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HERALD WATCHDOG

Appraisers lax in tax-break scrutiny

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Miami-Dade and Broward property appraisers say they have no choice: Year after year, they give up millions of dollars to developers who seek property tax breaks meant to help farmers.

State law requires them to grant tax breaks on land used for "good-faith commercial agriculture" but isn't clear about what that means. Developer-friendly court rulings have further slackened the rules, allowing corporate interests to seek farm subsidies even as they plan to bulldoze pastures and cornfields.

But even the law's loose guidelines haven't been consistently enforced. Appraisers in both counties have shied away from challenging suspect farms, forfeiting revenue that could go to public safety, roads and schools.

"Every one of these stinks to high heaven," said Ronald Schultz, a retired appraiser with 29 years of experience in two Florida counties who examined tax records and visited properties with The Herald. "On a personal level, it offends me."

In Miami-Dade County, the appraiser's office has signed off on hefty tax breaks without requiring firm proof of genuine commercial farming. Among The Herald's findings:

- The appraiser's office has granted farm subsidies despite incomplete or late applications, zoning that prohibits agriculture, and cursory inspections.

"Just because we don't see the cows doesn't mean they're not there," said Miami-Dade appraisal supervisor Steven Davies.

- The office has made costly mistakes. Officials acknowledged granting more than \$35,000 in tax breaks to a Miami Gardens developer without seeing an application. Warehouse builder Harry Dornbusch's 2004 ad valorem property tax bill on 7 ½ acres: \$180.20.

The appraiser's office also erred when it gave an extra \$40,000 in savings to Lancaster Homes last year, exempting more acres from full taxes than the developer had requested.

"I think we just flat out blew this one," said Miami-Dade Property Appraiser Frank Jacobs. "We should have just granted what they asked for."

- When the county does deny the tax break, and landowners appeal, the office has failed to aggressively defend some of its decisions.

County officials have been sent to battle developers' lawyers at formal hearings without legal counsel of their own. In at least one case, county inspectors missed a hearing where their testimony was essential.

- The law says appraisers can scrutinize leases between landowners and farmers for evidence of a good-faith agricultural business. But the Miami-Dade office has accepted the word of developers and ranchers who said they reached handshake agreements allowing free use of the land.

"If I had a verbal lease, I'd be shaking like a leaf about my proof," said Dave Bruns, a spokesman for the

Florida Department of Revenue, which oversees tax collection but does not decide individual cases.

Schultz said he always required written leases. "You have to provide me with evidence," he said. "When you don't have a lease, you could have the same cows being used in five different places."

Jacobs, who served as deputy appraiser before he was appointed to the top post in July, said his office is doing its best to sort out the real farms from the tax dodges. The office has limited resources, and he has to pick his battles.

"The advice that we're getting is it's a virtual impossibility to win," Jacobs said.

Even Schultz, who aggressively challenged corporations seeking farm subsidies, emphasized the law's weaknesses and a political climate that favors developers.

"All of the political cards are stacked in favor of developers getting the agricultural classification," he said.

UNDER REVIEW

In Broward, newly elected Property Appraiser Lori Parrish has pledged to be a reformer. She appointed Jason Curtis, a young, energetic farmer, to review all properties receiving agricultural tax breaks.

Some haven't been thoroughly inspected for years, Curtis said. But he said the law makes it difficult to withhold tax breaks from landowners who have received them before.

"I'm not going to waste time fighting something I'm going to lose anyway," Curtis said. "The law has got my hands tied."

Parrish declined to continue her predecessor's fight against a Southwest Ranches developer who allowed cows to stay on his land after installing building pads, utilities and roads. The cattle saved him \$140,168 in taxes last year.

A county-appointed magistrate overruled the former appraiser's decision to deny the tax break. A board of county officials that reviews tax disputes decided not to intervene. Parrish said she did not go to court because she was reluctant to second-guess the board on a dispute that occurred before her election.

The developer, Richard Bell, and his company, Landmark Custom Ranches, each gave the maximum \$500 contribution to Parrish's 2004 campaign. She said the donations did not influence her decision.

Orange County Property Appraiser Bill Donegan recently won an appeals court judgment against a resort chain that presented 230 acres as a tree farm even as preliminary work on a golf course had begun. Donegan also is appealing a court decision that gave theme-park developer Universal Studios more than \$1 million in agricultural tax breaks on land nearby.

Other appraisers around Florida describe Donegan's victory over RH Resorts as a turning point that could inspire tougher enforcement of the state's greenbelt law.

"It will be the strongest thing we've had to support denials of agriculture in a long time," said Alachua County Appraiser Ed Crapo, former president of the state appraisers association. "It's going to be a real good precedent for the rest of us -- put some teeth back into the law."

Said Donegan: "While we are letting these big hitters get away with it, somebody else pays. I don't know how they sleep at night. I really don't."

Some of South Florida's biggest builders are reaping huge agricultural tax breaks in Homestead, a winter vegetable capital fast becoming a haven for families seeking affordable homes. A partnership among Lennar, Caribe, Lowell and Prime Homes, for example, saved \$393,825 last year on former potato and

cornfields slated for a sprawling residential development.

The appraiser's office granted the tax break even though an aerial photograph on its own website showed that crops had been cleared by the time the application arrived -- three months late. The builders skipped the questions about the farmer's income and the size and location of the property.

The law tells appraisers to be particularly skeptical of land bought for more than three times its agricultural value or rezoned for nonfarming uses. The Homestead builders reported paying \$17.5 million for the 82 acres, dozens of times its value as cropland. And the property was rezoned by the previous owner for scores of homes.

Within months of applying for agricultural subsidies -- and well before the end of the tax year -- the builders pulled permits and broke ground.

CAN BE DENIED

Bruns, the Department of Revenue spokesman, said appraisers can deny tax breaks if they have reason to believe development will begin shortly.

"If the intent of the owner or lessee on January 1 is not to be agricultural that year, that would take it out of the classification," he said.

Jacobs said he had to grant the tax break as long as there was farming on Jan. 1. He added that inspectors found crops when they visited in December 2003, although they did not return again in 2004, according to inspection notes.

When the appraiser's office does withhold farm subsidies, taxpayers may file appeals. The office often reverses its decision voluntarily, saving everyone the trouble of a hearing before a county-appointed magistrate.

"We try to minimize the amount of friction. That's what we are supposed to do as public officials," said Davies, the appraisal supervisor in Miami-Dade. "Professionalism, in my opinion, takes precedence over the money issue."

When settlements aren't reached, Davies and other county officials say they vigorously defend their decisions at hearings. But a review of public records and taped hearings found that they left out key facts and testimony in some cases.

Magistrate Isabel Bombino awarded \$60,000 in tax breaks on heavily wooded lots owned by Lancaster Homes in 2002, noting that the county inspectors who said the land was "overgrown" were not available to testify.

The next year, instead of sending inspectors to make their case, the county signed off on the tax breaks.

During an appeal by developers Lowell and Betty Dunn, agricultural supervisor Laura Guzman didn't mention complaints that 200 dirt piles near the property's edge were blowing "sandstorms" into nearby backyards, making children sick and ruining outdoor furniture.

The town of Miami Lakes sued, and the Dunns agreed to reduce the piles to 10 feet. Their attorney, Julie Zahniser, said the dirt mounds have been there for years and don't interfere with cattle grazing.

Nor did Guzman mention at the hearing that the Dunns' own court filing said "preparatory" development work had begun at the site. Or that the town had rezoned the land and approved site plans for residential and commercial development.

The county has appealed Magistrate Harvey Goldstein's decision to classify the dirt mounds as pasture. The

Dunns paid \$2,700 in taxes last year on the 156-acre lot.

If taxpayers knew how much money was lost to developers, said Donegan, the Orange County property appraiser, they would want appraisers to push harder, even if it meant risking a loss now and then.

"Unless somebody starts in on them, it will just go on forever and ever," he said. "When they don't pay, you know who does? The homeowners and the small-business owners who don't have the big lawyers to help them do this."