

>>> NEXT CASE ON THE DOCKET IS  
MORRIS V. CITY OF CAPE CORAL.  
[BACKGROUND SOUNDS]

>> AM I CORRECT ABOUT ITS  
COMPLIANCE WITH THE REQUIREMENTS  
OF THE STATUTORY, THE SPECIFIC  
STATUTORY PROVISION ON SPECIAL  
ASSESSMENTS?

DO YOU ACTUALLY MAKE AN ARGUMENT  
ABOUT THE LAW UNDER THE  
MUNICIPALITY'S HOME RULE  
AUTHORITY?

>> NO, I DON'T NECESSARILY DO  
THAT BECAUSE I'M NOT-- I'M NOT  
SAYING THAT THE CITY DOESN'T  
HAVE THE AUTHORITY TO COME UNDER  
THE MUNICIPAL POWERS ACT.  
THEY CERTAINLY DO.

THE REASON I CITED FLORIDA  
STATUTE 170.201 WAS BECAUSE OF  
THE PROPORTIONAL REQUIREMENTS  
WITHIN THE STATUTE.

I DON'T BELIEVE I ARGUED THAT  
THEY SPECIFICALLY HAD TO COME  
UNDERNEATH THAT STATUTORY  
SECTION.

I COULD HAVE BEEN MORE  
ARTICULATE IN THE BRIEF, THERE'S  
NO QUESTION ABOUT THAT.

BUT THE LANGUAGE FROM THAT  
STATUTE IS ACTUALLY THE SAME  
LANGUAGE, I BELIEVE, THAT'S IN  
THE SOUTH TRAIL CASE.

SO EVEN THOUGH IT'S IN THE  
STATUTE, IT'S ALSO IN THE CASE  
LAW THAT YOU HAVE TO HAVE A  
REASONABLE BASIS FOR THE  
PROPORTION OF THE ASSESSMENT.

>> HOW WOULD YOU, IF YOU WERE  
TO-- SINCE YOU AGREE FIRE  
SERVICES IS, THAT'S A PROPER  
SUBJECT FOR A SPECIAL  
ASSESSMENT, YOU DON'T LIKE THE  
ONE WHERE FOR THE UNDEVELOPED  
PROPERTY IT'S JUST EVERYBODY  
PAYS THEIR FAIR SHARE, AND YOU  
DON'T LIKE THE VALUATION BASED  
ON PROPERTY BECAUSE THAT SMACKS  
OF BEING ADD V.A. HOUR REM.  
SO WHAT WOULD BE, YOU KNOW, IF

YOU WERE TO TELL THE MUNICIPALITIES, NO, YOU SHOULD HAVE DONE IT THIS WAY, WHAT WOULD THE WAY HAVE BEEN?

>> WELL, I WOULD ARGUE THAT YOU STICK WITH YOUR PREVIOUS BE PRECEDENT IN THIS STATE THAT IS AUTHORIZED BY OUR ASSESSMENTS BASED ON THE SQUARE FOOTAGE OF PROPERTY.

WE HAVE LONGSTANDING CASE LAW THAT HAS SAID YOU LOOK AT THE SQUARE FOOTAGE, THE SIZE, THE CLASS--

>> SQUARE FOOTAGE INCLUDING OF THE STRUCTURE?

>> YES.

>> WELL, SO BUT WHAT ABOUT THE FACT, SO-- AND YOU SAY THAT'S A REASONABLE RELATIONSHIP BECAUSE IT WOULD TAKE WHETHER THE SQUARE FOOTAGE IS, WHATEVER IT IS, IT WOULD TAKE THE SAME AMOUNT OF EFFORT TO FIGHT A FIRE ON PROPERTY BE THAT DOESN'T MATTER WHAT THE COST OF THE PROPERTY IS?

>> YES.

AND MAYBE I CAN GIVE YOU--

>> THE VALUE, I SHOULD SAY.

>> FOR EXAMPLE, THE ANALOGY THAT I'VE USED, TWO HOUSES SIT SIDE BY SIDE.

YOU CAN HAVE THEM

1500-SQUARE-FOOT HOMES, LET'S JUST SAY.

YOU CAN HAVE ONE HOUSE THAT'S A SIMPLE THREE-BEDROOM, TWO-BATH HOME.

IN CAPE CORAL THAT MIGHT BE VALUED AT \$150,000.

YOU CAN HAVE ANOTHER HOME RIGHT NEXT TO IT THAT'S GOT EVERY UPGRADE IN THE WORLD.

IT'S A \$2 MILLION HOME BECAUSE IT'S GOT ALL THOSE UPGRADES.

IT DOESN'T MAKE SENSE TO ME TO CHARGE MORE IF THEY'RE THE SAME SQUARE FOOTAGE ON THE HIGHER VALUE HOME.

>> WHAT IF ONE OF THE HOUSES--  
THINK OF THE THREE LITTLE PIGS.  
WHAT IF ONE'S BRICK AND THE  
OTHER'S WOOD?  
SO, AND ONE'S CONCRETE AND THE  
OTHER IS STRAW?  
SO SHOULDN'T-- IF WE'RE REALLY  
GOING TO GO TO WHAT IT WOULD  
TAKE, WHAT ABOUT THE HOUSES THAT  
ARE FIREPROOF THAT REALLY DON'T  
HAVE TO WORRY-- AGAIN, I GUESS  
THE QUESTION IS TO MAKE IT EXACT  
BE AS TO WHAT WOULD BE FOR  
ASSESSMENT PURPOSES, AND DO WE  
REQUIRE THAT KIND OF AS LONG AS  
IT'S REASONABLE REQUIRES THAT  
MATHEMATICAL EXACT TUESDAY?  
I MEAN, SHOULD THEY GO AND SEE  
IF THERE ARE SMOKERS IN THE  
HOUSE?  
YOU KNOW, BECAUSE THAT'S GOING  
TO BE MORE LIKELY TO HAVE A FIRE  
OR THAT THERE'S, YOU KNOW,  
WHETHER THEY HAVE THE FIRE  
ALARMS IN THERE, SMOKE  
DETECTORS, I SHOULD SAY?  
COULD THAT ALL BE-- BECAUSE  
THAT WOULD MAKE SENSE TO VALUE,  
DO THEY USE CANDLES, DO THEY  
HAVE A FIREPLACE?  
>> I THINK THAT'S PART OF THE  
PROBLEM THAT SOME OF THE  
RESIDENTS HAD WITH THIS  
ASSESSMENT TO BEGIN WITH.  
>> BUT YOU'RE NOT--  
>> NO.  
>> YOU'RE NOT MAKING THAT  
ARGUMENT.  
YOU'RE SAYING SQUARE FOOTAGE.  
AND SQUARE FOOTAGE, I DON'T KNOW  
WHY THAT'S A MORE REASONABLE  
BASIS THAN THE VALUE OF THE  
HOUSE.  
>> BECAUSE I THINK WHEN YOU GET  
ON THE-- IT TAKES THE SAME  
AMOUNT OF RESOURCES ON THE  
SQUARE FOOTAGE.  
IT DOESN'T TAKE ANY MORE  
RESOURCES TO PUT OUT A FIRE  
JUST--

>> BUT THE BENEFIT IS DIFFERENT.

>> I DISAGREE THAT THE  
BENEFIT--

>> WELL, IT SEEMS TO ME IF  
YOU'RE COMPARING HOUSES, LET'S  
COMPARE A BARN STRUCTURE THAT IS  
MAYBE 10,000 SQUARE FEET TO A  
HIGH-TECH MANUFACTURING FACILITY  
THAT'S 10,000 SQUARE FEET WITH  
ALL SORTS OF COMPLICATED, VERY  
EXPENSIVE EQUIPMENT IN IT.  
THE BENEFIT DERIVED BY THAT, BY  
THE OWNER OF THAT HIGH-TECH  
MANUFACTURING FACILITY FROM THE  
FIRE SERVICE THAT IS AVAILABLE  
SEEMS TO ME TO BE ENTIRELY JUST  
A DIFFERENT ORDER OF MAGNITUDE  
THAN THE BENEFIT FROM THE  
DERIVED FROM THE, BY THE  
OWNER OF THE BARN.

NOW, NO DISRESPECT TO THE OWNER  
OF THE BARN.

IT'S FINE TO OWN THE BARN, BUT  
ISN'T THE POINT REALLY THIS, WE  
COULD ALL DISCUSS THE FAIREST  
WAY TO DO THE APPORTIONMENT OF  
THESE ASSESSMENTS, AND WE MIGHT  
HAVE A VARIETY OF DIFFERENT  
IDEAS ABOUT WHAT WOULD BE THE  
FAIREST WAY TO DO IT.

BUT THAT'S NOT WHAT WE REALLY  
HAVE TO LOOK AT HERE.

WHAT WE'VE GOT TO LOOK AT, ISN'T  
IT, IS WHETHER THE PARTICULAR  
MANNER CHOSEN BY THE CITY WAS  
ARBITRARY.

>> CORRECT.

AND IF I MAY, AND AS PART OF  
THAT REVIEW BY YOU ON A DETHOUGH  
SLOW BASIS, I THINK YOU EXAMINE  
THE RECORD TO SEE WHAT THE  
SUBSTANTIAL, COMPETENT EVIDENCE  
WAS THAT WAS SUBMITTED-- IT WAS  
ADOPTED BY THE CITY AND  
SUBMITTED TO THE TRIAL COURT.  
THAT'S ACTUALLY FOUND IN THE  
RECORD.

IT'S FOUND PAGES 905-951.

AND IF I MAY, IT'D HELP ME POINT  
OUT A FEW OF MY ISSUES I HAVE IF

I COULD JUST TALK ABOUT THE REPORT.

ON PAGE 914 OF THE REPORT, BURTON MAKES A STATEMENT AS FOLLOWS: THE SPECIAL BENEFITS PROVIDED TO ALL PARCELS IMPROVED AND UNIMPROVED BY THE AVAILABILITY OF FIRE RESCUE SERVICES PROVIDED BY THE CITY INCLUDE, AND THEN HE LISTS SEVERAL BENEFITS.

ONE OF THESE IS FIRST RESPONDER MEDICAL AID TO PROTECT THE LIFE AND SAFETY OF OCCUPANTS.

THERE'S NO OCCUPANTS ON VACANT LAND.

BUT ISN'T THERE-- IS IT NOT FAIR OR IS IT NOT THAT THAT'S NOT THE RIGHT WORD, IS IT NOT RATIONAL ANALYSIS TO VIEW PROPERTY THAT MAY COME INTO THAT IT'S A RESIDENTIAL AREA AND THAT THE VALUE OF THAT PROPERTY IS GOING TO BE INCREASED BECAUSE IT HAS ADEQUATE HEALTH SAFETY IN THE NATURE OF EMERGENCY RESCUE?

>> WELL, THAT MAY BE SO--

>> THAT NOT BE INCLUDED?

>> IF THERE'S SUBSTANTIAL, COMPETENT EVIDENCE TO HAVE THAT--

>> THAT'S LIKE COMMON SENSE.

I'M NOT TALKING ROCKET SCIENCE, I'M TALKING ABOUT IF RESIDENTIAL PROPERTY EVEN THOUGH IT'S VACANT THROUGHOUT THE LAW BOOKS AND CASE LAW, WE RECOGNIZE THAT WHEN YOU PROVIDE SOME KIND OF SERVICE TO A RESIDENTIAL AREA THAT IT'S GOING TO HAVE SOME BENEFIT TO VACANT LAND IN THE NATURE OF THE ENHANCED PRICES COMPARED IF YOU DON'T HAVE THAT.

>> I'M NOT DISAGREEING WITH THAT, BUT I CAN'T FIND ANY CASE LAW IN FLORIDA THAT HAS ACTUALLY SAID FOR FIRE ASSESSMENT PROTECTION SERVICES VACANT LAND RECEIVES THAT TYPE OF BENEFIT. THE CLOSEST CASE WAS THE JENKINS

CASE WHICH ACTUALLY DEALT WITH SOME TRAILER SPACES. AND THAT'S DIFFERENT THAN SIMPLY VACANT, UNAPPROVED PROPERTY AND THOSE TRAILER SPACES WERE ACTUALLY CONCRETE PADDED AND HAD A VERY TRANSIENT MOVING IN AND OUT OF THE TRAILERS.

I CAN'T FIND ANY CASE LAW IN FLORIDA THAT HAS SAID FIRE ASSESSMENT PROTECTION SERVICES FOR VACANT LAND--

>> HOW ABOUT FOR HAVEN'T WE ADDRESSED DRAINAGE?

>> DRAINAGE, YES.

>> HAVEN'T WE ADDRESSED THAT?

>> AND HASN'T THAT BEEN UPHELD?

>> IT HAS.

>> BUT HOW HAS PROVIDING DRAINAGE TO PROPERTY WHICH IS A GENERAL BENEFIT-- NO ONE'S LIVING THERE-- DIFFERENT THAN THE ACCESSIBILITY--

>> WELL, USUALLY--

>>-- FOR EMERGENCY SERVICES?

>> FOR EXAMPLE, IN THE, IN THE CITY I LIVE IN THE UTILITIES HAVE BEEN PUT IN RECENTLY OVER A NUMBER OF YEARS.

THEY ALWAYS DO UTILITY ASSESSMENT BASED ON THE PROPERTY THAT RECEIVES THE BENEFIT.

THAT DOESN'T-- WHAT YOU'RE SAYING, I MEAN, IT DOESN'T MAKE SENSE NOT TO ALLOCATE IT BASED UPON THE SQUARE FOOTAGE.

>> BUT AGAIN, YOU'RE COMING BACK NOT TO A QUESTION OF WHETHER IT'S THE BEST WAY, BUT IS IT ARBITRARY TO ASSESS BENEFITS IN SOME RELATIONSHIP TO WHAT'S THERE.

NOT NECESSARILY THE EXACT SQUARE FOOTAGE, BUT FOR THE NATURE OF THE VALUE THAT'S THERE?

>> WELL, THE PROBLEM I HAVE IS THE WAY IT WAS ASSESSED.

WHEN YOU'RE ASSESSING A 40X145 FOOT YACHT THE SAME AS YOU WOULD A 200-ACRE PARCEL.

THERE'S NO SUBSTANTIVE EVIDENCE TO MAKE THAT DIFFERENCE.

THAT'S THE ARGUMENT I HAVE WITH THE TIER I.

THE SMALLER PARCEL OWNER IS ACTUALLY BEING VIM DISCRIMINATED AGAINST BECAUSE THEY'RE PAYING THE SAME AS SOMEBODY WHO OWNS 200 ACRES, AND THAT JUST DOESN'T MAKE SENSE TO ME.

WHETHER OR NOT YOU RECEIVE A BENEFIT REALLY ISN'T THE ARGUMENT PER SE.

THAT JUST DOESN'T MAKE SENSE. AND I CAN'T FIND ANY CASE LAW THAT BACKS THAT UP.

NOW, IF THERE WAS SUBSTANTIAL, COMPETENT EVIDENCE THAT SUPPORTED THAT, THE CITY'S ADOPTION OF THAT, I COULDN'T ARGUE AGAINST THAT NECESSARILY.

>> DID YOU PRESENT EVIDENCE THAT THAT'S WHAT WAS HAPPENING THROUGHOUT THIS PROGRAM TO PUT IN THIS BOND?

>> NO.

WE DID NOT PRESENT EVIDENCE--

>> WELL, ANYWAY WHAT DO WE RELY ON?

>> WELL--

>> WHAT COULD HAVE BEEN?

I MEAN, THAT'S--

>> AS YOU KNOW, THIS IS A BOND VALIDATION PROCEEDING.

>> I KNOW FULL WELL WHAT IT IS. ABSOLUTELY.

BUT YOU HAVE AN OPPORTUNITY TO PROVIDE EVIDENCE.

YOU'RE MAKING STATEMENTS THAT THERE'S A HUGE PARCEL OF LAND THAT'S TREATED DIFFERENTLY FROM SOME OTHER, BUT I DON'T--

THAT'S AN ARGUMENT, I DON'T SEE THAT IN WHAT'S IN THE RECORD AS FAR AS WHAT THE EVIDENCE IS.

ISN'T THAT WHY WE HAVE A HEARING BEFORE A CIRCUIT JUDGE TO GIVE EVERYBODY AN OPPORTUNITY TO MAKE THEIR PRESENTATION?

ISN'T THAT WHY WE HAVE THIS?

>> IT IS.

AND, UNFORTUNATELY, FROM OUR PERSPECTIVE THE BOND VALIDATION BEING VERY EXPEDITED, NONE OF US INDIVIDUAL PROPERTY OWNERS WERE SUFFICIENTLY PREPARED FOR THE HEARING.

AND THAT'S NO EXCUSE, BUT THAT'S JUST THE REALITY OF WHAT HAPPENED.

>> WELL, I MEAN, THEY HAVE A STATUTE THAT APPLIES.

EVERYBODY GETS THAT, CORRECT?

>> THAT'S TRUE.

AND THAT'S SOMETHING FOR THE LEGISLATURE TO DEAL WITH, OBVIOUSLY--

>> SURE.

>> BUT, I MEAN, THAT'S WHAT HAPPENED TO US IS WE DIDN'T HAVE THE PREPARATION NECESSARY.

WE DID TRY A MOTION FOR CONTINUANCE THE SECOND DAY, BUT THAT'S WHY WE COULDN'T NECESSARILY COME UP WITH CONFLICTING OPINIONS OR ANYTHING ELSE, BECAUSE OF THAT.

BECAUSE OF THE NATURE OF THE PROCEEDING.

AND THAT'S THE WAY IT'S DESIGNED.

I MEAN, THE LEGISLATURE HAS CHOSEN TO DO THAT.

I DON'T KNOW WHETHER TO GIVE MUNICIPALITIES OR LOCAL GOVERNMENTS AN UPPER HAND, BUT IT OPERATES IN THAT MANNER.

>> I ASSUME WHY WE HAVE TO TAKE THESE THINGS, IT IS TO FIRM UP THE VALIDITY OF THE PROPOSED BOND ISSUE SO THAT-- BECAUSE MARKETS CHANGE DAILY, ISN'T THAT THE REASON FOR THIS?

>> CORRECT.

AND THE REAL-- THEY CAN CHANGE DAILY, YES, THEY CAN.

BUT IN THIS PARTICULAR CASE THEY ONLY VALIDATED 1.5 MILLION IN BONDS AND ARE SEEKING TO GENERATE MORE THAN \$20 BILLION



IN REVENUE.

IT WASN'T A PROJECT WHERE THEY NEEDED TO GO OUT AND BUILD SOMETHING RIGHT AWAY.

IF I MAY, I'D LIKE TO ALSO ADDRESS BEFORE I RUN INTO MY REBUTTAL TIME ANOTHER PART OF THE REPORT, IF I COULD.

THIS WOULD BE AS PART OF THE REPORT, THERE WAS A LEGAL OPINION ATTACHED GIVEN TO COUNSEL AND THE MAYOR AT THAT TIME TALKING ABOUT THE VALIDITY OF THE FIRE ASSESSMENT, SO ON AND SO FORTH.

I WANT TO READ JUST ONE PARAGRAPH, IF I MAY, AND IT'S FROM PAGE 949 OF THE REPORT.

TIER II ASSESSMENTS ARE APPORTIONED BASED ON THE RELATIVE PERCENTAGE VALUE OF IMPROVEMENTS ON EACH IMPROVED PARCEL AS COMPARED WITH THE TOTAL VALUE OF ALL IMPROVEMENTS ON ALL IMPROVED PARCELS IN THE CITY.

VACANT, UP IMPROVED PARCELS ARE NOT ASSESSED IN TIER II.

THIS ENTIRE OPINION DOES NOT BOTHER TO MENTION FISHER, NOR HIGGS' CASE.

IN THAT LANGUAGE IF YOU LOOK AT THAT AND COMPARE IT TO WHAT WAS SAID IN THE HIGGS CASE AND REITERATED, THAT'S EXACTLY WHAT THIS COURT SAID YOU SHOULDN'T BE DOING.

GRANTED, THEY WERE TALKING ABOUT ASSESSED VALUE.

WE'RE TALKING ABOUT STRUCTURAL VALUE.

IN OUR OPINION VALUE IS VALUE, AND WE BELIEVE THAT JUST VIOLATES THE LONGSTANDING PRECEDENT OF THE HIGGS CASE HERE TOO.

SPECIFICALLY.

>> HOW WAS THE, HOW DID HIGGS, DID THE METHODOLOGY IN HIGGS WORK EXACTLY?

>> IT WAS BASED ON THE ASSESSED VALUE OF PROPERTY--

>> THE TOTAL ASSESSED VALUE.

>> WELL, THEY TOOK THE TOTAL ASSESSED VALUE OF THE PROPERTY WITHIN THE DISTRICT THAT WAS DEFINED, AND THEN THEY DIVIDED IT BASED ON THE ASSESSED VALUE--

>> INCLUDING THE VALUE OF THE LAND.

>> NO.

>> IT'S NOT THE VALUE OF THE LAND--

>> SEE, AND I BELIEVE THAT'S WHY THIS METHODOLOGY REMOVES THE VALUABLE LAND AS AN EXACT ATTEMPT TO CREATE AN EXCEPTION TO THE HIGGS CASE.

>> I'M ASKING YOU ABOUT HIGGS. IN HIGGS WHAT WAS THE METHODOLOGY?

DID IT INCLUDE THE VALUE OF LAND OR NOT?

>> YES.

ASSESSED VALUE.

>> OKAY.

IT INCLUDED THE VALUE OF THE LAND.

>> YES.

>> OKAY, THAT WAS MY QUESTION. WELL, WHY IS IT THAT A VERY IMPORTANT-- WHY ISN'T THAT A VERY IMPORTANT DISTINCTION? IS.

>> BECAUSE STRUCTURE VALUE IS INHERENTLY GOING TO BE HIGHER THAN ASSESSED VALUE. STRUCTURE VALUE IS, I BELIEVE, DEFINED AS THE BUILDING EXTRA FUTURE VALUE AND THE IMPROVEMENT VALUE, AND IT'S GOING TO BE CHARACTERISTICALLY HIGHER. PLUS, IT'S AUTOMATICALLY GOING TO GO UP OVER TIME. MOST ASSESSMENTS ARE USUALLY SET WHETHER THEY'RE SERVICES OR UTILITIES, ARE USUALLY SET ON A DEFINED NUMBER THAT THEY DON'T ESCALATE OVER TIME BASED ON THE

VALUE OF PROPERTY.  
THEY MIGHT ESCALATE--  
>> IS THERE A CASE THAT SAYS  
THAT IT CAN'T?  
CHANGE OVER TIME?  
>> I BELIEVE FISHER, I BELIEVE  
FISHER AND HIGGS MENTION SOME OF  
THAT.  
MAYBE IT'S LAKE COUNTY.  
FISHER, HIGGS AND LAKE COUNTY  
ARE THE CASES WE RELY UPON, AND  
I DON'T REMEMBER FROM MY MEMORY  
WHICH SPECIFIC CASE, BUT THERE'S  
ONE OF THEM THAT TALKS ABOUT  
MOST ASSESSMENTS ARE STATIC.  
THEY'RE STATIC.  
THEY DON'T GO UP WITH THE VALUE  
OR THE INCREASE OF PROPERTY.  
AND THAT'S WHY WE BELIEVE THIS  
PARTICULAR METHODOLOGY,  
PARTICULARLY TIER II, IS REALLY  
A PROPERTY TAX.  
THAT'S REALLY WHAT IT IS.  
WHEN YOU LOOK AT IT AND LOOK  
BETWEEN THE LINES, THAT'S  
EXACTLY WHAT IT IS.  
IT MIGHT BE AN ATTEMPT TO CHANGE  
ASSESSED VALUE TO RESTRUCTURED  
VALUE AND MOVE OUT THE LAND  
VALUE, BUT IT'S REALLY PROPERTY  
TAX.  
>> AGAIN, IF IT WAS BASED ON  
SQUARE FOOTAGE, IT STILL IS--  
WE'RE STILL GOING BACK TO THIS,  
THE FACT THAT IT SEEMS IN A WAY  
FAIRER-- AND MAYBE THIS IS  
GOING WITH THE ANALOGY THAT  
JUSTICE CANADY GAVE TO THE BARN  
OWNER-- THAT THE SPECIAL  
ASSESSMENT IS BASED ON THE  
ASSESSED VALUE BECAUSE  
RATIONALLY RELATED TO WHAT TYPE  
OF FIRE PROTECTION ONE WILL GET  
BECAUSE OF THE DIFFERENCE IN THE  
STRUCTURE, NOT JUST THE SQUARE  
FOOTAGE.  
AND IT WOULD BE IRRATIONAL IF IT  
WERE, IF THERE WAS NO  
RELATIONSHIP BETWEEN THE ABILITY  
TO FIGHT THE FIRE OR THE EFFORT

TO FIGHT THE FIRE AND THE ASSESSMENT.

>> I'M NOT DISAGREEING WITH THAT, BUT-- I CAN'T FIND ANY FLORIDA CASE LAW THAT HAS PREVIOUSLY HELD THAT WAY, AND IF YOU'RE GOING TO ADOPT THAT METHODOLOGY, SHOULDN'T THERE BE SOME STATISTICAL DATA FOR THE CONCLUSION MADE IN THAT REPORT? THERE IS NO DATA TO BACK UP BECAUSE A PROPERTY IS MORE VALUABLE, IT RECEIVES A GREATER BENEFIT.

IT'S JUST A CONCLUSION.

IT'S A BALD CONCLUSION.

AND FISHER ACTUALLY STOOD FOR THE PROPOSITION THAT YOU HAVE TO HAVE-- YOU CAN'T JUST UP, THE COUNSEL CAN'T JUST ADOPT BY DICTUM, BASICALLY, A CONCLUSION. THERE HAS TO BE--

>> BUT IT'S A LOGICAL CONCLUSION BECAUSE, I MEAN, IF YOU OWN THE BARN AND IT'S, SAY, WORTH, YOU KNOW, \$200,000, THE STRUCTURE, AS OPPOSED TO THE MANUFACTURING FACILITY THAT MIGHT BE WORTH, YOU KNOW, \$5 MILLION-- I MEAN, I'M JUST PULLING THOSE NUMBERS OUT OF THE AIR-- IF I'M THE OWNER OF THE BARN AND IT BURNS DOWN, THAT'S, THAT'S A PARTICULAR LOSS FOR ME.

BUT IT'S A BIGGER LOSS FOR THE OWNER OF THE MANUFACTURING FACILITY.

THAT BURNS DOWN.

SO THE BENEFIT DERIVED BY THE TWO FROM HAVING FIRE SERVICE AVAILABLE TO KEEP THOSE FACILITIES FROM BURNING DOWN IS DIFFERENT.

>> ARE THEY THE SAME SIZE, IN YOUR ANALOGY, OR ARE THEY DIFFERENT SIZES?

>> YEAH, YEAH, SAME SIZE.

>> OKAY, BUT--

>> BUT DIFFERENT SORT OF STRUCTURE, ENTIRELY DIFFERENT

VALUES AT STAKE.

>> WELL, LET ME EXPLAIN THE PROBLEM WITH WHAT CAN HAPPEN OVER TIME.

OVER TIME THE ACTUAL WAREHOUSE THAT YOU'RE GIVING THAT EXAMPLE, IT CAN DEPRECIATE, THE STRUCTURE VALUE CAN ACTUALLY DEAPPRECIATE SO THAT, IN FACT, ACCORDING TO THE DATA ON THE APPRAISER'S WEB SITE, IT MAY ACTUALLY BECOME WORTH LESS OVER TIME.

IT'S A POSSIBILITY.

SEE, IT CAN GO DOWN IN VALUE BASED UPON DEPRECIATION, AND THAT'S THE SAME THING THAT CAN HAPPEN WITH AN ASSESSED VALUE OF PROPERTY IF, IN FACT, PROPERTY VALUES ARE GOING DOWN.

WE'VE ALL BEEN FACED WITH THAT IN THE STATE OF FLORIDA.

>> IT SEEMS THAT THE BONDHOLDERS WOULD BE THE ONES THAT WOULD COMPLAIN ABOUT THAT, SUCH AS THE SOURCE OF REVENUE WILL BE LESS. I DON'T KNOW THAT'S AN ISSUE THAT WE, YOU KNOW, THE FACT THAT IT'S NOT A STABLE AMOUNT IS SOMETHING THAT WE IN VALIDATING THE ASSESSMENT NEED TO BE ABLE TO-- SEE WHAT I'M--

>> WELL, YES.

AND I GUESS BACK TO JUSTICE CANADY'S POINT IS I DON'T KNOW THAT YOU CAN JUST SAY BECAUSE IT'S LOGICAL THAT THAT'S OKAY, I DON'T KNOW--

>> WELL, SOMETIMES WE DO HAVE TO CONSIDER LOGIC.

>> WELL, I KNOW.

I UNDERSTAND THAT.

>> NOT ALWAYS, BUT SOMETIMES.

>> YOU'RE OUT OF TIME, SIR.

>> ALL RIGHT.

>> MAY IT PLEASE THE COURT, I'M CHRIS ROE WITH THE LAW FIRM BRIAN MILLER OLIVE.

I'M JOINED BY NELLY NYE BERGER ON BEHALF OF THAT.

SPEAK UP A LITTLE BIT.

>> YES, MA'AM.

FOR MANY YEARS IN THE STATE OF FLORIDA THERE WAS REALLY ONLY ONE METHODOLOGY FOR APPORTIONING FIRE ASSESSMENTS, AND THAT WAS AN ATTEMPT TO PREDICT HOW MUCH IT WOULD COST TO SERVE, ACTUALLY RESPOND TO FIRE INCIDENTS AMONG VARIOUS PROPERTY CATEGORIES. THAT WAS DETERMINED BY STUDYING HISTORICAL CALLS FOR SERVICE. IF OVER THE PAST THREE OR FOUR YEARS 80 PERCENT OF CALLS WENT TO RESIDENTIAL PROPERTIES, THEN ACCORDING TO THAT PARTICULAR METHODOLOGY, IT'S FAIR AND REASONABLE TO ASSUME THAT 80% OF THE RESOURCES WILL BE CONSUMED BY THAT PROPERTY CLASS IN THE FUTURE.

SO THAT PROPERTY CLASS WAS ASSESSED 80%.

>> WHICH IT SEEMS IN THAT SITUATION POORER NEIGHBORHOODS COULD END UP BEARING GREATER AMOUNT OF THE ASSESSMENT.

>> THAT'S RIGHT.

>> WHICH IS UNFAIR.

>> IT'S ABOUT MORE A COST ANALYSIS THAN A BENEFIT ANALYSIS.

THIS METHODOLOGY WAS BORN ABOUT THREE YEARS AGO AS A DIRECT ALTERNATIVE TO THAT METHODOLOGY AND WAS DESIGNED TO BE A BETTER MATCHING OF THE BENEFIT CONVEYED BY FIRE PROTECTION SERVICES TO THE AMOUNT OF THE ASSESSMENT. IT'S NOT BASED ON HOW MUCH IT COSTS TO ACTUALLY RESPOND TO A CALL FOR SERVICE, IT'S PREMISED ON THE NOTION THAT ALL PROPERTIES BENEFIT FROM THE SHEER AND MERE AVAILABILITY OF FIRE PROTECTION SERVICES WHETHER OR NOT THE FIRST CALL FOR-- THE FIRST CALL FOR SERVICE IS EVER RECEIVED.

PROPERTIES BENEFIT BY THE AVAILABILITY OF FIRE PROTECTION

WHICH MUST BE MAINTAINED 24 HOURS A DAY, EVERY DAY OF THE YEAR IN ORDER TO PROVIDE CONTINUAL READINESS TO SERVE BY, AS WAS POINTED OUT, INCREASED VALUE.

A PROPERTY IS MADE MORE VALUE SHEERLY BY HAVING A WELL FUNDED, WELL STAFFED FIRE DEPARTMENT AVAILABLE.

>> NOW, AGAIN, THAT WOULD BE-- YOU DON'T HAVE TO SHOW THAT THE HOUSE THAT'S WORTH A MILLION DOLLARS IS GOING TO BE WORTH MORE BECAUSE OF THE FIRE.

I MEAN, THERE'S A BENEFIT THEY'VE GOT IT, BUT NOT THAT THE APPRAISED VALUE WOULD GO UP BECAUSE OF IT, CORRECT?

>> THAT'S EXACTLY RIGHT, YOUR HONOR.

THIS COURT HAS DETERMINED THAT THERE IS NO NEED TO ITEMIZE THE DOLLAR AMOUNT OF THE BENEFIT OF EACH PROPERTY.

INDEED, IN THIS COURT'S HOLDING DISTRICT NUMBER ONE VERSUS GENERAL KIPS, THE BUDGET CAN BE VIEWED THROUGH THE AGGREGATE COMMUNITY--

>> SO COULD YOU ADDRESS THE EXAMPLE OF THE 200-ACRE PARCEL VERSUS THE SMALL SIZE VACANT LOT?

>> YES, SIR.

READINESS TO SERVE METHODOLOGY ADOPTED BY CAPE CORAL IS, AGAIN, PREMISED ON THE NOTION THAT ALL PARCELS BENEFIT FROM THE AVAILABILITY OF FIRE SERVICES WHETHER OR NOT A TRUCK IS ACTUALLY CALLED FOR SERVICE. THAT'S BASED ON THE PREMISE THAT THE CITY MAINTAINS MEASURABLE EXPENSES EVERY YEAR IN ORDER TO PROVIDE 24-HOUR SERVICE. LOOK AT A BUDGET AND PREDICT WITH RELATIVE ACCURACY WHICH COSTS ARE GOING TO BE INCURRED EVEN IF NO CALL FOR SERVICE IS

EVER RECEIVED.

IT MAKES NO DIFFERENCE FROM THE CITY'S COST PERSPECTIVE WHEN A CALL ULTIMATELY DOES COME IN WHETHER OR NOT IT COMES FROM A SINGLE-FAMILY RESIDENTIAL PARCEL, A STRIP MALL OR A 200-ACRE VACANT PARCEL.

THE CITY IS STILL GOING TO INCUR COST TO MAINTAIN AVAILABILITY REGARDLESS OF THE PHYSICAL COMPOSITION OF THE ENVIRONMENT PROTECTED, PHYSICAL ASSETS--

>> YOU DEPARTING METHODOLOGY THEN BY LOOKING AT THE EVALUATION OF THAT?

THE VALUE OF A 200-ACRE PARCEL, DOES THAT COME INTO PLAY AT ALL?

>> THE VALUE OF A 200-ACRE PARCEL WOULD NOT COME INTO PLAY FOR PURPOSES OF THE SECONDARY TIER WHICH IS--

>> STRICTLY COST BASIS WHEREAS BEFORE ON THE RESIDENTIAL OR THE DEVELOPED PROPERTY YOU'RE LOOKING AT THE EVALUATION AS WELL.

>> THAT'S RIGHT.

AND THE TESTIMONY AT TRIAL SAID IT MAY VERY WELL BE POSSIBLE TO DEAL WITH LARGER PARCELS, UNDEVELOPED PARCELS BY ATTRIBUTING INDIVIDUAL ASSESSMENT UNITS BASED ON PROJECTED VALUE OVER TIME. RATHER THAN CHARGING IN THE ONE ASSESSMENT UNIT, YOU COULD SAY, WELL, OKAY, WE KNOW THERE'S DEVELOPMENT ENTITLEMENTS FOR 20 UNITS, LET'S GO AHEAD AND CHARGE THEM 20 UNITS.

THE CONSULTANT SAID THAT MIGHT BE FAIR AND REASONABLE DEPENDING ON THE CIRCUMSTANCES AND THE COMMUNITY.

HERE IT WAS DETERMINED THAT WOULDN'T BE FAIR AND REASONABLE BECAUSE THERE'S SUCH A GREAT INVENTORY OF PREPLOTED PARCELS THAT DEVELOPMENT IS MOST LIKELY



TO OCCUR THERE AS OPPOSED TO THE  
20 OR LARGER PARCELS.

ALSO THERE ARE A LOT OF  
ASSUMPTIONS THAT GO ALONG WITH  
KNOWING EXACTLY HOW MANY UNIT  
TOSS ATTRIBUTE IT TO.

IT MAY BE THAT THE PARCEL  
ULTIMATELY DEVELOPS AS ONE  
HOMESTEAD, ONE SIZABLE RANCH IN  
WHICH CASE YOU'VE JUST GOT THE  
ONE PARCEL.

>> DON'T WE HAVE IN THE AREA OF  
FLORIDA LAW WITH REGARD TO  
SPECIAL ASSESSMENTS THE BENEFIT  
ANALYSIS TO THE PARCEL OF  
PROPERTY?

AND SO I'M, I'M WONDERING HOW--  
I KNOW IT NEED NOT BE PRECISELY  
ATTRIBUTABLE.

HOW DOES THAT WORK IN THIS  
SCENARIO AND THE CHALLENGE  
THAT'S BEING MOUNTED AGAINST  
WHAT HAS BEEN PROPOSED?

>> THE CHALLENGE IS BASICALLY TO  
BOTH TIERS, RIGHT?

THE TIER I BASED ON BASICALLY  
THE PORTION OF THE BUDGET THAT  
GOES TO STANDING READY DIVIDED  
BY THE NUMBER OF PARCELS.

AND THEN ALSO TO THE SECONDARY  
TIER WHICH FOCUSES ONLY ON THE  
BUILT ENVIRONMENT, THE  
PHYSICAL--

>> RIGHT.

>> ACCORDING TO THE RELATIVE  
VALUE OF STRUCTURES COMPARED TO  
THE NEIGHBORING PARCELS.

>> RIGHT.

>> THE CITY HAS DETERMINED THAT  
BOTH OF THESE METHODS ARE, ITS  
FACTORS ARE FAIR AND REPUBLICAN  
AND A MEASURABLE BENEFIT  
ASSOCIATED WITH EACH.  
BENEFIT AGAIN IS MAINTAINING  
THAT READINESS TO SERVE.  
ALTHOUGH APPELLANTS HAVE RELIED  
ON CHAPTER 170, SAID THIS  
DOESN'T MEET THE REQUIREMENTS OF  
170, THE CITY ISN'T REQUIRED TO  
FOLLOW 170.

WE KNOW IT HAS HOME RULE POWERS ON THE BOCA RATON CASE TO IMPOSE SPECIAL ASSESSMENT AND EXERCISE POWERS INCLUDING THIS APPORTIONMENT METHODOLOGY WHICH BEST MEET LOCAL CIRCUMSTANCES. IN THIS CASE THE CITY HAS MADE THE DETERMINATION THAT ALL PROPERTIES ARE BENEFITED BY THE FIRE SERVICES.

PROPERTIES THAT HAVE A MILLION DOLLAR WORTH OF IMPROVEMENTS ARE BENEFITED TO A GREATER DEGREE THAN A MORE MODEST SINGLE-FAMILY RESIDENTIAL HOME BECAUSE IN THE EVENT OF TOTAL FIRE LOSS AS JUSTICE CANADY POINTED OUT, THE OPENER OF THE PROPERTY HAS SO MUCH MORE TO LOSE.

IT'S A COMMON SENSE SORT OF ANALYSIS.

>> DOES THAT INCLUDE, YOU KNOW, WE'VE TALKED A LOT ABOUT STRUCTURES, BUT WOULD THAT ASSESSMENT BE APPLICABLE TO, FOR EXAMPLE, IF SOMEONE HAD AN ORANGE GROVE, AND SO THAT IS IMPROVED PROPERTY, TO ME, NOT UNIMPROVED PROPERTY.

SO WOULD THE SECOND TIER BE APPLICABLE THERE, OR ARE WE SIMPLY TALKING ABOUT STRUCTURE?

>> BY WAY OF BRIEF BACKGROUND, THE PROPERTY APPRAISER IS TASKED WITH DETERMINING JUST VALUE EACH PARCEL.

JUST VALUE IS DERIVED THROUGH ANY NUMBER OF VALUATION TECHNIQUES.

ONE CAN BE COST, HOW MUCH IT WOULD COST TO REPLACE THE-- ONE IS INCOME APPROACH FOR A COMMERCIAL PROPERTY OR RENTAL PROPERTY WHICH MEASURES NOT THE VALUE OF THE FISCAL IMPROVEMENTS, BUT HOW MUCH INCOME PROPERTY GENERATES OVER TIME.

ASSESSED VALUE IS DERIVED FROM JUST VALUE.

IN THE FIRST YEAR VALUATION,  
JUST VALUE AND ASSESSED VALUE  
ARE THE SAME.

OVER TIME ASSESSED VALUE MAY BE  
MUCH LOWER BECAUSE IT IS BASED  
ON--

[INAUDIBLE]

AND 10% LIMITATION ON VALUE  
GROWTH FOR NONRESIDENTIAL  
PROPERTY.

THERE CAN BE A GREAT DIFFERENCE  
OVER TIME AND, OF COURSE,  
ASSESSED VALUE INCLUDED.

THIS METHODOLOGY DOES NOT FOCUS  
ON ASSESSED VALUE.

THIS MERELY INVOLVES COST OF  
THE, THE REPLACEMENT COST OF THE  
IMPROVEMENTS ASSOCIATED WITH  
EACH PARCEL.

THE PROPERTY APPRAISER IS  
REQUIRED TO DETERMINE THE  
PRESENT REPLACEMENT VALUE OF ALL  
IMPROVEMENTS--

>> LET ME, YOU'RE STILL NOT  
GETTING TO OUR QUESTION.

IS THE VALUATION THE SAME FOR AN  
ORANGE GROVE AS AN UNDEVELOPED  
PIECE OF PROPERTY OR DIFFERENT?

>> YEAH.

>> IT COULD BE BASED, IT WOULD  
HAVE A DIFFERENT VALUATION  
DEPENDING ON WHICH TECHNIQUE THE  
PROPERTY APPRAISER USED IN ORDER  
TO ARRIVE AT THE ASSESSED--

>> WELL, BUT IF YOU HAVE A FIRE  
ON VACANT LAND AS OPPOSED TO AN  
ORANGE GROVE, CERTAINLY THE  
REPLACEMENT VALUE FOR AN ORANGE  
GROVE IS GOING TO BE MUCH  
BIGGER.

SO DOES THAT INCLUDE-- IS THE  
SECOND TIER OF IT A PART OF AN  
ORANGE GROVE?

>> NO.

THE SECONDARY TIER IS MERELY THE  
REPLACEMENT VALUE OF THE  
IMPROVEMENTS.

ARGUABLY--

>> WHAT YOU'RE SAYING IS THE  
STRUCTURES.

BECAUSE AN ORANGE GROVE IS AN IMPROVEMENT.

IT'S-- OR AT LEAST BY SOME UNDERSTANDING IT'S BEEN, THE LAND HAS BEEN IMPROVED BY THE TREES ON THE LAND.

AND SO THERE COULD BE A VALUE ASSOCIATED WITH THAT.

BUT THIS SYSTEM DOES NOT NECESSARILY TAKE THAT INTO ACCOUNT.

>> THAT'S RIGHT, BUT ARGUABLY IT COULD.

THE CITY COULD TAILOR THE METHODOLOGY TO ADDRESS CROPS, ORANGE GROVES.

THIS PARTICULAR COMMUNITY DOES NOT HAVE THAT.

IN MUCH THE SAME WAY IT COULD AMEND THE METHODOLOGY TO MAKE ALLOWANCES FOR THE TYPE OF MATERIAL THAT THE BUILDINGS ARE CONSTRUCTED FROM--

>> HISTORICALLY GENERALLY, HOW HAS--

[INAUDIBLE]

FOR THESE PURPOSES?

>> HISTORICALLY.

THE DEMAND-BASED APPROACH WHICH MEASURES HISTORIC CALLS FOR SERVICE TYPICALLY EXCLUDES VACANT LAND.

NOW, I HAVE SEEN INSTANCES WHERE A RATIONALIZED EXCLUSION BY VIRTUE OF THE LIMITED NUMBER OF CALLS THEY GO OUT TO, IT MIGHT BE LESS THAN 1% OVER THE LOOKBACK PERIOD WHICH IS TYPICAL.

HERE, THOUGH, THE PREMISE IS NOT WHETHER OR NOT WE WENT OUT IN THE PAST--

[INAUDIBLE]

IT'S THE ASSUMPTION THAT THOSE PARCELS ARE BENEFIT TODAY THE SAME EXTENT EVERYBODY ELSE IS.

>> SO THEY HAVEN'T BEEN INCLUDED.

THEY'VE NOT BEEN--

>> NOT HISTORICALLY, THAT'S

RIGHT.

THEY ARE INCLUDED HERE.

THEY PAY THAT TIER I AMOUNT.

>> JUST EXPLAIN THE-- AND I'M NOT SURE IT MATTERS AT ALL, BUT HIS ARGUMENT THAT THE SOURCE OF THE SPECIAL ASSESSMENT, THAT THE AMOUNT WILL BE VARIABLE FROM YEAR TO YEAR AND HOW THAT IMPACTS THE ISSUE IN THIS CASE AS TO THE VALIDITY OF THE SPECIAL ASSESSMENT.

>> THE CITY HAS ADOPTED A FIRE ASSESSMENT PROGRAM WHICH COULD CONCEIVABLY RECOVER THE ENTIRE COST OF THE FIRE DEPARTMENT BUDGET.

THOSE COSTS WHICH WERE APPROPRIATELY--

>> BUT THE BONDING, THE BOND-- THIS IS NOT LIKE THE CITY OF BOCA RATON, THIS ISN'T A CITY WHERE THERE'S GOING TO BE, THERE'S BONDING TO DO PROJECTS THAT MIGHT BENEFIT DIFFERENT-- THIS IS A BOND THAT THE CITY IS GOING TO GET THIS REVENUE BUT NOT NECESSARILY THE REVENUE THEY'RE GETTING ISN'T GOING TO BE TO BUILD THE FIRE DEPARTMENT, CORRECT?

>> THE REVENUE IS FOR THE PROCEEDS OF THE BOND.

THE NOTE IN THIS CASE WILL BE USED TO PURCHASE CAPITAL EQUIPMENT NECESSARY FOR THE DIVISION OF FIRE PROTECTION SERVICES.

>> SO IT IS RELATED TO THE FIRE PROTECTION.

>> YES.

>> SO THE SOURCE, THE REPAYMENT COMES FROM THE SPECIAL ASSESSMENT.

>> THAT'S RIGHT.

>> AND ALSO THE BOND AUTHORIZING ORDINANCE PROVIDES FOR A BACKUP PLEDGE.

TO THE EXTENT THAT THE ASSESSMENT REVENUES ARE

INSUFFICIENT TO REPAY THE NOTE,  
THEN THE CITY CAN ALSO PAY THE  
DEBT THROUGH OTHER  
LEGALLY-AVAILABLE REVENUES.  
IN THIS CASE THE AMOUNT OF THE  
NOTE IS RELATIVELY SMALL,  
RELATIVE TO THE--

>> AND THE ISSUE OF, THOUGH, THE  
VARIATION IN THE YEARLY AMOUNT  
THAT MAY BE COLLECTED BASED ON  
THE DIFFERENCE THE AD-- I'M  
SORRY, THE ASSESSED VALUE FROM  
YEAR TO YEAR, WHAT IS, HOW DO  
YOU SEE THAT AS EITHER  
SIGNIFICANT OR SNOT SIGNIFICANT  
TO THE-- OR NOT SIGNIFICANT TO  
THE LEGAL ISSUES BEFORE US?

>> THE LAW IS IN ORDER TO  
INCREASE THE AMOUNT OF THE  
ASSESSMENT ABOVE THE PREVIOUSLY  
NOTICED AMOUNT, THE CITY HAS TO  
GIVE NOTICE TO ALL AFFECTED  
PROPERTY OWNERS AND GIVE THEM AN  
OPPORTUNITY TO COME AND BE  
HEARD.

WHAT THE CITY HAS DONE HERE IS  
EXPLAINED IN ITS NOTICE THAT IT  
INTENDS TO START AT, BASICALLY,  
A 38% COST RECOVERY IN YEAR ONE  
AND THEN THEREFORE MOVE UP TO  
APPROXIMATELY A 60% MOVE.

IF THE CITY WANTS TO INCREASE  
THE ASSESSMENT IN THE FUTURE  
ABOVE THOSE NOTICED AMOUNTS, IT  
IS REQUIRED BOTH BY FLORIDA LAW  
AND BY ITS HOME RULE ASSESSMENT  
ORDNANCE TO GO THROUGH--

>> OKAY.

SO THE AMOUNT OF THE ASSESSMENT  
IS NOT NECESSARILY GOING TO GO  
UP EVEN IF THE VALUE OF THE  
PROPERTY GOES UP?

>> THAT'S RIGHT.

BECAUSE THE MEASURE IS RELATIVE.  
IT'S RELATIVE TO ONE PARCEL'S  
VALUE, STRUCTURE VALUE COMPARED  
TO ALL IN THE COMMUNITY AND  
WHICH PORTION OF THE BUDGET IS  
BEING RECOVERED BY THAT.

>> SO IT'S NOT-- THAT VARIES

FROM WHAT AN AD V.A. HOUR REM  
TAX WOULD BE AS FAR AS THAT  
METHODOLOGY.

>> RIGHT.

THAT'S RIGHT.

THAT'S EXACTLY RIGHT.

>> I'M NOT SURE-- BECAUSE,  
AGAIN, HE'S SIGHING THIS IS  
NO-- SAYING THIS IS A TAX, AND  
IT'S THE SAME AS AN AD V.A. HOUR  
REM TAX.

YOU'RE SAYING, NO, THE  
METHODOLOGY IS ALTHOUGH THERE'S  
A BASIS IN THE ASSESSED VALUE  
NOT, DOESN'T NECESSARILY VARY  
FROM YEAR TO YEAR.

>> THAT'S ABSOLUTELY RIGHT.  
IT'S READILY DISTINGUISHABLE  
FROM THE ASSESSMENT PROGRAMS  
THAT WERE INVALIDATED BY THIS  
COURT IN HIGGS AND FISHER IN  
THAT IT IS NOT BASED ON ASSESSED  
VALUE, IT'S BASED ON THE VALUE  
OF THE REPLACEMENT COSTS, THE  
PHYSICAL ASSETS OF THE-- IT  
MAKES NO ACCOMMODATION FOR SAVE  
OUR HOMES CAPS OR HOMESTEAD  
EXEMPTIONS OR, MOST NOTABLY, THE  
VALUE OF THE LAND.

IT'S NOT AS THOUGH IT'S  
EXCLUDED, IT'S NEVER INCLUDED IN  
THE FIRST PLACE BECAUSE THIS  
LOOKS AT THE BUILDING COST VALUE  
AND THE BUILDING EXTRA FEATURE  
VALUE AS DECIDED BY THE PROPERTY  
APPRAISER UNDER HIS OR HER  
STATUTORY RESPONSIBILITIES.

IT'S ALL ABOUT--

[INAUDIBLE]

MILLION DOLLAR MANSION COMPARED  
TO A \$100,000 HOME.

\$100,000 HOME DOESN'T RECEIVE  
THE SAME BENEFIT BECAUSE THE  
OWNER STANDS TO LOSE SO MUCH  
MORE IN THE EVENT OF AN  
INCIDENT.

IT IS A FAIR AND REASONABLE  
PROXY, A MEASUREMENT OF THE  
BENEFIT CONVEYED TO EACH PARCEL.  
IN THIS PARTICULAR METHODOLOGY,

THERE IS A DISTINCTION BETWEEN THE FIXED AND THE VARIABLE COSTS ASSOCIATED WITH PROVIDING FIRE DEPARTMENT SERVICES.

THAT DISTINCTION IS WELL RECOGNIZED PRINCIPLE IN ECONOMICS.

FIXED COSTS ARE ALLOCATED ONE PARTICULAR WAY, THE OTHER ON THE VALUE OF THE IMPROVEMENTS.

IT'S FAIR, IT'S REASONABLE, IT'S EASILY ADMINISTERED OVER TIME. THE CITY CAN ACTUALLY MAINTAIN THIS PROGRAM IN HOUSE WITHOUT RELYING ON OUTSIDE CONSULTANTS TO COME IN AND CONTINUALLY UPDATE THE CALL DATA WHICH IS EXPENSIVE OVER TIME.

>> TO WE KNOW-- DO WE KNOW WHAT OTHER OR IF OTHER GOVERNMENTS HAVE USED THIS METHODOLOGY, WHAT THE STATUS OF THAT IS WITHIN THE STATE OF FLORIDA?

>> YES, SIR.

I KNOW OF SEVEN OTHER CITIES THAT HAVE ADOPTED THIS METHODOLOGY SINCE ITS CREATION, BASICALLY, THREE YEARS AGO.

AND ALL OF THEM WITH THE EXCEPTION OF ST-- ST. PETERSBURG ARE COLLECTING THE ANNUAL ASSESSMENT.

ST. PETERSBURG ADOPTED IT AND DURING THE COURSE OF ITS ANNUAL BUDGET DELIBERATIONS DETERMINED THE REVENUE WASN'T NECESSARY, THEY COULD PLUG THEIR HOLES THROUGH OTHER MEANS AND SO, BASICALLY, INSTALLED THE INFRASTRUCTURE NECESSARY TO DO THE-- IT'S THERE

IF THEY WANT TO DO IT IN THE FUTURE.

>> HAS THIS METHODOLOGY BEEN LITIGATED TO ANY EXTENT IN ANY LOCATION?

>> WHAT WE HAVE RECOMMENDED, MY FIRM TO THE CLIENTS WE WORK WITH, IS ASSESSMENTS UNDER THE BEST OF CIRCUMSTANCES ARE



CONTROVERSIAL.

AND IT'S A GOOD IDEA IN EACH CASE BOTH FROM THE SQUELCHING ANY CONTROVERSY BUT ALSO RESOLVING FINANCIALLY ISSUES TO SEEK VALIDATION, TO VALIDATE THE ABILITY TO MAKE A CAPITAL PURCHASE, FINANCE IT OVER TIME AND REPAY THE FINANCING NEW THE SPECIAL ASSESSMENT.

AND WE AS A FIRM HAVE GONE THROUGH VALIDATIONS FOR A NUMBER OF OTHER COMMUNITIES USING VIRTUALLY THE SAME METHODOLOGY, THE FIRST OF WHICH BEING BROOKSVILLE WHICH IS ABOUT TO BEGIN YEAR THREE OF ITS ASSESSMENT PROGRAM.

CITY OF SPRINGFIELD AND ALSO CITY OF STEWART.

I KNOW THE CITY OF COCOA AND THE CITY OF NORTH PORT HAVE ALSO ADOPTED A METHODOLOGY.

IN FACT, THEY HAVE SUBMITTED IN CONJUNCTION WITH THE FLORIDA LEAGUE OF CITIES VERY GOOD, A VERY HELPFUL AMICUS BRIEFS IN SUPPORT OF THE METHODOLOGY AND--

[INAUDIBLE]

HAS ADOPTED IT AS WELL.

IF THERE ARE NO MORE QUESTIONS, I WILL-- THANK YOU VERY MUCH FOR YOUR CONSIDERATION.

>> I'LL GIVE YOU--

[INAUDIBLE]

>> I DISAGREE WITH THE CONTENTION THAT THIS METHODOLOGY HAS BEEN ADOPTED AS IN CAPE CORAL AND OTHER CITIES AROUND THE STATE.

THAT IS SIMPLY NOT ACCURATE. THEY'RE DIFFERENT.

IN FACT, THE ONES IN BROOKSVILLE AND HAINES CITY REVERSED THE TIERS AND THEY'RE BASE--

[INAUDIBLE]

SO THAT SIMPLY IS NOT AN ACCURATE REPRESENTATION. NORTH PORT AND COCOA ACTUALLY

HAVE A DIFFERENT METHODOLOGY  
THAN CAPE CORAL.  
THEY ACTUALLY-- NORTH PORT  
ACTUALLY TAKES INTO  
CONSIDERATION THE SIZE OF THE  
VACANT PARCEL AND, IN FACT,  
COCOA, FLORIDA, DOESN'T EVEN  
ASSESS RESIDENTIAL PROPERTIES ON  
STRUCTURE VALUE.

THEY USE A FLAT FEE.

>> WELL, THE AMICUS, SEVERAL OF  
THE CITIES SEEM TO SAY THAT OUR  
DECISION HERE WILL AFFECT THE  
VALIDITY OF THEIR ASSESSMENT.

>> IT COULD IF YOU DECLARE TIER  
II A PROPERTY TAX.

IT CERTAINLY ABSOLUTELY COULD.  
THERE'S NO QUESTION ABOUT THAT.

>> YOU'RE SAYING THE DIFFERENCE  
IS ON TIER II, NOT TIER I?

>> IT'S IN TIER I, IN BOTH  
LOCALITIES.

2W5EU8 NORTH PORT, IN TIER I,  
ACTUALLY ASSESSES PARCELS THAT  
ARE LESS THAN FIVE ACRES AND  
PARCELS THAT ARE GREATER THAN  
FIVE ACRES A HIGHER AMOUNT OF  
MONEY.

IF, IN FACT, YOUR METHOD IS  
EVERYTHING SHOULD BENEFIT  
UNIFORMLY, THEN WHY ISN'T THAT  
SAME FROM CITY TO CITY.

THAT'S THE PROBLEM WE HAVE.

AND, IN FACT, IN COCOA THEY  
ACTUALLY TAKE THE VACANT  
PARCEL-- I SAY VACANT, BUT I  
SAY NONIMPROVED PARCELS.

THEY ACTUALLY LOOK AT THE SIZE  
AND THE CLASS WHETHER IT'S  
RESIDENTIAL, INDUSTRIAL OR  
COMMERCIAL PROPERTY.

THEY DON'T EVEN DO A TIER II  
ASSESSMENT IN COCOA, FLORIDA.  
IT'S JUST NOT THE SAME.

STATEWIDE.

THAT'S JUST NOT AN ACCURATE  
REPRESENTATION.

THE CASES RELIED UPON BY THEM TO  
SUPPORT THEIR TIER II VALUATION  
IS REALLY OCA AND NAPLESS, I

BELIEVE, V. MOON.  
THOSE WERE, DEPARTMENT EVEN  
CONSIDER-- DIDN'T EVEN CONSIDER  
FIRE ASSESSMENTS.  
I BELIEVE I'M RUNNING OUT OF  
TIME, AND I DON'T WANT TO GET  
THE CHIEF JUSTICE TOO ANGRY AT  
ME.  
WE WOULD ASK YOU TO REVERSE THIS  
CASE.  
>> THANK YOU FOR YOUR ARGUMENT  
AND--  
[INAUDIBLE]  
HAVE A NICE, SAFE TRIP BACK.  
THANK YOU, WE'RE IN RECESS.  
>> ALL RISE.