

HISTORICAL REVIEW OF ISLAND PROPERTY TAXES

Pensacola Beach Leaseholders and Residents Association, Inc.

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From 1949 to 1971 property was leased to individuals on Pensacola Beach by the Santa Rosa Island Authority with the understanding that lease fees would be paid in during this period.

In 1971 as an outgrowth of the 1968 constitution, the State Legislature mandated that leased property should be taxed. Subsequently, most leaseholders began paying real estate property taxes on both land and improvements as well as a lease fee to the SRIA.

Some residents claimed this was double taxation and refused to pay ad valorem taxes to the County. After lengthy litigation the Florida Supreme Court upheld the act of 1971. During the 1970's the Legislature attempted to pass several acts that would clarify the "double taxation" issue, but these were held to be unconstitutional. In 1980 the Daytona Speedway was having financial trouble and threatened to move unless they could get some tax relief. The legislature responded decreeing a leasehold interest in government land intangible and not subject to ad valorem taxation if rent is paid and the lease is for a term of 99 years or less. The intangible tax rate is \$1 per \$1000 of valuation, much less than present real property rates. .

The Escambia County tax assessor deemed that only the land was intangible property and Escambia County ad valorem taxes were to be collected on all improvements (buildings). The Escambia County tax collector began issuing tax certificates against property owners who had not paid their taxes. Such a certificate is essentially a lien against the property, and in some instances the certificates were sold by the County to outside purchasers.

In 1984 several property owners who had been issued tax certificates filed suit. In January 1986 the Escambia County Circuit Court ruled that "title to all buildings and other improvements of a permanent character... subject to the leases, are owned by Escambia County, Florida." The Court further ruled that "all tax certificates issued by the . . . tax collector of Escambia County . . . are adjudged to be invalid and unenforceable." Finally the judgment stated that "the Tax Collector for Escambia County is hereby permanently enjoined from issuing tax certificates for delinquent taxes assessed on or against . . . plaintiffs." This suit involved only a few individuals (the plaintiffs) who had not paid taxes, and the suit only considered the issuance of tax certificates against those in arrears.

Millions of dollars of taxes are involved. Escambia County and the Tax Collector appealed the decision. In January of 1987 the First District Court of Appeal upheld the ruling of the local Circuit Court. The County and the tax collector are now seeking review by the Florida Supreme Court.

The present court interpretation of the 1980 statute suggests that the only taxes collectable are intangible taxes on the lease. However, all leaseholds remain on the Escambia County tax rolls and real property taxes are being collected.

If the Supreme Court refuses to disturb the present situation, there will be strong pressure for change. Mr. Bell, the tax collector, has taken the position that taxing the land as intangible and the buildings as real property was not only fair and reasonable but, generally speaking, caused beach leaseholders to pay less in taxes than people on the mainland paid for properties of similar value. He suggests alternatives that will be more costly for beach taxpayers in the form of special assessments, a Municipal Services Benefit Unit, which the county could establish to charge for services on a per square foot basis or State Legislative action to change the 99-year breakpoint or revoke lease fees, either of which could result in ad valorem taxation of both land and improvements. Some of the solutions being discussed, such as granting the leaseholders absolute title to their land will have consequences far beyond the

taxation issue and will need to be considered very carefully.

In the meantime: The Florida Department of Revenue in an April 1986 letter to then-president Jim Morgan advises that all leaseholders should continue to pay their taxes in the same manner because an appeal by a state official stays the lower court ruling and status quo is maintained. The department reminds us intangible taxes are due by June 30, 1987; and the amnesty period for prior years' intangible taxes expires on the same date.