

JIM FORD, CFA
PROPERTY APPRAISER
BREVARD COUNTY, FLORIDA



www.brevardpropertyappraiser.com

P.O. BOX 429 • TITUSVILLE, FL 32781-0429 • PHONE (321) 264-6700 • FAX (321) 264-5187

March 16, 2010

Kendall Moore, Chairman
2009-2010 Brevard County Charter Review Commission
Sent Via Email: kmoore@jbcclaw.com

Dear Mr. Moore:

Concerned constituents have contacted me regarding the discussions relating to auditing the Constitutional officers, and specifically the direction that issue has apparently taken in an ill-conceived proposal to make the Constitutional officers Charter officers in order to permit the County Commission to audit them. Such a step has far reaching repercussions beyond the audit issue since the Constitutional officers would have to become department heads under the County Commission. This discussion seems to continue to evolve on some perception or preconceived notation that all existing audits of the Constitutional officers are inadequate, yet the status quo has worked for decades. Is the County Commission seeking to control property values as well as the tax rate?

Both the Sheriff and I have previously pointed out the audits, reviews and approvals that take place with regard to our respective operations. There seems to be no recognition of the fact that the agencies involved in this process have considerable knowledge of how the offices must operate. More audits would not only be more costly but we, as officials, would have to educate auditors as to all the pertinent state statutes, case law, administrative rules, Attorney General opinions, applicable state agency directives and, in the case of my office, acceptable mass appraisal practices that must be followed.

This is my attempt to fully inform the members of the Charter Review Commission of the ramifications the aforementioned proposed change will create with regard to this office that will not be in the best interest of the taxpayers. To make the Constitutional officers Charter officers, you would have to strip them of their inherent plenary sovereign power derived from the Constitution and place them under the control of the County Commission. This will make the County Commission ultimately responsible for these offices and the work they do. Even if you permit them to remain elected Charter positions, they will be nothing more than a spurious imitation of what they once were and will be of little service to the taxpayers because they will become puppets for the County and those officers' decisions will always be subject to review by the County Commission and their auditors. This is not to mention the fact that they would no longer have ultimate control of their offices as it relates to their budget, hiring, purchasing, etc. Knowing of the philosophical bent of some of the Charter Commission members, it is hard for me to understand why the centralization of power in one body to handle both legislative and executive duties is desirable since it eliminates existing checks and balances.

Kendall Moore, Chairman
2009-2010 Brevard County Charter Review Commission
March 16, 2010
Page Two

My office is a perfect example of how independence from the influences of the County Commission has benefited taxpayers. I could never have spoken out when property values were increasing and there was not a corresponding reduction in the tax rate. I could never have spearheaded the Save Our Homes Constitutional Amendment or the CAPIT tax revenue cap as the first amendment to the Charter or several other amendments that I proposed and were approved by voters if the County Commission controlled this office in any way. I could never have resisted pressure from the County Commission to grant an undeserved agricultural "greenbelt" classification to a property owner (see attached letter). Incidentally, the taxpayer later called me and said I was right, that he was not entitled to that classification.

Orange County is a classic example of why the change to Charter officers is not advisable. In Orange County the Constitutional officers were under the Charter for several years, and the voters in Orange County decided that they were better served if the Constitutional officers were removed completely from the Charter. Any discussion to make Constitutional officers Charter officers in Brevard County is not only a step backward but also a failure to recognize the problems that have occurred elsewhere with such centralization of power and lack of checks and balances.

Simply put, a taxing body that levies the millage (tax) rate should have no control or influence over the official who sets the property values, including the threat of audit. This is the proverbial "fox guarding the henhouse." In defining the legislative powers and responsibilities of a County Charter, §125.86, Florida Statutes specifically states that such powers shall not be inconsistent with general law as recognized by the Constitution and the laws of the state. General law specifies that the Property Appraiser's budget be approved by the Florida Department of Revenue, and only the Department of Revenue. This general law was enacted by the legislature in the early 1970s in Section 195.087, Florida Statutes, and removed from the County Commission the authority to approve the budget of the Property Appraiser's in order to insure that the Property Appraiser's office was sufficiently funded to perform the tasks of appraising property, administering exemptions and preparing an acceptable tax roll in keeping with State standards. Statewide uniformity of assessments is important to the State, and having a state agency approve the Property Appraiser's budget insulates it from local political influences that might jeopardize the ability of the Property Appraiser to perform the duties required by the State Constitution, general law, and rules.

General law also specifies that the Property Appraiser is a fee officer who prepares a tax roll and charges a fee to the various tax levying authorities for this service. Section 193.011(2), Florida Statutes requires the County to notify the Property Appraiser when any regulation, ordinance, moratorium, etc. is adopted that could have an effect on the highest and best use of property. If the Property Appraiser were a Charter officer, the County would be notifying itself. Furthermore, if the Property Appraiser were just another County

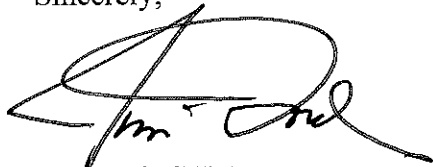
Kendall Moore, Chairman
2009-2010 Brevard County Charter Review Commission
March 16, 2010
Page Three

department then none of those provisions in the general law would make any sense, and would create a conflict. Moreover, if the inherent plenary sovereign power of the Property Appraiser were to be abolished then Section 195.092(2), Florida Statutes would be inoperable because the Property Appraiser would be part of the taxing authority rather than be separate as the statute specifies.

Given the foregoing, it should be apparent that the Property Appraiser cannot be subject to the County Commission. This would cause a host of potential conflicts with the purpose and intent of the general law and create an environment for legal challenges on both constitutional and statutory grounds. State statutes protecting taxpayers would be rendered ineffective if the Property Appraiser were to become a Charter officer that just heads another County department, elected or otherwise.

I am certain that each Constitutional officer has their own unique circumstances and this issue cannot be dealt with in a simple uniform, broad-brush approach for all Constitutional offices.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Ford", with a large, stylized flourish above the name.

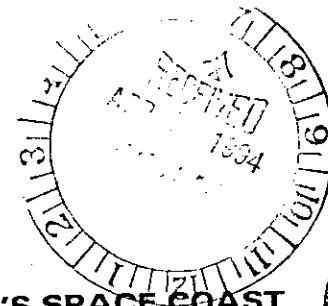
Jim Ford, C.F.A.
Brevard County Property Appraiser

/enclosure

cc: 2009-2010 Members of the Brevard County Charter Review Commission

Attachment

BREVARD *County*
BOARD OF COUNTY COMMISSIONERS



FLORIDA'S SPACE COAST



264-6750

TRUMAN SCARBOROUGH, JR., Commissioner, District 1,
400 South Street, First Floor, Ste. 1A
Titusville, FL 32780-7698

April 15, 1994

Jim Ford, CFA
Brevard County Property Appraiser
400 South Street
Titusville, FL 32780

Re: Friley B. Knight Request for Property Located on John Rodes Boulevard

Dear Mr. Ford:

Mr. Friley B. Knight recently appeared before the Board of County Commissioners to request the Board support his request for relief on property taxes levied on his property located on John Rodes Boulevard.

The subject property was zoned Industrial (IU) in 1964, to address concerns which the Melbourne Airport Authority had expressed about permitting residential development near the Melbourne Airport. As Mr. Knight did not have plans for industrial development on the property, the Board agreed to leave the property as Agricultural (AU) zoning until such time as Mr. Knight requested the property be designated as Industrial. Mr. O.D. Peavey, the Zoning Director in 1964, recently spoke with Mr. Knight and reaffirmed the Board's intent regarding the original rezoning action. The zoning maps depicted the property as AU zoning from 1964 until 1987, when the County Attorney's Office ruled the maps should be changed. The property continued to be taxed at the previous assessment level until last year, and the recent change in the assessment level is very troublesome to Mr. Knight.

The Board is sympathetic to Mr. Knight's situation and would like to request that you reconsider the recent decision to change the property's assessment. The change at this time is difficult to understand as the circumstances of the situation have not changed since 1987. Mr. Knight still has no plans to develop the property for industrial use; and except for the request by the Melbourne Airport Authority in 1964, Mr. Knight would have been satisfied to have the property remain in the AU zoning classification. One of the Board's concerns is that it appears Mr. Knight's situation may be construed to be penalizing him for responding to a request by the Melbourne Airport Authority.

In addition, the Board believes that Mr. Knight's situation is not dissimilar to the residential property adjacent to Wuesthoff Hospital. Many of these properties are zoned for professional use, although they continue to be taxed as residences until the use changes. The Board of County Commissioners believes this approach is fair, and is requesting you extend the same policy to Mr. Knight.

Jim Ford
April 15, 1994
Page 2

Thank you for your consideration of the special circumstances regarding Mr. Knight's property on John Rodes Boulevard. If you would like to discuss the zoning aspects of the situation, please contact Rick Enos, Zoning Official, at 633-2070.

Sincerely,
BOARD OF COUNTY COMMISSIONERS



Truman G. Scarborough, Jr.
Chairman

cc: Friley B. Knight