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Agricultural Zoning in Florida –Its Implications And Problems

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AGRICULTURAL ZONING IN FLORIDA – ITS IMPLICATIONS AND PROBLEMS*

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Countryside U. S. A. is changing. The urban sprawl, intensified by America's population explosion, is bringing new neighbors to farming communities – neighbors who work in the cities.

The lure of cheap land and low tax assessments has brought forth a flock of speculative builders and subdividers. Good roads and automobiles permit the urban population to spread over the countryside. Suburbanization reaches out for many miles, bringing into rural communities scattered homes and subdivisions, business centers and strip commercial areas, and industries and part-time farms. In the interest of all concerned this shift from agricultural use of land to urban use should be conducted in an orderly manner. Planned development, however, seems to be the exception; haphazard growth and idle land too often prevail, creating serious problems of taxation, utilities, and transportation. These problems, especially taxation, are particularly vexing to the agriculturist. His land, which formerly was useful only as a farm, becomes more valuable each year as residential and commercial developments encroach upon it. As a natural consequence, its assessed valuation may rise to the point that the land can no longer be used profitably for farming. The farmer is thus forced to sell his property to others who will subdivide it into smaller segments, on which the tax burden can more easily be borne. Attempts to solve this problem through legislation have become prevalent in recent years.[1] The purpose of this article is to show how this transition has affected the farmer, to discuss the validity and effectiveness of Florida's statutory remedy for the problem of increasing taxes, and to point out certain corrective measures that should help to alleviate the problem.

THE NEED FOR LEGISLATION

Any discussion of the means of protecting farm land from urban

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[1]CAL. GOV'T CODE §§35009, 65806; CAL. REV. & TAX. CODE §402.5; FLA. STAT. §193.201 (1959); Md. Laws 1957, ch. 680; MINN. STAT. §273.13 (1959).

sprawl should be prefaced by a consideration of whether there is a need to conserve the land. On a nation-wide basis, land in farm production has remained rather constant since 1920, while the population has expanded tremendously.[2] Between 1920 and 1953 approximately 400,000,000 acres were farmed each year. During the same period the population of the United States increased from 105,000,000 to 160,000,000, and average food consumption rose by more than thirty pounds per person annually over the rate prior to World War II. The farmer has had to meet the resultant problem of feeding an increasing population on a decreasing amount of land per person by increasing his productivity through more efficient and more scientific operations.

It may seem, because farm surplus is presently a national problem, that the conversion of farm land to non-farm use is actually not a problem. A consideration of projected population estimates, some as high as 228,000,000 by 1975,[3] destroys this illusion and indicates the necessity for positive action. The fact that there are large tracts of unused land does not mean that there is no problem. Other factors, such as location, weather, water, soil type, and fertility, must be considered. Most other uses of land are not as demanding as is agriculture in *all* these things. The time has come to begin solving the matter of land utilization.

Federal,[4] state, and county governments have all recognized the need for programs to preserve land for agricultural use. Aesthetic circles have also been concerned to prevent the rape of America's forests and farms by speculative builders who move into the countryside in search of cheap land.[5] Expansion of research and educational programs by state universities, agricultural experiment stations and extension services, and private organizations indicates the realization that no matter how efficient a farm operation may be or how much science is applied, the base of life is still the soil. The conclusion to be drawn is that it is imperative that much consideration be given to the conservation of farm lands.

The United States Department of Agriculture has separated the serious and costly urban-agricultural conflicts generated by urban

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[2]See "Farm Land Disappears," U. of Cal. Exten. Serv., Sept. 1953.

[3]See Solberg, *The Why and How of Rural Zoning*, U.S. AGRIC. INFO. BULL. No. 196, p. 31 (Dec. 1958).

[4]The Soil Conservation Act, 16 U.S.C. §590 (1958).

[5]See White, *A Plan to Save Vanishing U. S. Countryside*, Life, Aug. 17, 1959, p. 88.

encroachment on rural land into the following problem groups:[6] (1) excessive taxes resulting from a shifting of development and public service costs to farm taxpayers, (2) the adverse effects of non-farm land uses on agricultural plants and operations, and (3) objections of non-farm people to certain farming activities and practices. The avoidance of these conflicts and their corresponding problems is of principal importance to the farming industry. Anything other than positive action through rural zoning will invite unguided urban encroachment. Rural zoning works at the very source of the problem by separating agricultural from non-agricultural uses. The desirable degree of separation varies with the locality; the use of particular zoning tools will be guided by local objectives.

Legislation in Other Jurisdictions

The two most active states in the field of rural zoning for the protection of agricultural interests have been Minnesota and California. The Minnesota statute[7] provides that land rural in character but not used for agricultural purposes is to be assessed at thirty-three and one third per cent of its full value; land used for agricultural purposes, at twenty per cent; and all other land at forty per cent.

California has several statutes included in its general real property tax legislation.[8] The reason for the enactment of the statutes is found in the fact that only ten per cent of California's 100,000,000 acres is tillable, and only three per cent is high-class soil. At the present time the urban population occupies roughly four per cent of the state's area. Included in this four per cent is half of what was the finest agricultural land in the state ten years ago. California's long-range goal is to retain the agricultural contribution to its economy. One method of accomplishing this is to set aside permanently the best land for agricultural production.[9]

During the past seven years California has taken several steps toward the accomplishment of this goal. The enactments could well be called a statutory green-belt program. In 1953 a statute was passed establishing an inclusive agricultural classification of land as part

[6]Solberg, *supra* note 3.

[7]Minn. Stat. §273.13 (1959).

[8]Cal. Gov't Code §§35009, 65806; Cal. Rev. & Tax Code §402.5.

[9]See "Conservation of Agriculture in Metropolitan Community," Santa Clara County Planning Dep't, May 21, 1959.

of the county zoning ordinances.[10] In 1955 the legislature passed the Agricultural Extension Act, exempting agriculturally zoned land from annexation to a city without the owner's consent.[11] In 1957 the legislature went further and instructed tax assessors, in assessing land previously zoned for agricultural purposes, to take into consideration only its value for agricultural use.[12] In 1959 a statute was passed allowing counties to purchase interests in real property in order to preserve lands suitable for agricultural and recreational development and to lease the land back to the original owner.[13]

Even with all these statutes, however, the California agriculturist has not, in all cases, had his land assessed by the use of valuation factors relevant to agricultural use only. The statute pertaining to assessments[14] contains a clause that allows operation of the preferential assessment process only when "there is no reasonable probability" of the removal or modification of the zoning restriction within the near future. Experience has shown that this statute will be of little real benefit to the California agriculturist who is surrounded by subdivisions.[15] In such instances the tax assessor will find it difficult to say that there is "no reasonable probability" that the agriculturist will not succumb to the overtures of the subdividers, the annexing city, or both. To remedy this situation the California legislature recently passed a statute[16] authorizing county planning commissions to adopt interim agricultural zoning as an emergency measure and permitting them to zone land so as to preclude it from losing its exclusive agricultural tax classification. The constitutionality of zoning under this statute will depend upon the protection it affords the public safety, health, and welfare.[17] Normally a court will not go behind a declaration of emergency and public purpose by a governmental body or substitute its own opinion as to whether an emergency does in fact exist.[18] Such declarations are conclusive upon the courts unless no statement of fact is included in the zoning ordinance showing the

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[10]CAL. GOV'T CODE §35009.

[11]*Ibid.*

[12]CAL. REV. & TAX CODE §402.5.

[13]"Exclusive Agricultural Zoning," Santa Clara County Planning Dep't.

[14]CAL. REV. & TAX CODE §402.5.

[15]OP. ATT'Y GEN. CAL. 57/219; Letter to the author from John H. Keith, Chief, Div. of Assess. Standards, Cal. Bd. of Equalization, Nov. 5, 1959.

[16]CAL. GOV'T CODE §65806.

[17]Davis v. County of Los Angeles, *infra* note 18, provided that this was the test for the validity of zoning ordinances that intimately concern the police power.

[18]Davis v. County of Los Angeles, 12 Cal. 2d 412, 84 P.2d 1034 (1938).

emergency to exist, or unless the facts intended to indicate the necessity of action are obviously insufficient to constitute an emergency.[19] Accordingly, in considering each petition, the commission must satisfy itself that a true emergency within the provisions of the statute exists.

Maryland also has realized the vital necessity of solving problems created by the urban sprawl. The Maryland law has stirred up much controversy. As originally enacted in 1956, it provided that *"lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use, and shall not be assessed as if subdivided or on any other basis."*[20] In 1957 the law was repealed and re-enacted to read:[21]

> "Lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use, and shall not be assessed as if subdivided or on any other basis. *The State Tax Commission shall have the power to establish criteria for the purposes of determining whether lands subject to assessment under this sub-section are actively devoted to farm or agricultural use by the adoption of rules and regulations. Such criteria shall include, but shall not be limited to, the following:*
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> *(1) Zoning applicable to the land.*
>
> *(2) Present and past use of the land* INCLUDING LAND UNDER THE SOIL BANK PROVISIONS OF THE AGRICULTURAL STABILIZATION ACT OF THE UNITED STATES GOVERNMENT.
>
> *(3) Productivity of the land* INCLUDING TIMBERLANDS AND LANDS USED FOR REFORESTRATION.
>
> *(4) The ratio of farm or agricultural use as against other uses of the land."*

The law became effective on June 1, 1957. On January 19, 1960, the Maryland Court of Appeals declared the law unconstitutional because it failed to meet two requirements of a valid tax exemption — reasonableness and public purpose. A month after the opinion was released a motion for reargument was granted and the opinion was recalled. However, on reargument, the original decision was reaffirmed.[22]

In March 1960 the Maryland legislature adopted a proposed amendment to the state constitution stating that "the Legislature

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[19]*Ibid.*

[20]Md. Laws 1956, ch. 9, §1 (17).

[21]Md. Laws 1957, ch. 680, §1 (17) (b).

[22]State Tax Comm'n v. Wakefield, 161 A.2d 676 (Md. 1960).

may provide that land actively devoted to farm or agriculture shall not be assessed as if subdivided or on any other basis."[23] This amendment is subject to approval by the voters. At the same time, legislation was adopted to repeal and re-enact the aforementioned statute and to clarify the public purpose to be served. In its present form it provides:[24]

> "Farm or agriculture use-lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use, and shall not be assessed as if subdivided or on any other basis, it being the intent of the General Assembly that the assessment of farm land shall be maintained at levels compatible with the continued use of such land for farming and shall not be adversely affected by neighboring land uses of a more intensive nature. The General Assembly hereby declares it to be in the general public interest that farming be fostered and encouraged in order to maintain a readily available source of food and dairy products close to the metropolitan areas of the State, to encourage the preservation of open spaces as an amenity necessary to human welfare and happiness, and to prevent the forced conversion of such open space to more intensive uses as a result of economic pressures caused by the assessment of land at a rate or level incompatible with the practical use of such land for farming."

The same law authorized the state tax commission to establish criteria for judging whether farms that "appear to be actively devoted to farm or agricultural use are in fact bona fide farms and qualify for assessment under this subsection."[25] This bill was approved on March 23, 1960, and as of June 30, 1960, had not been subjected to court test.

Several other states are considering legislation dealing with the assessment problem. Oregon introduced a bill in its senate attempting to define the true cash value of real property used principally for farming.[26] Similarly, the State of Washington has passed a joint reso-

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[23]Md. S. 70, Md. Leg. (1960).

[24]Md. H. 87, Md. Leg. (1960).

[25]*Ibid.* See also Howie, *Assessment of Farm Land in Rural-Urban Fringe*, 22 Agric. Fin. Rev. 43, Sept. 1960.

[26]Ore. S. 98, Ore. 50th Leg. (1959), amending ORE. REV. STAT. §§308.205,.325 (1959), and declaring an emergency.

lution that "lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use and shall not be assessed on any other basis."[27] Connecticut also has moved in this direction.[28] Similar bills have been introduced in the legislatures of Illinois,[29] New Jersey,[30] and Nevada.[31]

FLORIDA STATUTE 193.201

In 1959, upon the urging of the agricultural interests in the state and because of its own recognition of the problem created by the urban sprawl, the Florida legislature enacted section 193.201. The apparent reasoning behind the passage of this act[32] recognizes the importance of the economic benefit that the State of Florida receives from agricultural activities. One of the serious agricultural problems in the state today is caused by recent real estate development that has tended to increase real property tax assessment on agricultural lands to unrealistic and unfair proportions. It is alleged that agricultural production, which is so important to the economy of the state, will thus be "taxed out of existence."[33] Section 193.201 provides:

> "(1) The board of county commissioners of any county in the state is hereby authorized and empowered in its discretion to zone areas in the county exclusively used for agricultural purposes as agricultural lands; provided said lands have been used exclusively for agricultural purposes for five years prior to such zoning.
>
> "(2) In the event that the board of county commissioners zone said lands as provided in subsection (1) then the board shall notify the tax assessor on or before November 1 and the tax assessor shall immediately after January 1 of the succeeding year . . . prepare and certify to the board of county commissioners a list of lands in the county so zoned as agricultural lands.
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> "(3) The board of county commissioners shall examine said

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[27]Wash. S.J. Res. 18, 36th Leg. (1959).
[28]Conn. S. 672, Conn. Leg., Jan. Sess. (1959).
[29]Ill. H. 404, 71st Gen. Assem. (1959).
[30]N.J. S. 81, N.J. Leg. (1959).
[31]Nev. S. No. 54, Nev. Leg. (1960).
[32]See Preamble, FLA. STAT. ANN. §193.201 (Supp. 1959).
[33]*Ibid.*

list and classification of such lands submitted by the tax assessor and shall make such reclassification as shall be appropriate or justified, and as reclassified shall zone such lands in the county for tax purposes only as agricultural.

"(4) For the purpose of this section, 'agricultural lands' shall include horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee and all forms of farm products and farm production.

"(5) The county tax assessor in assessing such lands so zoned and exclusively used for agricultural purposes as described and listed shall consider no factors other than those relative to such use. The tax assessor in assessing land within this class shall take into consideration the following use factors only: The cost of the property as agricultural land, the present replacement value of improvements thereon, quantity and size of the property, the condition of said property, the present cash value of said property as agricultural land, the location of said property, the character of the area or place in which said property is located and such other agricultural factors as may from time to time become applicable.

"(6) The board shall keep a record of such lands so zoned for tax purposes only and restricted for agricultural lands and shall remove such zoning restrictions whenever lands so zoned are used for any other purposes."

In essence this statute allows the boards of county commissioners in the various counties the option of either adopting or failing to adopt the provisions set out in the statute.[34] There is no state agency, board, or department designated by the statute to have control over the commissioners' action; rather the matter is purely one of local option and concern. To come under the provisions of the statute lands must have been used "exclusively" for agricultural purposes for five years.

Constitutionality

Any study of section 193.201 requires a consideration of whether the classification of land for purposes of ad valorem property taxes

[34]This law has already been put into effect in Indian River County; see Florida Cattleman, Oct. 1960, p. 50 B.

is proper with reference to United States and Florida constitutional provisions.

The Florida constitutional provisions requiring uniformity and equality of taxation[35] have been held to apply only to the rate of taxation and to have no relation to property valuation.[36] Section 193.201 concerns itself only with the valuation or assessment of agricultural lands; it does not directly control the tax rate on the land. However, the Florida Constitution does provide that the legislature shall prescribe such regulations as shall secure a just valuation of all property.[37] A strong argument could therefore be made that the prescribed statutory classification separating agricultural lands from other lands in the county is unjust. It is evident that the definition of agricultural lands contained in this statute[38] leaves much to be desired from the standpoint of definiteness and practical enforcement.[39]

The Florida Supreme Court has held that classification for the purpose of property tax legislation may be made with reference to similarity of situations, circumstances, and convenience to best serve the public interest.[40] The Court has also held that the constitutional provisions requiring uniform and equal tax rate and just valuation contemplate rather than forbid property classifications.[41] The test as to the validity of the classification has also been held to be good faith rather than wisdom.[42] There is, however, a general conflict regarding what constitutes a reasonable classification of property for purposes of ad valorem taxation. A Florida statutory provision relating to the classification and grouping of lands has been held valid in light of all the provisions of the United States and Florida constitutions.[43]

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[35]FLA. CONST. art. IX, §1.

[36]Schleman v. Connecticut Gen. Life Ins. Co., 151 Fla. 96, 9 So.2d 197 (1942); City of Ft. Myers v. Heitman, 148 Fla. 432, 4 So. 2d 871 (1941); Rorick v. Reconstruction Fin. Corp., 144 Fla. 539, 198 So. 494 (1940).

[37]FLA. CONST. art. IX, §1.

[38]FLA. STAT. §193.201 (4): "For the purpose of this section, 'agricultural lands' shall include horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee and all forms of farm products and farm production."

[39]An analysis of the legislative history of this act shows that the definition of agricultural lands came into being as a result of legislative compromise.

[40]Hayes v. Walker, 54 Fla. 163, 44 So. 747 (1907).

[41]*Ibid.*

[42]State *ex rel.* Att'y Gen. v. City of Avon Park, 108 Fla. 641, 149 So. 409 (1933).

[43]Smithers v. North St. Lucie River Drainage Dist., 73. So. 2d 235 (Fla. 1954) (statutory classification and grouping of marginal lands within a drainage district on the basis of benefits received held constitutional).

Classifications in other jurisdictions, however, have been held invalid as unreasonable when the volume per acre was made the test of taxability of timber;[44] unplanted real property used for agricultural purposes was classified differently from improved land or land divided into blocks or lots;[45] and favoritism was given, over non-forest land, to the raising of forest products.[46]

The United States and Florida constitutions provide that no person shall be deprived of life, liberty, or property without due process of law.[47] This clause of the United States Constitution is not intended to hamper the states in the discretionary exercise of their governmental powers so long as private rights are not arbitrarily invaded.[48] The constitutional guarantee of due process requires merely that all statutes shall operate alike upon all persons in similar circumstances; if a statute arbitrarily or unjustly discriminates among persons, due process may be violated.[49]

It has been argued that section 193.201 provides a special tax concession to owners of agricultural lands and that owners of substantially similar land will be discriminated against if they do not receive this same concession. Moreover, since the language in the statute is so broad, any land in production for five years in a county that adopts the statute will probably receive the tax concession. A constitutional question arises from the broad language of the statute.[50] There are several loopholes allowing the special tax concession to be obtained by landowners other than farmers in agricultural production. A brief look at the subsection that defines agricultural lands[51] discloses that it is vague and ambiguous. The statute does not state how much of the land must be cultivated or to what extent it must be used. It would be a simple matter for real estate investors who own land previously used for agricultural purposes to fence an extensive area and purchase a few cattle or bee hives and thus seemingly comply with the present definition of "agricultural lands" so that they could receive the special tax concession.[52]

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[44]*In re* Opinion of the Justices, 84 N.H. 557, 149 Atl. 321 (1930).

[45]Monaghan v. Lewis, 21 Del. 218, 59 Atl. 948 (1905).

[46]Clearfield Bituminous Coal Corp. v. Thomas, 336 Pa. 572, 9 A.2d 727 (1939).

[47]FLA. CONST. Decl. of Rights §12; U.S. CONST. amend. V.

[48]See 4 FLA. LAW AND PRAC., *Constitutional Law* §114 (1956).

[49]See 6 FLA. JUR., *Constitutional Law* §314 (1956).

[50]This language was inappropriately taken from a statute dealing with agricultural cooperatives, FLA. STAT. §618.01 (1959).

[51]FLA. STAT. §193.201 (4) (1959).

[52]Again legislative compromise was responsible for the definition of agricultural

The improper administration of such a clause could easily bring about arbitrary and discriminatory land classifications. When laws passed by the state are seen to have a reasonable relation to a proper legislative purpose, however, and are neither arbitrary nor discriminatory, the requirement of substantive due process is satisfied.[53]

From the standpoint of procedural due process, there is required a law which hears before it condemns, which proceeds upon inquiry, and renders judgment only after a trial.[54] The most important element of protection afforded by the due process clauses of the state and federal constitutions is procedural due process.[55] The rights embraced can be reduced to the single requirement of an opportunity to be heard. This, however, includes the requirements of notice and hearing in appropriate proceedings by a competent tribunal.[56]

Deprivation of procedural due process, with the resulting unconstitutionality, is the most persuasive argument that can be made against this statute; it makes no provisions for hearing or public discussion concerning the use of the land to be classified. In fact, the owner of the land is required to take no active part in the classification of his land.

Is Section 193.201 a Green-belt Statute?

The term *green belt* is correctly applied to a statute that is a general zoning ordinance for rural areas; it provides an over-all land use plan serving as an instrument for the conservation and preservation of agricultural areas.[57] This type of statute establishes in a community a green belt — a strip of land that otherwise might be completely developed for residential, business, or commercial uses.[58] Because the soil in such an area is valuable for agricultural production, the property is restricted to certain agricultural or recreational uses. In return for the restriction the statute offers a tax reduction.

To obtain green-belt zoning status the land must be changed from

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lands.

536 FLA. JUR., *Constitutional Law* §312 (1956).

54Trustees of Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819) (argument of Daniel Webster); *accord*, State *ex rel.* Munch v. Davis, 143 Fla. 236, 196 So. 491 (1940); Fiehe v. R. E. Householder Co., 98 Fla. 627, 125 So. 2 (1929).

55See 6 FLA. JUR., *Constitutional Law* §319 (1956).

56*Ibid.*

57"Exclusive Agricultural Zoning," Santa Clara County Planning Dep't.

58*Ibid.*

its existing classification by the zoning process. Zoning is derived from the police power[59] and is used for the general welfare of the community.[60] A change in zoning classification requires the traditional rezoning process, which involves action by the proper governmental boards, request by the owner, and due public notice.[61]

Florida's statute does not provide for public hearing, public notice, or action by the owner. It does not necessitate a permanent restriction on the use of the land or special zoning.[62] All that is required is that the land must have been used for the past five years exclusively for agricultural purposes. The owner must conform to the vague and indefinite definition of "agricultural lands."

The apparent reason for application of the term *green belt* to section 193.201 is that the preamble to the statute[63] contains language that could be applied in describing an actual green-belt statute. The context of the statute, however, does not resemble true green-belt laws.

Florida Land Inventory

The previously mentioned California statutes are similar to the Florida act in that they allow a special tax concession for agricultural lands. The California statutes were enacted to protect a very small percentage of land that added significantly to the state's economy. This land was unique and could not be replaced in other parts of the state where the demand for real estate development was less critical.

There is some question whether this land situation exists in the State of Florida. At present an inventory is being conducted which should shed some light on the question of justification of the special

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[59]See 6 Fla. Jur., *Constitutional Law* §163 (1956): "The police power includes anything which is reasonable, necessary, and appropriate to secure the peace, order, protection, safety, good health, comfort, quiet, morals, welfare, propriety, convenience, and best interests of the public."

[60]See 6 Fla. Jur., *Constitutional Law* §196 (1956).

[61]"Exclusive Agricultural Zoning," Santa Clara County Planning Dep't.

[62]Although the word *zone* is used in §193.201, it is apparent that the legislature intended that agricultural lands be "zoned" only in the sense that lands used exclusively for agricultural purposes be designated in a separate category or classification for purposes of ad valorem tax assessment. Letter from Richard W. Ervin, Att'y Gen., to Darrey A. Davis, Oct. 21, 1959.

[63]Fla. Stat. Ann. §193.201 (Supp. 1959).

tax concession in Florida.[64] The following chart shows, in acres, data regarding Florida's land inventory:[65]

	1954		*1975* (projected use)	
Crop land				
Truck	384,000		596,000	
Citrus	550,000		874,000	
Field	1,423,000		1,673,000	
Other	1,086,000	3,443,000	986,000	4,129,000
Pasture and Range				
Improved	1,500,000		3,000,000	
Other	3,381,000	4,881,000	1,712,000	4,712,000
Forest and Woodland		23,047,000		21,700,000
Other				
Urban build-up	1,147,000		1,914,000	
All other non-agricultural uses	2,210,000	3,357,000	1,405,000	3,319,000
Totals		34,728,000		33,860,000[66]

Since these figures[67] are based on variables that may alter radically with the unprecedented population growth in Florida, it is well to remember that once agricultural land is devoted to other uses, such as residences, roads, or subdivisions, it cannot be easily reclaimed for agricultural purposes. It is important to note that Florida agriculture supplies much more than local needs. Citrus fruit, winter vegetables, and cattle are substantial contributions to the nation's food supply. Although it can be argued that Florida has an abundance of undeveloped land, nevertheless soil condition, accessibility,

[64]In the State of California only 10% of the land is arable; of this 3% is high-class soil. During the last 10 years one half of the high-class soil has been used in real estate development to the detriment of the economy of the state. See note 9 *supra*.

[65]Based on unpublished data used in the national inventory of soil and water conservation currently being conducted by the U. S. Dep't of Agric. The results of this study will be published later.

[66]The total land area in 1975 will be smaller than in 1954, primarily because of the inundation of 18,000 acres of forest land and 850,000 acres of other land.

[67]The chart does not evaluate the agricultural usefulness of land not presently in production.

and other pertinent factors make its development on a realistic scale indefinite.

Conclusion

The relative newness of the Florida law and of similar statutes in other states precludes a reliable prediction of its validity. However, if Florida is to continue its unprecedented growth without the hazards that have characterized its spasmodic earlier periods of development, it must come to grips with the basic problem of financing growth. A realistic look at the Florida tax structure indicates that the present system leaves much to be desired. The reliance upon ad valorem real property taxation has resulted in major inequities. The failure of the assessment process under the homestead exemption has created a problem of great magnitude. Special interest groups within the state make change difficult.

In the present environment of rapid change, how effective will Florida's new statute be? The developing economic pattern demands that agricultural lands be protected from unreasonable ad valorem taxation if they are to continue to make an important contribution to the state's monetary status. Land, unlike other commodities, cannot be moved at will. The costs of developing prime land are high. Surely those who are willing to invest in agricultural enterprises should have the benefit of zoning protection adequate to insure their future growth and basic existence. The concept of taxation based on land use is not new. The basic philosophy behind the "green-belt statutes" is worthy of further consideration. Too often the forces of haphazard growth dominate the scene and bring about results that are far from ideal. This statute represents an attempt to delineate a pattern that must be further developed if Florida is to have a well-balanced economic structure. The argument that certain procedural aspects of the present statutes are unconstitutional, especially as they relate to the assessment procedure, merely side-steps the basic issue. Any statute that has its birth in the throes of legislative controversy is at best an approximation of what the sponsors of the bill really intended. Technical phraseology must give way to a broad understanding of the basic problem involved. Nevertheless, the statute represents an attempt to bring order out of chaos – to solve the problem before it becomes more acute. This statute could conceivably be declared unconstitutional by the courts on numerous procedural grounds. Yet this will not resolve the basic problem. Legislative intent must be supplemented by a firm policy decision from the courts to set the entire controversy in its proper perspective.