2008, Attorney General Opinions reinforced the “financial separateness” test for family units, without providing any additional clarification or guidance.⁷⁹

The Attorney General Opinions’ focus on financial separateness in determining separate family units benefits those couples who are wealthy and sophisticated enough to maintain separate homes and finances. This is certainly an absurd result considering that it stems from a law with the purported intent to protect family homes.⁸⁰ Financial integration is only one of many components of an intact family unit. Granted, it is the most simply quantifiable component and therefore becomes a desirable measure on which property appraisers rely.

77. The complications in reasoning that can arise due to this redundant logic can be seen in recent cases. In *Haldeos v. Wells*, the court concluded that the couple “established separate residences in good faith.” The court therefore based its ruling regarding the family unit requirement solely on residency status, not the family relationship. 51-2008-CA-004664-WS, slip op. at 4 (Fla. 6th Cir. Aug. 4, 2009), *aff’d*, *Wells v. Haldeos*, 48 So. 3d 85 (Fla. 2d Dist. App. 2010), *reh’g denied*, 2010 Fla. App. LEXIS 20208 (Fla. 2d Dist. App., 2010) *see also Hernandez v. Wells*, 51-2003-CA-957-ES, slip op. at 2–4 (Fla. 6th Cir. Mar. 25, 2004) (discussing residency and domicile as opposed to family unit considerations).

78. Fla. Att’y Gen. Op. 075-146, *supra* n. 50, at 254–255. Note that this tells us when we do *not* have separate family units; it does not provide definitive criteria for determining when we do.

79. Fla. Att’y Gen. Op. 2005-60 (Nov. 21, 2005) (available at <http://myfloridalegal.com/ago.nsf/Opinions>; *select* Jump To: 2005, *select* AGO 2005-60); *see* Fla. Att’y Gen. Op. 2008-13, *supra* n. 51, at 54 (denying a second homestead tax exemption to an owner who already has homestead tax exemption on a primary residence, but is seeking to obtain a homestead tax exemption on a residence where her dependent nineteen-year-old son resides).

80. *See supra* n. 44 and accompanying text (quoting Florida Statutes section 741.28(3), which defines “Family or household member” for purposes of domestic-violence law).

B. Emerging Case Law

Recent cases concerning the family unit requirement illustrate a trend of judicial interpretation that is moving away from financial separateness toward a focus on the comprehensive concept of a family. While this is a good thing because it addresses the inequity between couples of different economic means, the move away from financial components and toward review of whether there is an intact, congenial relationship means increased government inquiry into private affairs such as where applicants sleep, eat, vacation, and so forth.

The slow progression toward review of family units based on the concept of an “intact marriage” as opposed to solely financial separateness—and the remnants of confusion between Article VII and Article X exemptions—can be traced through a chronological analysis of recent circuit and appellate cases.

In the 2004 case *Hernandez v. Wells*,⁸¹ the court examined the validity of the exemptions held by Mr. Hernandez and Ms. Cleveland, who married after their long-term first marriages ended.⁸² The two maintained separate homes, bank accounts, and vehicles.⁸³ Citing bankruptcy cases, the court reasoned that “removal of [Mr. Hernandez’s] homestead entitlement is not accomplished simply because he remarries.”⁸⁴ The court focused in particular on the separate residency requirement for homestead exemption, and concluded that “the best proof of a person’s residence, is where he or she says it is.”⁸⁵ Because Mr. Hernandez continued to reside at his homestead, the court concluded that he was entitled to retain his exemption, regardless of whether his wife also had a homestead exemption.⁸⁶ No discussion of the family unit was raised other than to reject the property appraiser’s interpretation of the law that “a married couple can only pick one homestead.”⁸⁷

81. No. 51-2003-CA-957-ES (Fla. 6th Cir. Mar. 25, 2004).

82. *Id.* at 1.

83. *Id.*

84. *Id.* at 3.

85. *Id.*; *see generally* Fla. Stat. § 196.015 (providing that an applicant’s declaration of domicile is one of many factors that a property appraiser should consider when determining residency).

86. *Hernandez*, slip op. at 4.

87. *Id.* (quoting Pasco County Property Appraiser Mike Wells).

This conclusion is far from satisfactory, and the court's reasoning is flawed in several ways. Not only does the court focus solely on separate residency, neglecting to acknowledge a separate "family unit" requirement, but it also supports its arguments using cases that discuss the Article X exemption,⁸⁸ problematically conflating Article X with Article VII. Prior and subsequent cases concerning both types of homestead demonstrate the error of the *Hernandez* case by unequivocally stating that the two homesteads are distinct and not to be interpreted as the same.⁸⁹

As the court went astray from the actual law in question, this case provides no guidance to property appraisers. It does, however, reinforce the necessity of legislative intervention by illustrating the confusion that surrounds Article VII's "family unit" limitation. The court in *Coolidge v. Todora*⁹⁰ went much further than the court in *Hernandez*, stating that a married couple must "clearly establish" that they have "*ended their relationship*" to establish separate family units.⁹¹ In *Coolidge*, a husband and wife separated, and each lived in and received a homestead exemption on separate condo units in the same building.⁹² The wife kept some of her personal belongings in her husband's condo, and they maintained a friendly social and business relationship, sometimes even spending the night in the same unit.⁹³ Although they filed for a dissolution of marriage, they continued to file joint tax returns and admitted that they probably would not get divorced, after all.⁹⁴ When the property appraiser discovered the dual exemptions, the wife's exemption was removed, and she was assessed back taxes, penalties, and interest for those years.⁹⁵

The court looked to the interdependence and social connections of the parties to determine whether or not they were a family unit, including whether they had filed for dissolution of

88. *Id.* at 2–3 (citing *Law*, 738 So. 2d at 524–525; *Cain v. Cain*, 549 So. 2d 1161, 1162–1163 (Fla. 4th Dist. App. 1989)).

89. *See supra* n. 32 (citing cases in support of the idea that the Article VII homestead exemption differs from the Article X homestead, and should be construed using independent criteria).

90. No. 2006-CA-011475-NC (Fla. 12th Cir. Sept. 5, 2007).

91. *Id.* at 2 (emphasis added).

92. *Id.* at 1–2.

93. *Id.* at 1.

94. *Id.* at 1–2.

95. *Id.* at 2. Penalties and interest are charged on back taxes for unqualified exemptions pursuant to Fla. Stat. § 196.161(1)(b) (2010).

marriage with an actual intent to divorce, and whether there was any “intermingling” of the use of residences.⁹⁶ There was no discussion of financial separateness, aside from a passing reference to the joint tax return.⁹⁷ Instead, the court found that the parties were a family unit through a negative deduction: under the facts of the case, including the couple’s social interactions, the couple had *not* clearly established that they had ended the marriage relationship; therefore, there was an inference that the relationship was continuing.⁹⁸ The definition of “family unit” in such an analysis corresponds with the common understanding of the term: a family unit exists if there is a continuing, intact relationship. The ambiguity surrounding the term is evidenced, however, in the equivocal language used in the decision. For example, the court stated that the end of a relationship “could be” confirmed based on indications of separate residency, *absent* “facts inferring the continuation of the relationship.”⁹⁹ The court’s reasoning stops short of stating what facts would be necessary to infer a relationship, and thus does not provide guidance for property appraisers analyzing future cases.

Pasco County Property Appraiser Mike Wells has addressed this issue by establishing a policy that a married couple, regardless of individual social or financial circumstances, is always a family unit and can only receive one homestead exemption.¹⁰⁰ This policy was challenged in *Haldeos v. Wells*,¹⁰¹ a 2009 circuit court case that was heard by the district court in 2010.¹⁰²

Mr. Haldeos, who held a homestead exemption on his residence in Pasco County, was married to Ms. Accomando, who received a residency-based exemption in New York.¹⁰³ The Property Appraiser applied his policy that a married couple is always a “family unit” and removed Mr. Hadleos’s exemption¹⁰⁴ because

96. *Coolidge*, slip op. at 2.

97. *Id.*

98. *Id.* at 1–2.

99. *Id.* at 2.

100. *Wells*, 48 So. 3d at 85.

101. Slip op. at 2.

102. 48 So. 3d 85.

103. *Id.* at 85.

104. *Id.*

only one residency-based property tax exemption is allowed per “family unit,” within Florida or out of state.¹⁰⁵

The court entered judgment in favor of Mr. Haldeos, stating that the property appraiser’s policy was too broad, and that in specific instances a married couple could qualify for dual exemptions.¹⁰⁶ The court limited the impact of its ruling, however, by declining to set any parameters for defining family unit.¹⁰⁷ The Second District Court of Appeal affirmed the trial court’s ruling, placing emphasis on the fact that Mr. Haldeos had no financial connection with his wife.¹⁰⁸ The court then discussed *Judd v. Schooley*, and *Law v. Law*, an Article X case, as part of its analysis of the “family unit” language.¹⁰⁹ Significantly, the court reiterated the rule in *Law* that “a husband and wife in an *intact marriage* could not have two homesteads,” and that to create separate family units the marital separation had to be “bonafide.”¹¹⁰ The court did not create an explicit “intact marriage” rule or define “family unit,” but its chain of reasoning gave weight to the concept that a family unit is created by more than just financial dependence.

Through savvy financial planning, some married couples have been able to completely isolate the wealth of each spouse, which can make identifying a family unit by the financial-separateness test difficult. Mr. Finegold, the Plaintiff in *Finegold v. Kelly*,¹¹¹ was a Harvard Law graduate whose law practice assisted clients in finding ways to avoid overpayment of federal

105. “A person who is receiving or claiming the benefit of an ad valorem tax exemption or a tax credit in another state where permanent residency is required as a basis for the granting of that ad valorem tax exemption or tax credit is not entitled to the homestead exemption . . .” Fla. Stat. § 196.031(5).

106. *Wells*, 48 So. 3d at 88.

107. *Id.* The trial court stated its difficulty by noting that “[c]urrently, there is no controlling legal precedent and no certain threshold of evidence that defines at what point a married couple . . . constitutes separate ‘family units.’” *Haldeos*, slip op. at 4. The district court put it more succinctly, stating that “there is no constitutional or statutory guidance on the issue at bar . . .” *Wells*, 48 So. 3d at 86. Such statements by the court sound, by all considerations, like a call for assistance from the legislature or appellate courts. In fact, the Property Appraiser’s policy concerning married couples looks suspiciously like the policy equivalent of throwing down the gauntlet, to force the courts, or the legislature, to provide guidance.

108. *Wells*, 48 So. 3d at 86, 88.

109. *Id.* at 87.

110. *Id.* (emphasis added)

111. No. 432007-CA-001889 (Fla. 19th Cir. Dec. 23, 2009)

taxes.¹¹² Mr. Finegold was described as “a person of substantial wealth,” who owned several homes with his wife (also a “multi-millionaire[]”), including one in Pennsylvania on which Mrs. Finegold retained a residency-based exemption; and one in Martin County, Florida, where Mr. Finegold held a homestead exemption.¹¹³ The Martin County Property Appraiser removed Mr. Finegold’s homestead exemption, and Mr. Finegold subsequently filed a lawsuit arguing that he and his wife constituted separate family units and were qualified to receive dual exemptions.¹¹⁴ The couple was reportedly “happily married,” “sle[pt] in the same bed” when together, and represented each other as husband and wife to social clubs and acquaintances.¹¹⁵ Mrs. Finegold, however, refused to become a permanent resident of Florida when her husband did, in part because of the stigma that Florida was for “older persons.”¹¹⁶

Mr. Finegold’s case reads a bit like a detective novel, with multi-millionaires borrowing money; deeds mysteriously notarized before the date the notary’s stamp was issued and only recorded many years later; and even an allegedly devious and untruthful secretary.¹¹⁷ The crux of the story, however, is summarized by the court:

The facts of this case establish that the Plaintiff and his Wife were married, possessed jointly held assets worth millions of dollars, shared the use of the Pennsylvania home and the Florida home, jointly paid some expenses for each home (significant is the property taxes paid by the Plaintiff for the [Pennsylvania] Property), and there was no evidence that they had any relationship other than to each other . . . The Court can conclude that the Plaintiff desired to make attempts at establishing two legitimate residences for tax purposes, but the Court does not conclude that the parties

112. *Id.* at 2–3.

113. *Id.* at 3–4.

114. *Id.* at 8, 11.

115. *Id.* at 3. Although the Finegolds held considerable assets jointly, each maintained considerable separate assets. *Id.*

116. *Id.* at 5.

117. *Id.* at 9–13.

were legitimately living apart or that it was not a family unit or intact marriage.¹¹⁸

Although the court began its approach to the family unit analysis by improperly citing Article X cases that define “family unit” as “an intact marriage” between people who are not “legitimately liv[ing] apart in separate residences,”¹¹⁹ it then recovered and acknowledged that the Article X and Article VII exemptions are constitutionally separate.¹²⁰ It failed to properly reconcile this requirement for separate analysis, however, when utilizing the concepts borrowed from Article X. Instead, it merely applies Article X’s “intact marriage” and “legitimately living apart” tests to the Finegolds’ situation and concluded that the two were not separate family units and therefore did not qualify for dual exemptions.¹²¹

Despite this somewhat ambiguous chain of reasoning, the case reinforces the idea that an intact relationship is at least equally relevant as financial considerations when determining family units, and attempts to apply the tests from an analogous area of the law to set clear standards for future cases.

One such case, *Palmer v. Turner*,¹²² furthers the proposition that an intact relationship trumps financial considerations. Mr. Palmer owned and received a residency-based exemption on a property in Chicago.¹²³ Mrs. Palmer owned and maintained a Florida home, on which she applied for and was denied homestead exemption.¹²⁴ The reason for the denial was that Mrs. Palmer did not demonstrate that she was a separate family unit from Mr. Palmer.¹²⁵ The Palmers were in a congenial marriage, but did not contribute in any way to the financial maintenance of each other’s homes.¹²⁶ Although the Palmers were able to maintain separate residences and some finances for estate-planning

118. *Id.* at 16–17 (emphasis removed).

119. *Id.* at 15 (quoting *Law*, 738 So. 2d at 525).

120. *Id.* at 17–18

121. *Id.* at 19.

122. Or. Granting Defs. Mot. for S.J. and Or. Denying Pls. Mot. for S.J., *Palmer v. Turner*, (Fla. 13th Cir. Jan. 8, 2010) (08-CA-28411).

123. *Id.* at 2.

124. *Id.* at 1–2.

125. *Id.* at 3.

126. *Id.* at 5.

purposes, they were in other ways very interdependent: they commingled some money, were beneficiaries on one another's insurance policies, and spent time together in multiple locations (including Chicago, Florida, California, and France).¹²⁷ In finding that the Palmers constituted a family unit the court stated:

They behave in a manner consistent with the common[-]sense notion of what it means to be a family, even though they maintain separate permanent residences in furtherance of their individual career goals. Their personal interactions might be quantitatively less than that of the typical married couple, but their interactions no less conform to a familial type.¹²⁸

Thus, a congenial marriage, as evidenced by personal interactions, implies a family unit. This case strengthens the importance of an intact relationship over and above financial arrangements when establishing qualifications for the homestead exemption.

In the inverse, however, evidence of some financial support between a husband and wife is not alone sufficient to create a "family unit," when the relationship is otherwise clearly severed.¹²⁹ This proposition is supported in *Skipper v. Wells*.¹³⁰

In 2007, Mrs. Skipper left her "troubled marriage" and moved out of the home that she owned with her husband.¹³¹ The couple continued to attend marriage counseling until December 2007, but never moved back in together.¹³² Mrs. Skipper purchased a new home in April 2007, using funds derived from an equity loan on the marital home, still held jointly by both Mr. and Mrs. Skipper.¹³³ Mrs. Skipper placed all household accounts at the new home into her own name, and she filed for a 2008 homestead exemption.¹³⁴ The property appraiser denied her exemption for 2008, on grounds that she and her husband were not separate

127. *Id.* at 7.

128. *Id.*

129. *Skipper v. Wells*, No. 51-2009-CA-3363-WS (Fla. 6th Cir. Jan. 12, 2010), *aff'd*, 60 So. 3d 400 (Fla. 2d Dist. App. 2011) (table).

130. *Id.* at 4–6.

131. *Id.* at 1.

132. *Id.*

133. *Id.* at 2.

134. *Id.* at 2–3.

family units.¹³⁵ Mrs. Skipper filed for and received a divorce in December 2008, and was granted the exemption for 2009.¹³⁶

When considering Mrs. Skipper's right to the 2008 exemption, the court examined the "financial arrangements involving the home(s)" and found that the contribution of the equity line alone did not constitute maintenance of Mrs. Skipper's property by her husband because it was used to distribute marital property after the separation.¹³⁷ The court also held that a "bright line" marriage test was inappropriate for determining qualifications for homestead exemption.¹³⁸

Distancing itself from the financial-separateness test in use since the 1970's,¹³⁹ this case supports the notion that a couple living separately and in the process of divorcing could be entitled to dual exemptions even if there was some form of financial assistance from one to the other.

A separation, however, must be genuine. According to *Rasor v. Pilcher*, a spouse cannot "continue to avail herself of the financial benefits of marriage while at the same time renouncing the marriage on other occasions where it would bring her financial advantage."¹⁴⁰ In *Rasor*, the court held that a family unit exists when a couple "continue[s] to link their lives together in several important ways," including sharing income from investment accounts, remaining beneficiaries on one another's trusts, and filing joint tax returns.¹⁴¹ The joint tax returns provide the couple with "mutual financial benefits available only to those persons who represent to the Internal Revenue Service that they remain a family."¹⁴² Therefore, claiming to be a family unit in order to receive certain federal financial benefits can evince the continued existence of a family unit for the purpose of determining qualifications for homestead exemption.

A 2011 case concluded that a married couple could qualify for dual homestead exemptions based on one spouse's critical medical

135. *Id.* at 2.

136. *Id.*

137. *Id.* at 3–4.

138. *Id.* at 3.

139. Fla. Att'y Gen. Op. 075-146, *supra* n. 50, at 254–255.

140. Or. Granting Mot. for Reconsideration or Clarification of Final Judm., *Rasor v. Pilcher*, No. 07-CA-1152 at 4 (Fla. 1st Cir. Nov. 30, 2010).

141. *Id.* at 3.

142. *Id.*

condition, creating a distinct and very fact-specific deviation from the idea than a couple in an intact marriage can qualify for only one exemption.¹⁴³ In *Lopushansky*, a married couple was forced to live separately so that the wife, who was seriously ill, could live near necessary medical treatment.¹⁴⁴ The couple commuted back and forth between their two homes, and “were not seeking in any way to sever the various legal and emotional ties related to the bonds of marriage.”¹⁴⁵ The court concluded that the couple was in an intact marriage; however, because the spouses were “precluded” from living together due to a medical condition, as opposed to choosing separation for work or personal reasons, the court ultimately found that the couple was entitled to two exemptions.¹⁴⁶ As if to limit the impact of its ruling, the court emphasizes that the holding applies only in the case of the “very unique facts” presented.¹⁴⁷ Further, in dicta the court states: “[a]s a general matter, it is the opinion of this Court that a husband and wife in a congenial marriage who maintain contact and an emotional bond throughout their marriage . . . are not separate family units.”¹⁴⁸

Taken together, recent case law charts a trend in judicial interpretation of the term “family unit” that withdraws from consideration of financial considerations as alone sufficient to determine family unit status, regardless of where on the spectrum of analysis the finances fall. For example, financial separateness alone is not enough to create separate family units for a couple that is happily married, like the couple in *Finegold*.¹⁴⁹ Alternately, financial connectedness does not necessarily make a married couple a family unit if they are emotionally, socially, and physically separated, as the *Skippers* were.

V. SOLUTIONS

The movement of the courts toward a more inclusive definition of what constitutes a “family unit” is helpful, but it is not, by

143. *Lopushansky v. Parrish*, No. 10-018843(13) (Fla. 17th Cir. Jul. 8, 2011).

144. *Id.*

145. *Id.* at 3.

146. *Id.*

147. *Id.*

148. *Id.* at 2.

149. *Finegold*, slip op. at 16–19.

itself, enough to overcome the ambiguity of the constitutional provision. It is crucial for the legislature to provide guidance to property appraisers in determining when a married couple can qualify for more than one Article VII homestead exemption.

There are several alternative solutions that the legislature could adopt to bring into focus the currently abstract and evasive concept of “family unit.” First, and most dramatically, the legislature could propose constitutional amendments to place before Florida voters to abolish homestead and other property tax exemptions. No distinctions would then need to be made between couples who are married and unmarried, happy and disillusioned, wealthy and poor. Second, the legislature could implement a bright-line “marriage” test by defining a family unit as “married couple.” This would remove any need for the property appraiser to delve into a couple’s financial or romantic lives. Finally, the legislature could develop an inclusive, detailed definition of “family unit” that would provide adequate guidance for property appraisers and practitioners to follow, and would result in equitable and uniform determinations of “family unit” statewide.

A. Abolish All Exemptions

Abolishing the homestead exemption and Save-Our-Homes cap, while drastic, would eliminate the problems associated with interpreting the term “family unit,” by removing the underlying reason for the provision. Eliminating exemptions would create fairness and equity in a system that currently uses different standards for taxing residents versus non-residents, commercial versus residential property owners, and, (as discussed above), married versus unmarried couples.¹⁵⁰

If there were no property tax exemptions, the status of homeowners’ relationships would be irrelevant. Taxes would be assessed on a consistent basis for all couples, whether they be married and in love, married and hating each other, married with

150. “Increasingly the tax burden [in Florida] will be paid by businesses and residential properties not qualifying for [Save-Our-Homes] protection.” Richard S. Franklin & Roi E. Baugher III, *Protecting and Preserving the Save Our Homes Cap*, 77 Fla. B.J. 34, 41 (Oct. 2003). In 2000, out-of-state residents unsuccessfully challenged the homestead exemption on the grounds that its divergent treatment of residents and non-residents was unconstitutional. *Reinish*, 765 So. 2d at 214.

disagreeable pets, living together as significant others, rich, poor, or of indeterminate relationship and financial status.¹⁵¹ Jewett Farley, former Lincoln Parish, Louisiana Assessor, and past president of the International Association of Assessing Officers,¹⁵² instructor, and fine storyteller, makes the argument for eliminating property tax exemptions through use of a great analogy, paraphrased here:

One evening, a whole group of us meets up, climbs aboard a bus, and heads to the best restaurant in town. We order the best entrees—steak and lobster—get drinks, desserts: the works. About the time the waiter brings the check, however, about half the room gets up, puts down their napkins, and goes back to the bus! The restaurant doesn't cancel the bill, of course; it divides it among those who are left sitting—so half of us end up paying for our own meals, and what other people ate, too! That's what the tax system in Florida is like.

Under a straight ad valorem tax system, there were no people on the bus at the end of the meal. Everyone paid for their own dinner. But then came the homestead exemption, and the different use classifications, and the Save-Our-Homes cap—all of them tickets to get on the bus. And so the public became subdivided. Now, there are a lot of people on the bus, and fewer and fewer in the restaurant to pick up the bill.

*The question should be: "Did you eat with us?" and if the answer is "Yes," then you need to rejoin the tax base and pay your portion of the meal.*¹⁵³

Eliminating property tax exemptions would redistribute the "dinner bill" between all property owners, based on what they "ate." If all property owners paid taxes proportionately based on the value of their homes, property appraisers would never need to

151. In an ad valorem tax system with no exemptions, the taxes on all property would be based on the property's market value and the annual millage rates set by the taxing authorities in the particular tax district. Fla. Dep't of Revenue, *Information for Taxpayers, What You Should Know about Florida's Property Tax System*, <http://dor.myflorida.com/dor/property/taxpayers/#1> (accessed Jan. 2, 2012).

152. Mr. Farley was IAAO president from Sept. 1998 to Sept. 1999. IAAO, *About Us, IAAO Past Presidents*, <http://www.iaao.org/sitepages.cfm?Page=172> (accessed Jan. 2, 2011).

153. Telephone Interview with former IAAO Pres. Jewett Farley, CAE (Mar. 22, 2010).

investigate homeowners' personal lives to determine who lived with whom, or where, and who was really a family.

Despite the equality and ease of administration that would result from simplifying the tax structure, it will not occur because public-policy arguments claiming that the exemptions are necessary to protect homes will almost certainly prevail.¹⁵⁴ Politicians would be quite unpopular if they took up the "abolish exemptions" banner because failure to support Save-Our-Homes could easily (if inaccurately) be interpreted as supporting the "Lose Your Home" campaign.

Further, a major renovation to the existing tax structure in Florida, and particularly the removal of the exemption, is likely impossible, as it would require a constitutional amendment and approval by millions of voters who benefit from the current structure.¹⁵⁵ Voters are not likely to vote themselves out of a perceived benefit, and in fact have partnered with the legislature to continue expanding exemptions.¹⁵⁶ Similar suggested revisions to the tax structure have remained academic in nature, never making their way into serious legislative consideration.¹⁵⁷

B. Bright-Line "Marriage" Test

Defining a "family unit" as a "married couple" has many advantages as a method of standardizing and clarifying the granting

154. See *Reinish*, 765 So. 2d at 206–207 (stating that "[p]ublic policy considerations favor laws protecting the basic homestead, which 'promote the stability and welfare of the state by encouraging property ownership and independence on the part of the citizen and by preserving a home where the family may be sheltered and live beyond the reach of economic misfortune'" (quoting *Bigelow v. Dunphe*, 197 So. 328, 330 (Fla. 1940)); but see Stephanie M. Stern, *Residential Protectionism and the Legal Mythology of Home*, 107 Mich. L. Rev. 1093 (2009) (arguing that costly home-protective legislation is founded on the flawed cultural insistence that homes are somehow entwined with personal identity, when in fact there is no evidence that home ownership produces profound psychological or social benefits).

155. See generally Franklin, *supra* n. 150 (detailing the significant benefit provided by the Save-Our-Homes cap, and providing guidance on how property owners can protect it).

156. See generally Dubov, *supra* n. 13 (detailing chronological expansions in the quantity and value of Florida property tax exemptions); *supra* pt. I (discussing changes to the exemption over time which have made it more valuable).

157. See e.g. Josephine W. Thomas, Student Author, *Increasing the Homestead Tax Exemption: "Tax Relief" or Burden on Florida Homeowners and Local Governments?* 35 Stetson L. Rev. 509, 516 (2006) (suggesting that a solution to the drain on local government revenues caused by exemptions would be to eliminate either the homestead exemption or the Save-Our-Homes cap).

of exemptions. A marriage, as a state-sanctioned union, is easily ascertainable, and such a definition would remove the need to inquire into a couple's personal affairs: all marriages would be family units, regardless of the personal details of a couple's relationship. This test is precise. Whether a person is financially independent would be irrelevant, so there would be no disparity in application of this rule to couples of different financial means.

Unfortunately, as appealing as such a bright-line rule is, it does not address the fact that the legislature specifically considered and rejected the term "married couple" in favor of "family unit"¹⁵⁸ when amending the constitutional language from "any one person"¹⁵⁹ to "any individual or family unit."¹⁶⁰ This implies that there is a meaning to the phrase "family unit" that either expands on, or is separate from, marriage.

Initially, the rejection of the term "married couple" seems to expand the definition by selecting a term with broader application than "married couple." There are, however, other possible interpretations. The original intent could have been to shrink the scope of the exemption, by making sure that no one in a financially dependent family—including children or even grandchildren—could claim more than one exemption. The exemption has never been interpreted in such a way, however; which just shows that semantics and potential interpretations alone will not answer the question of what was intended when "married couple" was initially rejected.

An additional problem with this solution is that the term "married couple" does not anticipate new forms of families, such as domestic partnerships, and therefore does not adequately address the reality of modern "family units." Its adoption might even result in discouraging marriage, an unintended and potentially undesirable consequence, as couples choose to stay single to claim multiple exemptions even if they are otherwise an interdependent couple.

As tempting as it would be to create a bright-line marriage test, the fact that such was rejected initially, in conjunction with potential repercussions, makes it untenable. Any statutory defini-

158. D'Alemberte, *supra* n. 8, at 11.

159. Fla. Sen. Jt. Res. 21, 1937 Sess. (June 10, 1937) (available at <http://www.law.fsu.edu/crc/conhist/1938amen.html>).

160. Fla. Const. art. VII, § 6(b).

tion should go beyond simple marriage to look at what genuinely constitutes a family.

C. More Inclusive Statutory Language

A final option would be for the legislature to adopt more comprehensive language defining “family unit” and providing specific factors a property appraiser should consider when determining whether there are separate family units. The following is a model of what such a definition might look like.

A Family Unit is defined as: A married couple, domestic partnership or nuclear family demonstrating social or financial interdependence, or providing legal indicia of a voluntarily established interdependent relationship. Marriage and legal domestic partnership both create the presumption that a family unit has been established.

To claim more than one residency-based property tax exemption, a married couple or domestic partnership must show that the family unit has been abandoned, and that there is no longer a congenial or intact family relationship.

Evidence of an intact family relationship includes: cohabiting in one or more locations or at different times; vacationing together; sharing insurance benefits; and comingling of finances and accounts. Financial separateness alone is not determinative of separate family units.

This proposal is clearly broader than creating a bright-line marriage test, and will take into account both the changing nature of families in modern society and the financial benefits to marriage that might influence homeowners to attempt to get “the best of both worlds”: remaining married for insurance, for example, and establishing separate family units for property tax purposes. This solution also codifies the holdings in recent circuit court cases, which conclude that the determination of an intact “family” is at least as important as, if not more important than, a review of financial separateness. It makes the determination of a “congenial relationship” a threshold question to answer before looking at finances. The solution therefore overcomes the mire of “financial separateness” in which property appraisers have been

trapped since the 1975 Attorney General's Opinion developed that test.¹⁶¹

Under this rule, Frank and Jane (our original hypothetical couple) would not qualify for dual exemptions because they are in an intact relationship, despite their ability to maintain separate homes. Their marriage, under the definition, would create a presumption that they were a family unit, and their social interactions would be evidence that the relationship had not been abandoned.

This result, based on an interpretation of their relationship unburdened by their financial standing, is fair to the couple; as importantly, the test is fair to other taxpayers, because it would be applied equally to property owners of any level of wealth who were in a similarly congenial relationship.

This definition does not alleviate the need to collect information on a couple's personal circumstances; in fact, it requires a more in-depth investigation into the personal lives of property owners. Such a definition would likely result in the property appraiser expending more time and money to investigate the validity of claims for exemption. And, taxpayer's bedrooms would continue to be within the valid scope of a property appraiser's interrogation.

While more complex and more intrusive than a bright-line marriage test, this definition provides a uniform standard to follow that is not limited to marriage, or to merely money.

Ultimately, the desire for a rule that is easy to administer (the marriage test) should give way to the intent of the exemption ("family units"). This means that property appraisers will still need to investigate the personal lives of married couples claiming separate family units. The benefit of this test over the current ambiguity is that property appraisers may be secure in their conclusions in ways they cannot be while "family unit" remains undefined by statute.

VI. CONCLUSION

The determination of a "family unit" for property tax exemption qualification requires a complex review of a couple's living

161. Fla. Att'y Gen. Op. 075-146, *supra* n. 50, at 254-255.

arrangements, emotional attachments, finances, and intentions. In many ways this is an obscure and frustrating process. Without a definition of “family unit” in the law, the ambiguity will continue to cause inequity in the form of non-uniform interpretation and granting of homestead exemptions, which will injure individuals and governments alike. The Florida legislature must provide guidance if property appraisers and courts are to administer and grant homestead exemptions in an equitable, just, and deliberate way, and if potential spouses are to know just how their romances will impact their property taxes.