

Alternatives in the Presence of Urban Encroachment

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- NO private property is immune to eminent domain.
- Best resource – contact a qualified property rights lawyer.
- Florida law requires full property value, legal fees, and expert's cost.

Trust for Public Land (TPL)

The TPL is a national, nonprofit, land conservation organization that conserves land for people to enjoy as parks, community gardens, historic sites, rural lands, and other natural places, ensuring livable communities for generations to come.

Rural Stewardship

The Rural and Family Lands Protection Act, Sections 60–64, Chapter 2001–279, Laws of Florida, directs the Department of Community Affairs, in cooperation with the Department of Agriculture and Consumer Services, to authorize five local governments to designate certain lands as Rural Land Stewardship Areas. A Rural Land Stewardship Area strengthens local governments' capacity to promote economic development, maintain a viable agricultural economy, preserve the environment and character of rural areas, and control urban sprawl.

1. Background

Florida has lost 40% of its farmland since 1954.

2. Knowledge

Be proactive.

- Attend county growth management meetings.
- Learn the rules, zoning, understand trends.
- Get involved in changing zoning of land to protect your assets.
- Get with neighbors to make Development of Regional Impact (DRI) changes to protect your land's long term value.
- Be prepared to partner with groups you may have had issues with in the past.
- Get involved with your state government concerning international trade laws.
- Learn government regulations on encroachment.

3. Preserve Your Land

Florida's Greenbelt Law

- Law regarding greenbelt classifications and duplicative county regulation of bona fide agricultural operations.



Agricultural Districts

- Definition: Districts are established to reduce conflict between rural and urban landowners.
- Program requirements:
 - Eminent domain (condemnation and purchase) powers of local governments are limited.
 - The rights of government to fund infrastructure is limited.
 - State agency policies must support farming.
 - Local involvement in establishing districts.
 - Limits on special assessments.
 - Contractual agreements are required for a specific period of time.
 - Minimum acreage is required.
- Terms:
 - Fee Simple Purchase and Purchase of Development Rights.
 - Transfer of Development Rights.
 - Clustering of Development.
 - Conservation Easements.
- Examples:
 - Kentucky
 - Virginia
- Policy Implications:
 - Program is voluntary – not viewed as regulatory or forced.
 - Costs are relatively modest.
 - Stops unwanted urban encroachment (proactive, not reactive).
 - Protects critical land masses.
 - Helps maintain a farming community.
 - Farm-production friendly.

Shortcomings:

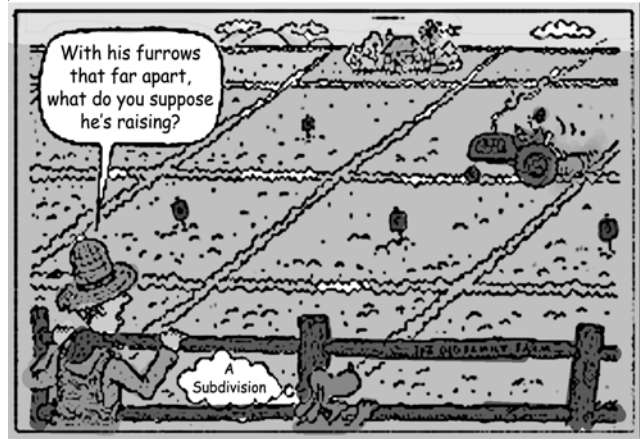
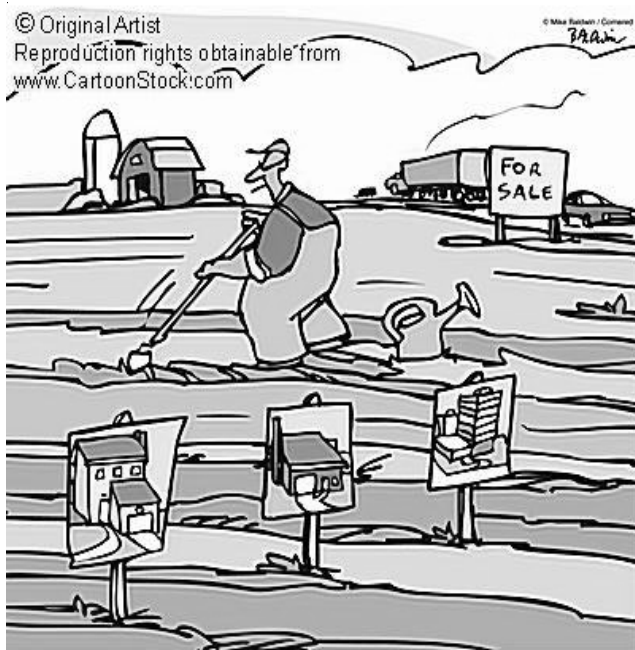
- In most states easy to remove land from districts without major penalty.
- Length of time to establish districts (three to six months).
- Does not ensure best land is kept in production.
- Incentives may not be large enough to encourage formation of districts, especially those near fast growing urban areas.

Property Rights

- When can eminent domain be claimed by a developer?
- When can the power be delegated from government to others?
- Eminent domain under U.S. and Florida Constitutions.
- What is the definition of public use?
- Owners must receive full compensation for property and payment for any damages incurred.
- Kelo vs. New London:
 - Under certain circumstances local government can condemn property for economic development even if the land is not blighted.
 - States can pass laws to limit such undertakings.
 - Leaders in the Florida Legislature have already formed a property rights committee.
 - Community Redevelopment Agency (CRA) Florida local government agency may acquire property if necessary to implement the redevelopment plan.

4. Sell Your Land

- What are the tax rules?
 - Condemnation – will it allow a better deferral?
 - Sell land as a developer or dealer claim as ordinary income.
 - If isolated parcels are sold, what is the capital gain treatment?
 - Avoid gains – certain rules will defer gains (e.g. like-kind exchanges, etc.)
 - Groves in prime locations can cause one's estate to reach taxable levels.



5. Be a Developer

- What does it mean to be a developer?
 - How do developers justify their encroachment demands?
 - How developers can take advantage of agricultural tax exemptions (bona fide agricultural purposes).
- Urban Development Boundaries (UDB):
 - What are UDBs?
 - Why UDBs were established in the first place (buffers to agriculture, sensitive lands, evacuation routes, etc.).
 - The process for changing UDBs.
 - How county governments can change the rules.
- Complying with Florida's Green Land Development Standard:
 - Standard for green land development.
 - First voluntary, non-government standard of its kind to target an entire state.

Notes: