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James S. Wershow

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AD VALOREM ASSESSMENT IN FLORIDA — THE DEMAND FOR A VIABLE SOLUTION*

JAMES S. WERSHOW**

Three years have elapsed since the publication of my latest article dealing with a British remedy to Florida's ad valorem assessment problems. During this period the British system continued to improve in both efficiency and equitable results, while Florida continually encountered problems in this area. Attempts by the executive, legislative, and judicial branches of Florida's government to deal with the problems have been far from successful. Some of the difficulties have centered around the administrative procedures in assessment cases, the standards for establishing a bona fide agricultural operation, and the party or board that should classify or assess property. This article focuses on the past and present problems in the Florida assessment structure and attempts to delineate a viable alternative to the present procedure.

1968 CONSTITUTION: A CONFIRMATION AND CLARIFICATION OF LEGISLATIVE AND JUDICIAL UTTERANCES

Article X, section 1 of the Florida constitution of 1885 provided: "[T]he legislature should provide for a *uniform and equal rate* of taxation . . . and shall prescribe such regulations as shall secure a *just valuation* of all property." Potential conflict between the constitutional commands of *uniform and equal rate* and *just valuation* and the legislature's provision for assessment of agricultural land on an acreage basis with regard only to agricultural use has been resolved consistently in favor of agricultural classification.[1] Under the 1968 constitution *just valuation*[2] has been retained and *uniform and equal* has been reworded as *"uniform rate within each taxing unit,"*[3] which merely specifies what had always been implicit in the assessment process. However, the 1968 constitution also provides that "[a]gricultural land . . . may be classified by general law and assessed solely on the basis of character or use."[4] Clearly the constitutionality of "green-belting" is no more in issue.[5] It is no

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**B.A. 1933, LL.B., LL.M. 1939, Yale University; Member of the Gainesville, Florida, Bar. Adjunct Professor of Economics, College of Business Administration, University of Florida.

1. *See, e.g.*, Markham v. Blount, 175 So. 2d 526 (Fla. 1965); Lanier v. Overstreet, 175 So. 2d 521 (Fla. 1965); Tyson v. Lanier, 156 So. 2d 833 (Fla. 1963).

2. FLA. CONST. art. VII, §4 (emphasis added). As a matter of constitutional interpretation, the framers appear to have adopted the Florida supreme court's interpretation of "just value." Walter v. Schuler, 176 So. 2d 81, 85-86 (Fla. 1965).

3. FLA. CONST. art. VII, §2 (emphasis added).

4. FLA. CONST. art. VII, §4 (a).

5. *See generally* Wershow, *Regional Valuation Boards—A British Answer to Ad Valorem Assessment Problems in Florida*, 21 U. FLA. L. REV. 324 (1969); Wershow, *Recent*

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longer necessary to assume that if land is in fact being used for bona fide agricultural purposes its just value is properly determined only by agricultural use factors. Under present article VII, section 4 of the Florida constitution there is no room left to argue about the definition of "just value," nor about whether such classification of land is discriminatory.

It appears that the framers of the 1968 constitution also adopted the Florida supreme court's construction of the constitutional mandate directing the legislature to "prescribe such regulations as shall secure a just valuation."[6] In *Burns v. Butscher*[7] the Florida supreme court upheld the constitutionality of the predecessor to present section 195.032 of the Florida Statutes,[8] which authorized the state comptroller to promulgate standard measures of value to be used by tax assessors. The statute created a presumption that such standards were the criteria of just valuation contemplated by the constitution.[9] The statute also required assessors and boards of adjustment to follow and apply these standards, the burden being upon the assessor or board "refusing to follow such standard to overcome the presumption [of correctness] by a preponderance of the evidence."[10]

In *Burns* it was argued that article VIII, section 6 of the 1885 constitution, providing for the election of county tax assessors, prohibited the imposition of such restrictions authorized by the legislature. Rejecting this argument, the court said such unrestricted authority could not be inferred and noted that the "[e]xercise of unbridled discretion by 67 Tax Assessors without their being anchored to any master plan would result in the imbalance already so clearly indicated."[11] Nevertheless, in *Powell v. Kelly*[12] the supreme court emphasized that real estate appraisal was an art rather than a science, and that while the use of properly promulgated guidelines may be mandatory their application called for discretion.[13] The obligation to apply such standards is, therefore, not an infringement upon the assessor's status under article VIII of either the 1885 or the 1968 constitutions.

Statutory Changes

At the time of this author's latest article in this series[14] the legislature had just enacted a compulsory "green belt" statute, section 193.201 of the

Developments in Ad Valorem Taxation, 20 U. FLA. L. REV. 1 (1967); Wershow, *Ad Valorem Assessments in Florida — Whither Now?*, 18 U. FLA. L. REV. 9 (1965); Wershow, *Ad Valorem Taxation and Its Relationship to Agricultural Land Tax Problems in Florida*, 16 U. FLA. L. REV. 521 (1964); Wershow, *Agricultural Zoning in Florida — Its Implications and Promlems*, 13 U. FLA. L. REV. 479 (1960).

6. FLA. CONST. art. VII, §4. "By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation . . . ." *Id.*

7. 187 So. 2d 594 (Fla. 1966).

8. FLA. STAT. §192.31 (1965). The present version places the duty to promulgate regulations in the Department of Revenue.

9. FLA. STAT. §195.032 (1971).

10. *Id.*

11. Burns v. Butscher, 187 So. 2d 594, 596 (Fla. 1966).

12. 223 So. 2d 305 (Fla. 1969).

13. *Id.* at 309.

14. Wershow, *Recent Developments in Ad Valorem Taxation*, 20 U. FLA. L. REV. 1 (1967).

Florida Statutes. This statute required each county to establish an agricultural zoning board with the duty to "zone" lands as agricultural that were "actually used for bona fide agricultural purpose." Once lands were so zoned, the assessor could consider only the factors specified within section 193.201 in appraising agricultural land. An earlier version of this statute, enacted in 1959, merely authorized the board of county commissioners "in its discretion to zone areas in the county exclusively used for agricultural purposes as agricultural lands."[15] However, once lands were so zoned under either form of the green belt statute, only such factors as were listed within section 193.201 were to be considered in assessing agricultural land.

The 1969 legislature renumbered the green belt law and made some minor changes in the statute,[16] the most significant being the reduction of the county tax assessor from full membership on the agricultural zoning board to the position of a non-voting ex officio member. Clearly, the purpose of the act was to separate the zoning function for the assessing function. However, after reconsidering, the 1972 legislature abolished the agricultural zoning board.[17] Under the amended statute the "assessor shall . . . classify for assessment purposes all lands within the county as either agricultural or non-agricultural."[18] Yet once the assessor has made an agricultural determination he is directed to assess the land solely on the basis of agricultural use and to consider only the use factors enumerated within the statute. The present versions of section 193.461 of the Florida Statutes lists the following "use" factors:

(1) the quantity and size of the property,
(2) the condition of said property,
(3) the present market value of said property as agricultural land,
(4) the income produced by said property,
(5) the productivity of the land in its present use,
(6) the economic merchantibility of the agricultural produce, and
(7) such other agricultural factors as may from time to time become applicable.

These factors are substantially the same as those referred to in prior forms of the statute. However, certain additions and deletions have been made. Two factors omitted are the "present depreciated value of improvements" and the "character of the area or place in which said property is located." A reason for omitting the former may be confusion over the meaning of "depreciated value." For example, although a barn or other structure may have been depreciated to virtually zero for federal income tax purposes, the present market value of the structure, even for use in agricultural operations, may be significantly higher. Concerning the latter omission, case law ful-

15. Fla. Laws 1959, ch. 226, §1.
16. Fla. Laws 1969, ch. 55, §§1, 2.
17. Fla. Laws 1972, ch. 181, §1.
18. *Id.*

ly substantiates the persuasive effect that increased value in the surrounding residential or commercial market has had upon the determination of agricultural use and upon the initial request for agricultural classification.[19] If such a factor is improper to consider with respect to whether the land in question is being used for bona fide agricultural purposes than, a fortiori, once land is classified as agricultural how can the character of the surrounding area be relevant to the value of the land for agricultural purposes?

Two factors added to section 193.461 are "the productivity of the land in its present use" and "the economic merchantibility of the agricultural product." Little discussion is needed to delineate the relevance of these factors to the value of any piece of land used for agricultural purposes.

The most significant change in the green belt law, however, is the legislature's attempt to define "bona fide agricultural purposes." The county tax assessor, and formerly the agricultural zoning board, is directed to classify lands as agricultural that are used for bona fide agricultural purposes.[20] Deceptively simple, this phrase has long cried for definition and has been the source of much litigation. Case law has failed to provide sufficiently consistent guidelines to protect the farmer without providing a tax shelter for the land speculator. However, a brief discussion of the courts' dilemma will shed light on the 1972 legislature's attempt to define "bona fide agricultural purposes." The statute provides:[21]

> "Bona fide agricultural purposes" mean "good faith commercial agricultural use of the land." In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:
>
> (1) the length of time the land has been so utilized,
>
> (2) whether the use has been continuous,
>
> (3) the purchase price paid,
>
> (4) size as it relates to specific agricultural use,
>
> (5) whether an indicated effort has been made to sufficiently and adequately care for the land in accordance with accepted commercial agricultural practices including without limitation fertilizing, liming, tilling, mowing, and re-foresting and other accepted agricultural practices,
>
> (6) whether such land is under lease and if so, the effective length and terms and conditions of the lease, and
>
> (7) such other factors as may from time to time become applicable.

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19. *E.g.*, Conrad v. Sapp, 252 So. 2d 252 (Fla. 1971); Jeffreys v. Simpson, 222 So. 2d 224 (1st D.C.A. Fla. 1969). Under the new statute, where land is sold for three or more times its agricultural assessment, a rebuttable presumption is created that such land is not used primarily for bona fide agricultural purposes. Thus, if the presumption is not overcome, the new owner cannot claim an agricultural classification and must pay taxes on the higher assessed value. Fla. Laws 1972, ch. 181, §1.

20. It should be mentioned that even where so classified such lands can be re-classified as 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 . . . expansion of the community." Fla. Laws 1972, ch. 181, §1.

21. Fla. Laws 1972, ch. 181, §1.

These factors have in most instances been adopted through acceptance or rejection of the various results of the cases in this area of law.

In *Matheson v. Elcook*[22] the land had been used for over forty years as a coconut plantation. Because of its strategic location in Dade County the land was worth many times its agricultural use value.[23] Furthermore, the coconut production upon the 67.89 acre tract could have been accomplished on five acres. Nevertheless, the district court affirmed the chancellor's finding that the land was used for a bona fide agricultural purpose even though it was inefficiently operated and was losing money. The court reasoned:[24]

> There is nothing in the law that requires a person to operate a business efficiently or at a profit. . . . [T]his result could cause many situations of tax avoidance based on agricultural use of property, but we hasten to point out that before the taxpayer can take advantage of this statute he must demonstrate to the taxing authorities that his agricultural operation is bona fide, in good faith. In this case no one questions the bona fides of appellants' agricultural operation.

Although the court in *Matheson* did not delineate any guiding factors for determining "good faith," the opinion did weigh certain evidentiary factors evident in the new green belt law. For example, in favor of the taxpayer were such circumstances as the length of time the land had been utilized for agricultural purposes, the continuity of such use, and the fact that the whole tract had been used for coconut production. The inefficiency of the operation was rejected as a probative factor. However, it must be assumed that the product was picked and sold, since this would clearly reflect whether there was actually a bona fide agricultural operation.

In *Walden v. Borden Co.*[25] Borden leased a tract of land adjacent to its phosphate operation to farmers for cattle pasturing. The lease provided for a tenancy at will, terminable on sixty days' notice, and also reserved to Borden an easement for the discharge of smoke, fumes, and other by-products of the phosphate plant. The supreme court was not satisfied with the lower courts' decision that the land was used "primarily" for bona fide agricultural purposes under section 193.461 of the Florida Statutes. The court explained:[26]

> [T]he legislature did not intend to give preferential tax treatment to land such as that in the instant case that was obviously purchased for use in connection with the company's phosphate operations . . . even though it accommodates, also, an incidental use for agricultural purposes.

The *Walden* court, acknowledging its conclusion would not have been different had the company used the land itself, clearly implied that the

22. 173 So. 2d 164 (3d D.C.A. Fla. 1965).
23. *Id.* at 165. The court noted that the land was worth over $2,359,600; the assessor valued it at $490,510 and the taxpayer claimed it should be assessed at $54,312.
24. *Id.* at 166.
25. 235 So. 2d 300 (Fla. 1970).
26. *Id.* at 302.

agricultural use itself was determinative rather than analyzing whether an owner or lessee conducted the agricultural operation.[27]

In another leasing arrangement, *Smith v. Ring*,[28] the land in question was leased:[29]

> [T]o legitimate cattlemen who ran cattle on the property and followed . . . acceptable agricultural practices . . . . [T]he entire tract was fenced and fifty acres thereof cleared and planted to improve pasture . . . . The grazing lease . . . provided that the property could be used only for agricultural purposes. During the year the pasture was actually mowed and fertilized by the lessee and was being used at its maximum capacity in the grazing of cattle in connection with a livestock raising enterprise.

A comparison of *Smith* and *Walden* clearly shows the relevancy of the "lease factor" in determining good faith: *Whether such land is under lease and, if so, the effective length and terms and conditions of the lease.* A tenancy at will terminable upon sixty-days notice with an easement for the discharge of the phosphate operation's by-products is certainly distinguishable from a one-year lease without such an easement that expressly provides for agricultural use only. Of course the *Smith* case is illustrative of how good agricultural practices can affect the court's determination. The legislature also considered this criterion relevant to the issue of good faith when it adopted the "agricultural practices" factor in the new statute.[30]

In 1971 three contests concerning timber land[31] were certified to the Florida supreme court by the First District Court of Appeal. In *St. Joe Paper Co. v. Mickler*[32] the district court affirmed a conclusion of no bona fide forestry operation that was based merely on the finding that certain good forestry practices, land management and fire protection, were not followed. The supreme court reversed,[33] basing its opinion in part on Judge Spector's dissent in the lower appellate court opinions[34] that there is "no legal re-

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27. Therefore, certain guidelines can be elicited from the *Walden* and *Matheson* opinions, which can be considered in establishing the "bona fides" of an agricultural operation: (1) there is no requirement for efficient operation at a profit; (2) there is no requirement to devote the land to its highest and best use or to its highest and best agricultural use; (3) the primary use of the land must be agricultural; (4) the use of the land by the owner or his lessee is irrelevant to the application of the bona fide agricultural purpose standard.

28. 250 So. 2d 913 (1st D.C.A. Fla. 1971).

29. *Id.* at 914.

30. Fla. Stat. §193.461 (1971), *as amended*, Fla. Laws 1972, ch. 181, §1.

31. St. Joe Paper Co. v. Mickler, 241 So. 2d 415 (1st D.C.A. Fla. 1970), *rev'd*, 252 So. 2d 225 (Fla. 1971); Oates v. Bailey, 241 So. 2d 730 (1st D.C.A. Fla. 1970), *rev'd sub nom.*, Greenwood v. Oates, 251 So. 2d 665 (Fla. 1971); Sapp v. Conrad, 240 So. 2d 884 (1st D.C.A. Fla. 1970), *aff'd*, 252 So. 2d 225 (Fla. 1971).

32. 241 So. 2d 415 (1st D.C.A. Fla. 1970).

33. 252 So. 2d 225 (Fla. 1971).

34. 241 So. 2d 415, 419 (1st D.C.A. Fla. 1970).

quirement that a person following agricultural pursuits must do so by the most modern and scientific methods available."

The Florida supreme court further emphasized this position in *Conrad v. Sapp*,[35] a case also involving forestry operations. In *Conrad*, since there had been increased urbanization of the surrounding land, the tax assessor looked to the land's location and conversion possibilities for future use in denying the landowner an agricultural assessment. Although the landowner had not adopted re-seeding or proper firelaning, the court found that these two factors were not determinative of non-agricultural use. In upholding the agricultural use classification the court quoted from the lower court's opinion:[36]

> "The decisive issue in this cause, of course, is what constitutes a bona fide forestry operation. Is proof required that the landowner must embark upon a program of land preparation, planting of trees and cultivation of same as is requisite in 'row crop' farming? We think not. To so hold would ignore the history of forestry operations in this country from the time our fathers and forefathers began setting aside plots of land to hold for the purpose of periodically harvesting timber, pulp wood or naval stores. A bona fide forestry operation is not synonymous with tree farming."

A further attempt to reconcile the problem is found in *Greenwood v. Oates*.[37] In that case Justice Dekle made a commendable effort to define a bona fide operation, including the delineation of several guidelines:[38]

> (1) the opinions of forestry or other appropriate experts;
> (2) the Tax Assessor's applicable expert opinion and factual data;
> (3) the affidavit and testimony of the landowner and his witnesses;
> (4) the business or occupation of the landowner;
> (5) the nature of the terrain;
> (6) the density of the marketable timber (or other product) on the land;
> (7) the past usage of the land;
> (8) the economic merchantability of the agricultural product;
> (9) reasonable attainable economic salability thereof within a reasonable future time for the particular product (trees do not mature and become so rapidly salable as do chickens or cows); and
> (10) the use or not of recognized care, cultivation, harvesting and like practices applicable to the product involved, and any implemented plans therefor.

These factors appear to have continued vitality under the new green belt law in the determination of a bona fide agricultural purpose. To the extent that such factors are considered "applicable," they may be considered by the assessor in making his determination.[39] However, as the above list of

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35. 252 So. 2d 225 (Fla. 1971).
36. *Id.* at 227.
37. 251 So. 2d 665 (Fla. 1971).
38. *Id.* at 668.
39. Fla. Laws 1972, ch. 181, §1. In McKinney v. Hunt, 251 So. 2d 6 (1st D.C.A. Fla.

factors indicates, there is an unavoidable overlap of considerations with respect to the classifications of agricultural land and its tax assessment. The only criterion that should definitely not be weighed with regard to either determination is the "highest and best use" to which such land may be put based on its location.[40] Conversely, the general economic success of the land is clearly relevant to both determinations. Yet it should be obvious from the cases discussed above, this criterion should not be given too much weight in the classification decision.

In summary, it appears that, regardless of the factors that may be listed by the courts, the court may still find exception for land that is put to a real agricultural use. Nevertheless, there is value in this case law. Mainly, these decisions forbid the assessor to look at any given factor such as the occupation of the owner, the productivity of the farm, or the size of the farm and then declare the land to be non-agricultural on that basis alone. However, the cases seem to state that the owner may fail on several bases and still be using the land for a bona fide agricultural purpose, which in an effort to protect the real farmer leads the court back to a very *subjective* standard.

The Failure of Arbitration To Solve the Problem

In 1969 the Florida Legislature, cognizant of the many problems involved in tax assessment, enacted an arbitration statute[41] designed to give an aggrieved taxpayer an additional, administrative proceeding to solve his plight. The statute provided that any taxpayer who was dissatisfied with the action taken by the board of tax adjustment could seek arbitration by giving notice to the board within twenty days of the board decision. Along with the notice, the taxpayer was required to name an arbitrator. The board then named its arbitrator, and the two arbitrators selected a third to make up the arbitration panel. Assessment was decided upon by a majority of the panel. The decision, which was final unless overturned by a court of competent jurisdiction, had to be in writing and had to include findings of fact.

The first case to deal fully with the arbitration statute was *Sherry Frontenac, Inc. v. Tax Assessor.*[42] The case involved a corporation that challenged its 1970 ad valorem tax assessment, appealed to the board of tax adjustment, and later properly demanded arbitration. The corporation, dissatisfied with the arbitration decision, appealed to the Dade circuit court for annulment of the tax assessment. Although the court did not discuss the merits of the

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1971), taxpayers in Alachua County owned 15 acres of land; 11 acres were improved pasture, 25 acres were devoted to field crops; and 1.5 acres to the taxpayers' home site. The owner had a non-agricultural, full-time job, and worked on his property only during his free hours. Actually, a very small portion of the products of the land were used commercially, most being consumed by the taxpayers' personal use. Nevertheless, the court said "the use of the land rather than the occupation of the owner . . . is relevant, so long as the land itself is used in good faith for agricultural purposes." *Id.* at 10.

40. *See, e.g.*, Conrad v. Sapp, 252 So. 2d 225, 227 (Fla. 1971).

41. Fla. Laws 1969, ch. 140, §5 (repealed 1971).

42. 35 Fla. Supp. 140 (Cir. Ct. Dade County 1971).

taxpayer's contentions, it did review the relationship between an arbitration panel and a court on tax assessment matters.

The court rejected the tax assessor's argument that the Florida Arbitration Code[43] was subject to judicial review except on grounds enumerated in the Code.[44] Citing the Florida constitution[45] and Florida Statutes, section 194.171, to support a circuit court's "exclusive, original jurisdiction" in property tax matters, the court held that the "operational effect contended for §§194.033, 682.03 and 682.13 [could] not be sustained."[46] The court, therefore, arguably held the arbitration statute invalid, since it removed "exclusive, original jurisdiction" over tax matters from the circuit courts.

Irrespective of the court's decision on the validity of the arbitration statute, the Florida Legislature repealed the statute in 1971.[47] Presumably, the main reason the legislature repealed the statute was that it failed to accomplish its purpose adequately. The statute had enabled large corporations in small counties to seek arbitration and then use their power to coerce the county into acquiescing for a smaller assessment figure. Just as the arbitration statute did not alleviate the problems in tax assessment, the current practice is also fraught with pitfalls. Disputes under the present method demonstrate that a new procedure is necessary.[48]

OBJECTIVES AND RECOMMENDATIONS

The unsuccessful attempts to solve the problems of ad vadorem taxation exemplify the need to establish a workable procedural approach to valuation and assessment. As noted in two of the earlier articles in this series,[49] the British practice of dealing with similar ad valorem taxation matters has not only protected the rights of the taxpayer but also has provided the government with a correct basis for taxation. The need to rectify the inequities in the present Florida assessment situation is further enforced by the recent case of *Serrano v. Priest.*[50] In that case certain taxpayers challenged the California public school financing system, which was based primarily upon ad valorem property taxation. The system allowed the governing body of each city or county to levy taxes on the real property within a school district at a rate necessary to meet the district's annual education budget.[51] The amount of revenue that a district could raise depended largely upon the assessed valuation of real property within its border. The California supreme court found that this method of financing violated the equal protection

43. FLA. STAT. ch. 682 (1971).
44. FLA. STAT. §682.13 (1971).
45. FLA. CONST. art. V, §6(3).
46. 35 Fla. Supp. at 142.
47. Fla. Laws 1971, ch. 371, §5.
48. *See* Wershow, *Regional Valuation—A British Answer to Ad Valorem Assessment Problems in Florida,* 21 U. FLA. L. REV. 324 (1969).
49. *Id.;* Wershow, *Recent Developments in Ad Valorem Taxation,* 20 U. FLA. L. REV. 1, 14 (1967).
50. 5 Cal. 3d 584, 487 P.2d 1241, 96 Cal. Rptr. 601 (1971).
51. *Id.* at 592, 487 P.2d at 1246, 96 Cal. Rptr. at 606.

clause of the United States Constitution.[52] The financing system was based upon "wealth" and thus invidiously discriminated against poor districts with a low tax base. For example, while Baldwin Park citizens paid twice as much tax on each 100 dollars of assessed valuation as did the more affluent Beverly Hills citizens, the Baldwin Park citizens were able to spend only half as much on education.[53] In striking down the funding method, the court noted:[54]

> In summary, so long as the assessed valuation within a district's boundaries is a major determinant of how much it can spend for its schools, only a district with a large tax base will be truly able to decide how much it really cares about education. The poor district cannot freely choose to tax itself into an excellence which its tax rolls cannot provide. For from being necessary to promote local fiscal choice, the present financing system actually deprives the less wealthy districts of that option.

Serrano may have initiated a trend[55] that may eventually lead to the disappearance of many of the functions of local assessors[56] concerning land assessment.

A possible approach to ad valorem assessment that should be considered by the Florida Legislature at its next session involves the reallocation of Florida into eight or ten assessment regions. These regions would be grouped according to their character of land development and not by their geographical location. In other words, counties with common attributes, such as the counties in the Tampa Bay area, would be grouped together for assessment purposes. In each region land values would be determined by an assessment board consisting of an attorney, a real estate appraiser, and a layman familiar with the land to be assessed. Since there would only be eight or ten assessment boards rather than sixty-seven separate assessment regions there would be greater uniformity in assessment for similar types of land. Uniformity in valuation would be further strengthened by the fact that the boards would be primarily concerned with land possessing like characteristics. This would allow for like-kind property located in different counties but in the same assessment region to be taxed equally and at full value.

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52. *Id.* at 614, 487 P.2d at 1263, 96 Cal. Rptr. at 623.

53. *Id.* at 598, 487 P.2d at 1250, 96 Cal. Rptr. at 610.

54. *Id.* at 611, 487 P.2d at 1260, 96 Cal. Rptr. at 620.

55. *E.g.*, Rodriguez & San Antonio Independent School Dist., 337 F. Supp. 280 (W.D. Tex. 1971); Van Dusartz v. Hatfield, 334 F. Supp. 870 (D. Minn. 1971).

56. Although tax assessors were once considered "constitutional officers," article VIII, §1(d) of the 1968 constitution may have impliedly precluded assessors from this classification.

CONCLUSION

In the final analysis, there must be a choice between retention of the existing assessment procedures and a restructuring of the present practice to meet the needs of the people of Florida and the constitutional doctrines relating to fair taxation. The difficulties with the past and present methods seem to forecast that a "change for the better" should be adopted as soon as possible. It is, therefore, of tantamount importance that Florida adopt a real property assessment procedure that is both operational and equitable.