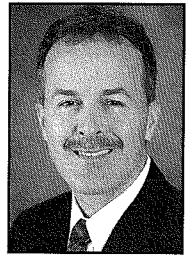


Real Estate Round Table



AG Exemption May Be Landowner's Best Tax-Saving Tool

By Michael S. Hagen



Florida farmers and knowledgeable real estate investors have long known the benefit of obtaining a Florida agricultural (AG) exemption. With it, the property owner receives assessment at an agriculturally classified rate based upon the income that the agricultural activity generates, instead of at market value. Typically, this reduces the tax assessment to a few hundred dollars per acre, drastically reducing carrying costs.

Unfortunately, many landowners have taken this tax benefit for granted. In tax year 2007, owners of 553 Lee County parcels lost their AG exemptions after a crackdown by the county's property appraiser. Further, most petitions from the approximately 110± landowners who appealed to the Lee County Value Adjustment Board (VAB) were denied. If you own AG-zoned land that currently is being used for legitimate, agricultural purposes, there's still time to apply for a 2008 tax year exemption. Whether or not you'll get it depends on whether you qualify.

DOCUMENTATION

It is essential that landowners document and prove their "bona fide commercial agricultural use" (see Florida Statute §193.461) as of January 1, the legal assessment date. For example, if you say your land is being used for cattle grazing, the property must be operating as such by the first day of the year with cattle on site and infrastructure such as intact fencing, a water hole/trough and grazing areas.

Proof should include date-stamped photographs of the property (taken by or before Jan. 1) and written statements from witnesses as to the property's use.

It's also critically important to supply written proof of commercial activity, since hobbies do not qualify for

exemptions. Acceptable documents include copies of sales receipts for agricultural products, receipts for supplies needed or services obtained, a written lease, a tangible personal property return and an Internal Revenue Service return Schedule F. Although it may not be necessary to provide all of this, the more you provide, the more likely you'll be approved. Finally, if the property appraiser sends you an agricultural questionnaire, I urge you to respond to it as completely as possible.

ACCEPTED PRACTICES

The AG exemption statute lists seven factors that the property appraiser may consider in determining entitlement to an agricultural exemption. The landowner must show that "an indicated effort has been made to care sufficiently and adequately for the land in accordance with generally accepted commercial agricultural practices."

Spend the money necessary to get the property in a condition that will support legitimate agricultural use. For cattle grazing, that means doing things such as fixing fences, clearing exotic vegetation, fertilizing, seeding, etc. To qualify for an exemption, the landowner must take an active interest in maintaining the property. Those who attempt to slide by doing just the bare minimum are not likely to qualify.

KEY DATES

According to Florida Statutes §193.461, there are a couple of key dates to remember. As I already mentioned, Jan. 1 is the date by which agricultural use must be in place. March 1 is the deadline to apply for an agricultural exemption. Failure to apply on time may be deemed a waiver of that tax year's AG exemption. The application must be fully completed, signed

and delivered (not just postmarked) to the property appraiser, who will notify applicants in writing on or before July 1 if they are denied. The landowner then has 30 days from the denial mailing date to petition for a hearing before an attorney special magistrate representing the VAB.

Landowners may have to jump through additional hoops if there are other problems, such as if the property is not zoned AG. While this doesn't automatically preclude getting an exemption, problematic applications are likely to be denied initially. For more information on the AG exemption, please visit www.TaxCuts1.com.

(Michael S. Hagen, attorney, P.L., focuses on property tax consulting and real estate law. He was the Lee County Property Appraiser's attorney from 1994 - 2003. Since then, he has represented taxpayers as an attorney and through his property tax valuation company, TaxCuts1, Inc. For more information, please call (239) 275-0808, or visit www.MikeHagen.com or www.TaxCuts1.com.)

LandQwest Brokers Ruby Tuesday's Newest Location

Principal **John Mounce** and retail specialist **Tom Strauss** of LandQwest Commercial, LLC in Fort Myers, exclusively represented Ruby Tuesday's restaurant chain in the recent selection of its latest Southwest Florida site.

The new location is in Port Charlotte at the Murdock Carousel Center, one mile north of the Port Charlotte Center Mall, off U.S. 41. The casual dining restaurant is expected to open there later this year.

For more information, please visit www.LandQwestCommercial.com or call (239) 275-4922.