

# MILK IT

From page 1

that Jefferson never saw, along with world wars and easy, 40-hour-per-week city jobs, about 98 percent don't. So how are we doing, and should farmers be given help, to help them stay farmers?

That question lies at the bottom of agricultural tax exemptions, which save farmers, or people who pretend to be farmers, millions of dollars each year, even in Lee County alone, not just in Florida or the United States.

The reasons for our urban evolution, and the reasons we have survived it, are complicated. But they include the now written-in-stone ag-exemptions on properties that produce food and can show profits or attempted profits from that production — along with some traditional rural-based uses, such as breeding horses (horses no longer contribute to food production, but they can be considered an agricultural use, in the eyes of lawmakers).

Which brings us to Lee County, in the year 2007, about 180 years after Thomas Jefferson died, and more than half-a-century after the so-called greenbelt laws were passed. Those laws were designed to encourage farmers to keep farming, by keeping their property tax bills down. The reasoning was simple: if you keep land in agricultural production, there will be enough food from domestic sources.

Inevitably, those laws have helped some others keep their bills down too, which costs the rest of us.

"There's nobody who is a stronger supporter of legitimate greenbelt than I am," says Ken Wilkinson, Lee County's property appraiser, who has actively wrestled to pin down abuses since the turn of the decade, if not much longer.

"I also know there are still abuses out there, of course there are. Get rid of abuse, and that has the effect of preserving bona fide farmers."

They may be abuses in the view of the property appraiser, perhaps, but they appear to be legal tax opportunities to developers or investors.

For example, this week the property appraiser's office faces the final appeals of the year made by owners who sought an agricultural exemption, and were denied. Although officials won't discuss pending cases in details, tax records reveal that one property, of about 11.5 acres, lies near the corner of Colonial Boulevard on Ben C. Pratt Six Mile Cypress Parkway, across from a B.J.'s Wholesale Club. The assessed value is listed at \$3.27 million, which means the owners, named as Rabbi Horace and Doris Zemel and Florida Family Investments LLC of Newark, New Jersey, could pay as much as \$60,000 in taxes on it.

That is, unless they won an appeal, in which case, the assessment on the property for tax purposes could come down to only a few thousand dollars, says Roger Alejo, an agricultural specialist in the property appraiser's office. That would reduce their tax payment to just a few dollars.

"There are a bunch of development companies around there, and one in particular is trying to get the 'ag' classification for cattle," says Alejo. "But it's completely overgrown, and there are cows on each side of it, and the cows walk from point A to point C by going through point B, which is this property."

At least two other properties owned by partnerships that include the Zemel name exist in this year's list of denials, too, one of them a 139 acre piece pressed against a Lee County 20/20 property (public land) known as the Alva Scrub, and the other a square mile (640 acres) off Burnt Store Road.

The 139-acre Alva property has stood vacant for years, and along with slash pines and scrub palmetto is now home to junked boats and trailers (possibly stolen), other dumped dry goods, and little



FLORIDA WEEKLY PHOTO BY ROGER WILLIAMS

**To be considered agricultural land for taxing purposes pasture land must be at least 10 acres, fenced, maintained, and with proper soil to produce grazing grass.**

human activity except the occasional passage of four-wheelers, whose drivers can access the property because no fence now exists around it. Also, the extremely rare and threatened Florida scrub jay lives on the property, local residents say.

Other names of property owners on the list of more than 500 who sought to call themselves farmers, but were denied, include Florida Power & Light, Harper Brothers, Inc. and Florida Rock Industries, Inc., Hawks Haven Golf Course out of Jacksonville, Koreshan/Cypress View LLC, and the Diocese of Venice.

In his effort to get rid of abuse, however, Wilkinson has worried about some legitimate farmers, he says — which is why he is reaching out to them.

Next month, for the first time in its history, the property appraiser's office will begin to consult a committee of so-called bona-fide farmers — the greenbelt committee, designed to protect agricultural interests in Lee, and to identify fake agricultural interests.

"We're trying to get the agricultural community involved, we're trying to work with legitimate farmers," says Julie Dalton, a supervisor in the property appraiser's office. "Abuse will always come from development, so we're trying to get the word out as well, that we're here to help the farm community, but also to stop abuses."

Dalton and others have a lot of sympathy for the real farmers, they say. (Two of them, however, chose not to return calls or discuss their membership on the greenbelt committee over the telephone last week: Aron Troyer of Troyer Bros., and Darrell Prevatt of Kinzie Nursery and the Pioneer Cattle Company.)

"For us, it's been a bad year," Dalton explains. "Whenever you turn somebody down, they're not happy. A lot of them, or some of them feel it's been a legitimate ag business all their life. They don't want to hear that they don't qualify for an exemption."

"You might have a legitimate farmer, hit by hurricane or drought or the construction industry downturn, and their palms that they've cultivated for years are no longer desirable for putting into a new subdivision, and they're caught in middle too."

"So this is about communication, to let them know what's happening. It's our job to work with these people."

The greenbelt committee will take its seat at the gravy table just as applications for new agricultural status from "farmers" have reached a high — about 480 this year, of which 310 were approved and 170 denied, says Alejo.

"About 110 challenged our ruling, which is 60 more than last year and 50 more than in previous years," notes Alejo, who blames the rise in numbers on a down market and struggling econ-

omy, in which large property tax savings provides a compelling reason to go into farming, or appear to.

The most significant challenges come from developers, or landowners holding their properties until they can sell them for development. And usually that means finding somebody to put a few cows or horses on the property, and pretend it's an agricultural use — even if the property is zoned for commercial use anyway.

"If you read the state statute (193.461g) it seems that nobody could abuse this law," says Wilkinson. "But as happens over time, that's been challenged in courts. And the courts have pretty much ignored the different ways a property appraiser would have had to deny an exemption. In effect it's been, if you see the cow, they get the exemption. But that doesn't preclude us from having to enforce the statute."

It does mean, however, that even if property is zoned for commercial use, let alone zoned for agricultural use, an owner can bring in cows or horses and seek an ag exemption. The court-okayed mandates suggest that the property appraiser cannot make a ruling merely based on zoning, which is good for many a developer, officials say.

So lately, the property appraiser has been taking closer looks at the agricultural use of property, whatever the zoning.

"We look at a lot of things, like the ratio of animals to land," says Alejo. "We look for acceptable commercial practice. One cow on one acre doesn't cut it. Are there fencing improvements to the pasture, do you have a cow well? And sometimes you can see all this on an application. If they don't turn in intangibles, expenses, if they have no receipts, that pretty much tells you what you need to know."

Lee County's property appraiser counts more than 580,000 parcels of taxable property, zoned in various ways for various uses, including some 21,000 zoned for agricultural use of one kind or another. Of those, about 3,600 actually maintain agricultural tax exemptions, which means they can pay very little on the land itself, or buildings used to further agriculture.

Residential houses standing on farming operations are assessed differently than the surrounding property — they don't get agricultural exemptions even on working farms, in other words — and the standard policy excludes one acre around the house, too, from the exemption.

There are various rules that officials use as guidelines, they say. For example, citrus land should be at least 5 acres, with proper irrigation and cultivation, and cow pastures should be at least 10 acres, with evidence of fertilizing, mowing or maintaining. In the property appraiser's new brochure, due out in a matter of

## Agricultural tax guidelines:

- >> **Citrus Land:** 5 acres, planted according to accepted schedules
- >> **Pasture Land:** 10 acres, fenced, maintained, with proper soil to produce grazing grass, and if leased, with a lease on file by Jan. 1.
- >> **Timber:** 10 acres of planted pine, or 30 acres of natural timber with a management plan on file for the property.
- >> **Bees:** the bee yard must include an extraction house.
- >> **Aquaculture:** requires at least one acre for shrimp, tropical fish farms or others.
- >> **Crop land:** minimum of 10 acres for hay, wheat, corn. Peppers, cabbage, vegetables, minimum of 5 acres.
- >> **Horses:** at least 4 breeding horses (including 3 brood mares) or 4 boarding horses with leases on file. Property fenced, with proper stalls and breeding facilities.
- >> **Nursery:** must have water source with proper irrigation, above ground or inground growing palms, oaks, ornamentals or others saleable, and if wholesale, a state certification.
- >> **Other:** Poultry, pig, goat, or commercial rabbit operations are on a case-by-case basis.
- >> Info from the Lee County Property Appraiser

## How to qualify for an AG exemption

- >> **By Jan 1:** Get the farm up and running
- >> **By Jan. 31:** File annual application
- >> **By July 1:** You'll be told if you're denied
- >> **By 30 days after denial:** file appeal
- >> **After July 1:** Board meets to hear appeal
- >> **15 days before appeal:** provide information to board
- >> **7 days before appeal:** property appraisers gives information to petitioner
- >> **By 20 days after last board meeting,** board issues decision in writing
- >> **New tax rules** for property go into effect
- >> Information from the Lee County Property Appraiser

days, 50 cows on 100 acres is considered "a bona fide use."

Not far from the Zemel's Alva property — less than 200 yards — is a legitimate small farmer named Lloyd Marsh, who appears to be the antithesis of the corporate farmer (as many who farm more than 11,000 acres of citrus in Lee County prove to be), but also a for-profit agricultural man.

Now in his mid-70s, Marsh grew up on a farm in Nebraska. On his 18 acres along Bedman Creek he grows persimmons, citrus, bananas, he grazes cows, and he works constantly to maintain the sophisticated and sometimes ingenious-seeming irrigation and fencing required to make his land produce food.

Assessed at just under \$1 million, his property earns an agricultural exemption that amounts to more than \$600,000, which still leaves him a hefty tax bill.

Nearby are others who do the same thing — Dan's Nursery, on three acres just down the road, for example, another legitimate agricultural business.

"It would be very difficult without the exemption," says Ruth Danforth, who owns the nursery with her husband, Dan. She echoed comments made earlier by Lloyd Marsh.

"They're the kinds of people who need the ag exemption, and deserve it," says Wilkinson.

Although both Marsh and Danforth are longtime farmers — and previous agricultural use of the land is one of the key qualifications — there are also 310 properties who are new to the benefits of agricultural exemptions this year. And there will be more next year, predicts Alejo.

If you're going into farming, now is the time to get ready, since the operation has to be up and functioning by January 1.

It might be hard work, but if you can produce food or rear horses, not only can you save a lot of money on property taxes, but you can prove that you, too, have amor patriae.

And that ought to be worth something. ■