

OPEN LETTER TO THE COLLIER COUNTY (FLA.) COMMISSIONERS

by S. James Clarkson, Naples, Fla.

(S. James Clarkson, attorney at law, former Judge, and former Mayor of Southfield, MI, shared his Open Letter of February 2002 with GroundSwell. In his cover note to GroundSwell, Jim Clarkson wrote: "The same contents herein brought good results from the Naples Daily News and three of the county commissioners. While it is not LVT, it is getting the people to think about land values and their relationship to taxes. Education and politics go hand and hand together." With his Open Letter, Jim Clarkson sent to GroundSwell copies of the Naples Daily News editorial of Dec. 6, 2001, "Lee Appraiser Leads Fight vs. Phony Ag Exemptions", and a Feb. 11, 2002 Naples Daily News news article, "Official Wants to Plow Under some Ag Tax Exemptions.")

To the Honorable Commissioners:

One of the most important sources for local government income is the so-called ad valorem "according to value" property tax, which is actually rent for the use of and services rendered to the land for roads, sewers, police and fire protection and including schools, payable to the government. This is, in fact, two taxes, when it includes any improvement on the land. This form of revenue is based on the historical right of the ownership of the land by the King's "Eminent Domain" of land or "real estate", derived from the old spelling of royal or regal. That is why in English Law there is no such word as "landowner"; the word is "landholder". Land paid all the costs of government in England until recent times.

There is no absolute title to land in the United States; it is owned by the government. The best Title one can acquire is "fee simple" which means so long as you pay the "fee offment", (taxes) to the government you may use the land to the exclusion of all others. That is why if you do not pay the tax for your use of the land, the possessory right of the land reverts back to the government. The government does not sue you for the back (property) taxes like the I.R.S. would do for the failure to pay your income tax.

One of the problems facing the Collier County Commission is the finding of the best and most equitable way to fund road improvements. One of the methods is the proper use of the "ad valorem" property tax.

This solution is only valid if an outside appraisal firm appraises the land in Collier County. The present assessor says he is following the law in assessing land by its use, not its appraised value. Is he? What does the statute say? Upon reading F. S. Title XIV Chapter 193, Section 193.461, in my opinion he is not.

When I was first elected mayor (four terms) of the City of Southfield, Michigan and charged with the duty of appointing the assessor, I discovered much of the land was not assessed at its appraised value. The Council, on my recommendation, hired an outside appraisal firm and by properly assessing the land at its appraised value most of the homeowners taxes went down,

and the city's increased revenue enabled us to pay for needed infrastructure improvements.

The County of Collier is possessed with some of the most valuable land in the State of Florida because of its Gulf access, sandy beachers, warm climate and abundant sunshine. This fact gives rise to the largest available revenue source for the county. Unfortunately, much of the vacant land is under assessed based on fictitious uses rather than on its appraised value.

This permits the land speculators and some developers to hold their land out of use awaiting the construction of roads and their improvements to be paid for by the home and owners of improved land, many who have already paid impact fees for infrastructure costs.

If all owners of land were assessed at their appraised value that would be one of the steps in the right direction in justifying the use of the "ad valorem" property tax. The commission's decision to increase the impact fees does not recapture the unearned increase in the value of the vacant land, nor does the use of bonds which only amounts to a credit card stopgap debt that has to be paid eventually, plus the costs of the bond attorneys and bonding companies.

One example of the assessment fiasco is the County's purchase of the 99 acres of the Stauffer property for four and three-quarter million dollars but assessed at only \$262,159, because it was zoned agriculture. Another is a piece of property at the corner of Rattlesnake Hammock and Collier Blvd. (951) worth seventeen million dollars but assessed at only \$262,150.

What can the commission do about this travesty? The statute provides under Section (4. (a) 3. (b), "The board of county commissioners may also reclassify land classes as agriculture to non-agricultural when there is contiguous urban or metropolitan development and the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the county".

The Naples Daily News in its editorial on property taxes of December 6, 2001, hit the nail on the head by complimenting the assessor for Lee County for coming down on owners who merely bide their time waiting for the market price to run up the price for residential or commercial zoning. The editorial goes on to say, "Citizens know what he means - the acreage along a busy highway that has a few rent-a-cows grazing one day and a shopping center the next".

The Commission will wait a long time if you think our present assessor will follow the example of the Lee County Assessor, unless he has a change of heart since I last talked to him.

The application of the property tax could be further fine tuned by using special assessment districts for road improvements in certain locations or assessment exemptions on already improved property equal to the impact fee paid or presently required. As to all other properties, that amount that would (continued on page 5)

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have been required if it was new construction, based on its assessed value.

Another method would be the use of the two-rate property tax system presently used by some twenty taxing municipalities in the State of Pennsylvania. Certain other countries have adopted modified versions of this so-called land value tax system, which provides that the tax rate on land is greater than the rate on the improvements.

Now it is the time to come to the aid of the property tax by using new and innovated ideas in its improvement. Our citizens will support its increase if it is fair, and not a regressive sales tax which is not. <<

(editor's note: For other articles by Jim Clarkson, see GroundSwell issues of July- Aug. 2001, "The Great Adventure," and Jan.-Feb. 1998, "A Better Way.")