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How developers cash in on 'farmland'

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Forget bucolic barns and lush pastures.

Here's what passes for farmland in South Florida: rocky, trash-strewn fields, lots crammed with melaleuca trees, even fledgling construction sites.

Under a 1959 state law intended to preserve agriculture, developers reap huge property tax breaks by herding cows or raising crops in the most unlikely settings.

Some pay less in annual property taxes than the average homeowner on parcels slated for multimillion-dollar projects. Other taxpayers make up the difference, or else local governments lose out on money for police, schools and other services.

Most states that offer agricultural tax breaks demand that landowners tend a certain number of acres, turn a profit, or promise not to build. Many collect back taxes once development begins.

Not Florida. Here, a loophole-laden "greenbelt" law allows developers to win farm subsidies even as they turn dirt on subdivisions and strip malls:

- Developer Armando Codina and his partners pay ranchers to keep cows on their land in northwest Miami-Dade County so they can get agricultural tax breaks while building industrial warehouses. One so-called pasture is a soggy wasteland littered with downed trees. Months before Codina requested farmland tax breaks, he asked Miami-Dade to declare the entire site an environmentally contaminated "brownfield."

2004 property tax savings: \$250,273.

- Developer Pan American purchased a nearby lot to build warehouses. Melaleuca and Australian pine cover much of the 135 acres, and the industrial zoning prohibits farming. Still, the developer won the tax break after paying a rancher to graze some cows there.

2004 property tax savings: \$183,207.

- Cows wander amid concrete pads and utility boxes on 49 acres in Southwest Ranches, where developer Richard Bell plans to build homes priced at \$1.5 million and up.

"It presents the spectacle of a large, well-conceived and executed real estate development operation shyly presenting itself in country drag as a li'l ol' cattle-grazing operation," wrote the Broward County appraiser's office, which denied the tax break. A hearing officer overturned the decision, and the appraiser's office did not file a court appeal.

The rancher reported 16 cows last year.

2004 property tax savings: \$140,168.

LOWER ASSESSMENT

It's easy to see why developers seek the tax breaks while planning construction and awaiting permits. Pastures are assessed at \$200 an acre in Broward, \$1,050 an acre in Miami-Dade -- a fraction of their worth

in a booming real estate market where taxable values can top \$150,000 an acre.

Developers say they are legally benefiting from the greenbelt law while providing land to the area's remaining ranchers and growers. When Codina and Bell bought their land, ranchers were already grazing cows on it.

"Why would it make any sense to kick them out?" asked Codina executive Rafael Rodon. "It makes no business sense for them, and it makes no business sense for us."

But farmland advocates say it makes no sense to give up tax revenue to developers as they prepare to pave over farmland that the greenbelt law was meant to save.

'WORST' SCENARIO

"The effect of the program in some of these cases of abuse is that the agricultural tax is, in effect, subsidizing development," said Ralph Grossi, president of American Farmland Trust, a national conservation group. "That's the worst possible scenario because the intent was to preserve agriculture."

Even longtime rancher Clarence Bear, who has depended on South Florida developers for pasture, calls the agricultural tax law "a hoax." He has seen dead cattle lying in untended fields and cows left to graze on barren lots.

"That's the problem with the ag exemption," Bear said. "If it's got ears and a tail and four legs, that's all they care about."

State-certified agricultural expert Gaylon Parton scoffed at a half-dozen properties assessed as farmland that he visited with Herald reporters.

"Just a normal person with no experience can see it's not a pasture," he said of a northwest Miami-Dade lot, gesturing toward a wall of melaleuca on land owned last year by Lancaster Homes. The developer's ad valorem tax bill on 59 acres was \$1,722. Without the agricultural tax break, the bill would have come to \$170,900.

"There's no grass here," Parton said of a Miramar lot covered with weeds, rocks and trash. "I wouldn't put one cow and one calf on this." About 40 cows roamed on the afternoon he visited.

The family of the late landowner Harold Dubner has already invested more than \$1.5 million in utilities and roads to serve development in the area. Contractor Donald Buchanan, who excavated the land and spread the fill several years ago, said he called the property appraiser's office to complain.

"I was disgusted that they would allow this guy to do the site work so it could be marketed as a filled commercial site, and then put cows on it and feed them hay," he said. "As a Broward County taxpayer, I am making up those taxes that he's not paying."

The Dubners saved nearly \$340,000 in taxes on about 90 acres of pasture last year. Attorney Richard Coker said they have been operating a cattle business on the land for years. The utilities are on property surrounding the pasture, he said, adding that the law does not require grazing land to be pristine.

VAGUE PROVISION

Florida's greenbelt law does limit tax relief to land that is used primarily for "good faith commercial agriculture" as of Jan. 1 each year. But the law only vaguely defines what that means, and appraisers don't push it. That leaves the door wide open for corporate landowners to claim the discounts:

- Florida gave up as much as \$745 million in tax revenue last year on agricultural tax breaks. Broward and Miami-Dade forfeited about \$60 million. Much of that money goes to legitimate farmers, from the tomato

growers of the Redland to the nursery owners of Davie.

But of the top 60 tax break recipients in South Florida last year, more than two-thirds are not farmers. Lennar Homes, Shoma Homes and billionaire media magnate Edmund Ansin are among the largest owners of local farmland. Another is The Graham Companies, the Miami Lakes developer that owns a Central Florida dairy.

- A few cows can be all it takes to get the tax break. State law requires proof of a "bona fide" farming business, but developers often focus the debate on a narrower question: Is there livestock on the land? During one tax appeal last year, a Miami-Dade magistrate classified a developer's land as pasture after spotting a single horse in a murky photograph.

- Since the law does not require farms to turn a profit, some pastures are poorly tended. The Herald found skinny cows eating garbage from a nearby construction site at a northwest Miami-Dade lot owned by the Genet Family Limited Partners. They owed \$659.74 last year on 29 acres filled with rocks, dense brush and downed trees. The Genets declined to comment.

"It's a dumping ground. It's abusive," said former Pinellas and Citrus counties property appraiser Ronald Schultz, who reviewed several sites for The Herald. "Is it illegal? Probably not."

At another hardscrabble lot in Hialeah owned by Lowell and Betty Dunn: cows decomposing in the dirt, potentially exposing other animals to disease. It's not clear why the cows died. Rancher David Gargera said the carcasses were later burned.

- As appraisers decide whether to grant the tax break, the law says they may consider whether the land was kept up to farming standards, purchased for more than three times its agricultural value, and rezoned for nonfarming uses. But appraisers say developer-friendly court rulings have undercut those standards, forcing them to grant subsidies to landowners who have no intention of keeping the land green.

'THAT'S THE LAW'

"As unfair as it may seem, that's the law. That's what we're bound to follow," said Miami-Dade Property Appraiser Frank Jacobs. "We can't ignore the probability of being unsuccessful in the courts and just do what makes common sense."

At first, the appraiser's office denied tax relief requested last year by Codina's partnership, AMB Codina Beacon Lakes LLC.

County inspectors found parts of the site overgrown. The land was purchased for \$15.7 million, more than 60 times its agricultural value. Codina fought to rezone it for industrial warehouses.

The appraiser's office backed down after Codina representatives presented a cattleman's lease, tax documents and a photograph showing that some melaleuca trees had been removed. Codina's development approval calls for tree clearing. Still, the appraiser's office described the work as a "sincere attempt made to establish pasture."

'PASTURE' DESIGNATION

On one parcel, Codina persuaded the county last year to more than triple the area classified as pasture, even though the county code prohibits the expansion of agriculture in an industrial zone. During a recent tour, reporters found mounds of downed trees, pools of standing water from a recent storm and very little grass.

"Obviously, this isn't suitable for pasture," Codina spokesman Tadd Schwartz said as he looked out over the site, apparently thinking he'd left the grazing area. "I would highly doubt that this is getting [the tax break]."

It did. And Codina is seeking the tax break again this year; he was denied at first but has appealed.

Officials with both Codina and Pan American acknowledged that the ranchers who herd cows on their land do not pay rent. Instead, the developers pay the ranchers. Cattleman Armando Padron filled out tax break applications for both developers and met with county officials on their behalf.

"He did the legwork. He gets a percentage of the savings," said state Rep. Carlos Lopez-Cantera of Miami, a limited partner in his father's Pan American development company. "It's a common practice."

If that's true, Miami-Dade Property Appraiser Jacobs said, landowners haven't told him so. He said such arrangements suggest farms designed primarily to profit from tax breaks, not cattle sales.

"It's misleading us if this sort of thing is taking place," Jacobs said. "If that farmer is sharing in some of the tax savings, then that is clearly not a bona fide agricultural use, and [the tax break] should be denied."

Codina said through a spokesman that the company was continuing an agreement in effect when it bought the property, gradually phasing out a longtime farming business as construction spreads.

Several developers acknowledged that the greenbelt law, which aimed to protect farmland, may not be working as intended. But they argued that vacant land should not be taxed at full value since it doesn't put a strain on public services.

Lopez-Cantera noted that once the land is developed, new homes, offices and warehouses generate tax revenue for local governments. He asked: "Don't you think it's good to offer some sort of incentive to people to develop land that in the future will be among the most profitable in the county?"