



The Florida Senate

Interim Report 2010-115

October 2009

Committee on Finance and Tax

ASSESSMENT OF WORKING WATERFRONT PROPERTY--IMPLEMENTATION OF CONSTITUTIONAL AMENDMENT APPROVED IN NOVEMBER 2008

Issue Description

In the 2009 Legislative Session, both the Florida Senate and House of Representatives considered and voted favorably on bills implementing the working waterfront constitutional amendment. The chambers disagreed, however, on the appropriate method of assessing working waterfront property, and no consensus was reached on the issue. The Constitution provides that working water property will be assessed on the basis of its current use for tax years beginning January 1, 2010, and directs the legislature to specify conditions, limitations and reasonable definitions by general law.

The purpose of this report is to review the circumstances surrounding the adoption of the working waterfronts amendment, review the 2009 proposed legislation, describe similar programs in other states, and explore assessment methodologies to determine the appropriate way to implement the constitutional amendment.

Background

Working Waterfronts Constitutional Amendment

In November 2008, Florida's voters overwhelmingly¹ approved an amendment proposed by the Florida Tax and Budget Reform Commission (TBRC), to provide for the assessment of working waterfront property based on current use. The amendment to section (4), Art. VII, of the State Constitution created a new subsection (j) to provide the categories of working waterfront property for which assessment is to be based on current use. The categories are:

- Land used predominantly for commercial fishing purposes.
- Land that is accessible to the public and used for vessel launches into waters that are navigable.
- Marinas and drystacks that are open to the public.
- Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

The assessment benefit provided in the amendment is subject to conditions, limitations and reasonable definitions as specified by the Legislature by general law. The amendment is to take effect upon approval by the electors and first apply to assessments for tax years beginning January 1, 2010.

Economic Conditions Affecting Working Waterfront Properties

According to the TBRC staff analysis, "Changes in Florida's economy and land use may be affecting the economic viability of commercial fishing and recreational working waterfronts. Increasingly, development interests are buying traditional working waterfronts and converting the property to private and residential use. "Water-enhanced" and "water-related" activities are replacing traditional or "water-dependent" activities. This has had the effect of both decreasing the availability of waterfront property necessary to sustain commercial fishing

¹ The amendment was approved by 71 percent of those who voted on the issue.

and recreational boating activities, and increasing the value of nearby working waterfront property. This increase in property value may result in higher property taxes which may cause the working waterfronts to be less profitable, thereby compounding the pressure to convert the property to a higher-valued use.²

Existing Statutory Working Waterfront Programs and Definitions

In 2005 and 2008, the Florida Legislature created programs to recognize and support working waterfronts around the state. Each of these programs has its own definition of a working waterfront, and properties that qualify under one of these programs may not meet the constitutional requirements for assessment at current use.

Recreational and Commercial Working Waterfronts— Implemented in 2005, s. 342.07, F.S., establishes the Legislature’s recognition that there is an important state interest in facilitating boating and other recreational access to the state’s navigable waters, and in maintaining viable water-dependent support facilities including boat hauling, repair facilities and commercial fishing facilities, as well as in maintaining the availability of public access to the navigable waters of the state. Recreational and commercial working waterfronts include water-dependent facilities such as docks, wharves, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. For the purposes of this section, hotels and motels may be considered a recreational or commercial working waterfront, but seaports are specifically excluded.³ Section 197.304, F.S., authorizes counties and cities to allow tax deferrals for recreational and commercial working waterfront property, as defined in s. 342.07, F.S., with certain limitations.

While many of the properties covered by this program will probably qualify for assessment at current use, some do not appear to meet the strict land use, water dependence, and public access criteria provided by the constitutional language. In particular, hotels and motels are not covered, and support facilities for recreational, commercial, research, or governmental vessels may not be.

Section 342.201, F.S., governs the **“Waterfronts Florida Program”** at the Department of Community Affairs, designed to provide technical assistance and support to communities in revitalizing waterfront areas in the state. The program must direct efforts on the following priority concerns:

- Protecting environmental and cultural resources;
- Providing public access;
- Mitigating hazards; and
- Enhancing the viable traditional economy.

Under a competitive application process, new communities can be designated as “Waterfront Florida Partnership Communities” and receive limited financial assistance from the department to develop a community-designed vision for revitalizing the designated waterfront area. This program uses the same definition of working waterfronts as s. 342.07, F.S., except that it does not include hotels and motels and does not explicitly exclude seaports.

“Stan Mayfield Working Waterfronts Program”— The 2008 Legislature enacted chapter 2008-229, Laws of Florida, to provide, in part, for the creation of the “Stan Mayfield Working Waterfronts” program⁴ as part of the Florida Communities Trust in the Department of Community Affairs. The program, which is to receive \$7.5 million annually from the Florida Forever Program, is a competitive grants program with weighted criteria for the full acquisition or less-than-fee acquisition of working waterfronts property. For purposes of this program, “working waterfront” is defined as “a parcel or parcels of land directly used for the purposes of commercial harvest of marine organisms or saltwater products by state-licensed commercial fishermen, aquaculturists, or business entities, including piers, wharves, docks, or other facilities operated to provide waterfront access to

² Staff analysis TBRC Amendment 6

³ Section 342.07(2), F.S.

⁴ Section 380.5105, F.S.

licensed commercial fishermen, aquaculturists, or business entities; or as parcel of land or lands used for exhibitions, demonstrations, educational venues, civic events, and other purposes that promote and educate the public about economic, cultural, and historic heritage of Florida’s traditional working waterfronts, including the marketing of the seafood and aquaculture industries.”⁵ This definition of working waterfronts appears to cover some of the same property uses as the constitutional provision, but other uses—property used for exhibitions, demonstrations, educational venues, civic events, and other purposes that promote and educate the public about economic, cultural, and historic heritage of Florida’s traditional working waterfronts—do not satisfy the constitutional criteria for assessment at current use.

Comparison of Constitutional Working Waterfront Property with Statutory Working Waterfront Programs

<p>Section 4(j), Art. VII, State Constitution</p>	<p>Provides for current use assessment of these working waterfront properties:</p> <ul style="list-style-type: none"> • Land used predominantly for commercial fishing purposes. • Land that is accessible to the public and used for vessel launches into waters that are navigable. • Marinas and drystacks that are open to the public. • Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities. <p>The Constitution authorizes the Legislature to apply conditions and limitations and reasonable definitions by general law, but the Legislature appears to be without authority to apply the assessment benefit to properties not described in the Constitution.⁶</p>
<p>Recreational and Commercial Working Waterfronts (s. 342.07, F.S.)</p>	<p>As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial activities, including hotels and motels as defined in s. 509.242(1), F.S., or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water. As used in this section, the term "vessel" has the same meaning as in s. 327.02(39), F.S., seaports are excluded from the definition.</p>
<p>Waterfronts Florida Program, s. 342.201, F.S.</p>	<p>"Recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state. Recreational and commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or that are support facilities for recreational, commercial, research, or governmental vessels. These facilities include docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water.</p>
<p>Stan Mayfield Working Waterfronts Program, ss. 380.501-515, F.S</p>	<p>"Working waterfront" means:</p> <p>(a) A parcel or parcels of land directly used for the purposes of the commercial harvest of marine organisms or saltwater products by state-licensed commercial fishermen, aquaculturists, or business entities, including piers, wharves, docks, or</p>

⁵ Section 380.503, F.S.

⁶ *Capital City Country Club v. Tucker*, 613 So. 2d 448 (Fla. 1993)

	<p>other facilities operated to provide waterfront access to licensed commercial fishermen, aquaculturists, or business entities; or</p> <p>(b) A parcel or parcels of land used for exhibitions, demonstrations, educational venues, civic events, and other purposes that promote and educate the public about economic, cultural, and historic heritage of Florida's traditional working waterfronts, including the marketing of the seafood and aquaculture industries.</p>
--	---

2009 Legislative Proposals for Implementing the Working Waterfronts Constitutional Amendment

In the 2009 legislative session, bills implementing the working waterfront constitutional amendment were filed in the Senate (SB 1468) and the House of Representatives (HB 825). The chambers differed on how to determine the current-use value of working waterfront property and whether to amend the Stan Mayfield Working Waterfront Program to distinguish it from the constitutional working waterfront provisions, and implementing legislation was not enacted.

SB 1468, first engrossed, provided very specific instructions on how working waterfront property must be assessed:

Property classified as working waterfront property under this section shall be assessed on the basis of current use. The assessed value shall be calculated using the income approach to value, and using a capitalization rate based upon the debt coverage ratio formula. The capitalization rate shall be calculated and updated annually. The capitalization rate shall be based on data that is county specific unless insufficient data is available, in which case the property appraisers shall use data from counties with similar conditions and characteristics, or data provided by the department. The condition and size of the property shall also be taken into account when assessing the property.

CS/HB 825, relied much more on the property appraiser's professional judgment to establish the property's value in its current use:

1. Property classified as working waterfront property under this section shall be assessed solely on the basis of the property's current use. The property appraiser shall consider only the following use factors:
 - a. The condition of the property.
 - b. The present market value of the property in its current use for the foreseeable future.
 - c. The income produced by the property.
2. In no event shall the assessed value of the property exceed just value.

The Senate amended its bill to allow for exceptions to using the income approach to determine the value of working waterfront property. The changes are in italics:

Property classified as working waterfront property under this section shall be assessed on the basis of current use.

1. If appropriate to the property, the assessed value shall be calculated using the income approach to value, and using a capitalization rate based upon the debt coverage ratio formula. The capitalization rate shall be calculated and updated annually. The capitalization rate shall be based on data that is county specific unless insufficient data is available, in which case the property appraisers shall use data from counties with similar conditions and characteristics, or data provided by the department. The condition and size of the property shall also be taken into account when assessing the property.

2. In assessing property for which the methodology in 1. is not appropriate, the property appraiser shall consider only the following factors:

- a. *The condition of the property.*
- b. *The present market value of the property in its current use.*
- c. *The income produced by the property.*
3. *In no event shall the assessed value of the property exceed just value.*

The House of Representatives amended its language onto the bill. The Senate refused to concur in the amendment and asked the House to recede; the bill was indefinitely postponed and withdrawn from consideration by the House of Representatives.

Findings and/or Conclusions

This section provides an overview of the issues pertaining to valuing working waterfront property at its current use, examines efforts by other states to protect working waterfronts, and analyze the assessment methodologies included in 2009 working waterfront legislation.

Valuation of property

Art. VII, section 4 of the State Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Since 1965, the settled law in Florida has been that “just valuation” is synonymous with “fair market value,” and is defined as what a willing buyer and willing seller would agree upon as a transaction for the property.⁷

The Florida Constitution authorizes certain alternatives to the just value standard for specific types of property, in addition to the requirement that working waterfront property be assessed at its current value. Agricultural land, land producing high water recharge to Florida’s aquifers, land used exclusively for noncommercial recreational purposes, and land used for conservation purposes are exceptions that may be assessed solely on the basis of their character or use.⁸ Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.⁹ In addition, the “Save Our Homes” assessment limitation to the Florida Constitution provides a limitation on the amount by which assessments for homesteads may be changed on January 1 of each year,¹⁰ and changes to assessments of non-homestead real property may not exceed 10 percent annually, subject to certain limitations.¹¹ Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character and use.¹² Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.¹³

Section 193.011, F.S., requires the property appraiser to take into account certain factors in arriving at just valuation, including the income of the property.

The Income Approach to Assessment of Property

⁷ *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973)

⁸ Art. VII, sections 4(a) and (b) of the State Constitution.

⁹ Art. VII, section 4(c) of the State Constitution.

¹⁰ Art. VII, section 4(d) of the State Constitution provides that changes in the prior year assessment may not exceed the lesser of three percent or the percent change in the Consumer Price Index.

¹¹ Art. VII, sections 4(g) and (h) of the State Constitution.

¹² Art. VII, section 4(e) of the State Constitution.

¹³ Art. VII, section 4(f) of the State Constitution.

The income approach to property valuation rests upon the premise that property is valuable because it produces income, or may be anticipated to produce income in the future. It looks at real property as one of many kinds of investments available, and recognizes that the demand for income-producing real property is strongly influenced by the return on alternative investments. If interest rates rise or the rate of return on other investments increases, the demand for income-producing real estate will be reduced. The income approach requires the appraiser to estimate the income from a property and capitalize the income into an estimate of current value. It is most suitable for types of property typically purchased and held for the purpose of producing income, such as apartment buildings, retail space, and office buildings. It is difficult to apply to buildings that are integrated into complex business operations and to owner-occupied businesses unless there are comparable leased properties.¹⁴

The income approach is a method of estimating the value of the property, not the value of its current management or the value of a business that is located on the property. Therefore the income considered when using this approach is what would be produced under “typical” management of comparable properties, based on prevailing market conditions. The elements that go into determining net operating income (one measure of market income) include potential gross rent, vacancy rates and bad debts, and operating expenses.¹⁵ The appraiser converts the estimated market income from a property into an estimate of current value by capitalizing it, using a capitalization rate based on market information about the rate of return investors are receiving on similarly-risky investments.¹⁶

What is “capitalization”?

“Capitalization” is a method of converting the income stream produced by an income-producing property into a value and is calculated by dividing the present income of the property by an appropriate rate of return . “Investment property” is real property held by a business for investment potential or in order to earn income by leasing or letting it, rather than for its own use.¹⁷ Capitalization translates a stream of future income into a single present value, based on the quantity and reliability of future income, when the income is to be received, and the duration of the income stream.

A capitalization rate is used to convert the stream of income generated by the property into one lump-sum value by the formula

$$V=I/R,$$

where V is present value, I is income, and R is the capitalization rate. For any given level of income, a higher capitalization rate will yield a lower present value. The capitalization rate used in real estate appraisal includes both a return on and return of investment. Return on investment, called the discount rate, is compensation to the investor for the use of his capital adjusted for associated risks; return of investment, called recapture, is recovery of invested capital. When an appraisal is done for ad valorem assessment purposes it also includes an effective tax rate.¹⁸ The capitalization rate is the sum of these components, and failure to include one or more of them will result in an artificially high present value for the property.

Working Waterfront Tax Preferences in Other States

In 2005, the voters of Maine amended the state constitution by answering affirmatively the following:

¹⁴ Telephone conversation with David Johnson, Seminole County Property Appraiser, August 21, 2009.

¹⁵ The International Association of Assessing Officers, *Property Appraisal and Assessment Administration* (Chicago, 1990), pp. 253-257.

¹⁶ The International Association of Assessing Officers, *Property Appraisal and Assessment Administration* (Chicago, 1990), pp. 83-84.

¹⁷ <http://www.realestateagent.com/real-estate-glossary/Realestate/Income-producing-property.html>

¹⁸ The International Association of Assessing Officers, *Property Appraisal and Assessment Administration*(Chicago, 1990), pp. 267-268.

"Do you favor amending the Constitution of Maine to permit the Legislature to authorize waterfront land used for commercial fishing activities to be assessed based on land's current use in a manner similar to treatment now available for farms, open space and forestland?"

Article IX, Section 8 of the State Constitution of Maine states:

2. Assessment of certain lands based on current use; penalty on change to higher use. The Legislature shall have power to provide for the assessment of the following types of real estate whenever situated in accordance with a valuation based upon the current use thereof and in accordance with such conditions as the Legislature may enact:

- A. Farms and agricultural lands, timberlands and woodlands;
- B. Open space lands which are used for recreation or the enjoyment of scenic natural beauty;
- C. Lands used for game management or wildlife sanctuaries; and
- D. Waterfront land that is used for or that supports commercial fishing activities.

In implementing paragraphs A, B, C and D, the Legislature shall provide that any change of use higher than those set forth in paragraphs A, B, C and D, except when the change is occasioned by a transfer resulting from the exercise or threatened exercise of the power of eminent domain, shall result in the imposition of a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine....

In 2007, the Maine Legislature enacted a new law¹⁹ to provide for current use valuation of working waterfront land. This assessment is limited to a parcel or portion of a parcel of land abutting tidal waters or located in the intertidal zone the use of which is more than 50 percent related to providing access to or in support of the conduct of commercial fishing activities, including commercial aquaculture production. A landowner must apply for taxation under the law, and there is a penalty for removal from Working Waterfront classification.

Maine law states that "(t)he current use value of working waterfront land is the sale price that the parcel would command in the marketplace if it were required to remain in the use currently being made of the parcel as working waterfront land," and provides that the assessor may use one of two methods to determine current use value:

1. Comparative valuation. The assessor may determine the current use value of working waterfront land by considering:
 - A. All excess valuation factors that affect the land's just value;
 - B. The comparative valuation of inland commercial enterprises that are being assessed on the basis of a use that is similar to the use of the working waterfront land with respect to function, access and level of activity; and
 - C. Any other factor that results in a determination of the current use value of the working waterfront land.
2. Alternative valuation. If there is insufficient data to determine the current use value of working waterfront land under subsection 1, the assessor may reduce the ordinary assessed valuation of the land, without regard to permanent protection restrictions and as reduced by the certified ratio, by applying the percentage reductions for which the land is eligible according to the following categories.
 - A. Working waterfront land used predominantly as working waterfront land is eligible for a reduction of 20%.

¹⁹ Title 36 MRSA Subchapter 10-A.

- B. Working waterfront land used primarily as working waterfront land is eligible for a reduction of 10%.
- C. Working waterfront land that is permanently protected from a change in use through deeded restrictions is eligible for the reduction described in paragraph A or B and an additional reduction of 30%.²⁰

The Maine Revenue Service of the Department of Administrative and Financial Services provides additional information about its working waterfront assessment program:

How will the assessor determine what the value of my property is?

There are several tools available to the assessor, but the ultimate goal remains the same; to value the property in a manner which recognizes the sale price that the parcel would command in the marketplace if it were required to remain in the use to which the parcel is currently being made as working waterfront land. The first method is to consider the sales prices of properties which have sold and whose purpose is required to be for that of being working waterfront. Such sales would be those which have deeded restrictions requiring a continued use as working waterfront or sales where the property is located in an area zoned for commercial or working waterfront purposes. Another method is to use a value comparative to the value of non-waterfront land which is currently being used for similar commercial purposes. A third method is to recognize that there are certain factors which may serve to enhance the valuation of most waterfront properties which are not pertinent when considering the valuation of the land as working waterfront. Such factors include but are not limited to aesthetic factors such as views, possible use as residential housing or non-waterfront related commercial uses. Under this methodology, the assessor would exclude from valuation consideration an estimate of value associated with these non-working waterfront related factors to arrive at a proper value as working waterfront.²¹

In 2009 the Maryland Legislature passed a bill²² that authorizes a local government to grant a property tax credit for “marine trade waterfront property.” Marine trade waterfront property is defined as real property that (1) is adjacent to the tidal waters of the State; (2) is used primarily for an activity or business that requires direct access to, or location in, marine waters due to the nature of the activity or business; and (3) for the most recent three-year period, has produced an average annual gross income of at least \$1,000. Marine trade waterfront property includes marinas, boat ramps, boat hauling and repair facilities, fishing facilities, and any other boating facilities; and land that is adjacent to or under improvements used primarily for an activity or business that requires access to, or location in, marine waters due to the nature of the activity or business.

Potential Pros and Cons of Assessment Methods Proposed in 2009

SB 1468, as approved by the Senate, would have required the assessed value of working waterfront property to be calculated using the income approach to value, and using a capitalization rate based upon the debt coverage ratio formula. It provided for the capitalization rate to be calculated and updated annually, and the capitalization rate to be based on data that is county specific unless insufficient data is available, in which case the property appraisers shall use data from counties with similar conditions and characteristics, or data provided by the Department of Revenue. It also provided that the condition and size of the property shall also be taken into account when assessing the property.

This language was intended to provide predictability and uniformity for working waterfront property across the state, but based on a review of the appraisal literature and comments provided by property appraisers²³ the

²⁰ 2007, c. 466, Pt. A, §58 (NEW)

²¹ <http://www.maine.gov/revenue/forms/property/pubs/workingwaterq&a.htm>

²² Senate Bill 644

²³ “We do not believe that the “formula” in the original bill language will be suitable for all types of working waterfront in all counties in all instances. Certainly, it is a valid approach if the “market” information is sufficient. However, in Northwest

assessment method required by this language is inappropriate for many working waterfront situations for the following reasons:

- The income approach is useful for determining the value of investment property, *i.e.*, real property held by a business for investment potential or in order to earn income by leasing or letting it, rather than for that business's own use, which is not the case for many working waterfront properties.
- The income approach is most suitable for types of property typically purchased and held for the purpose of producing income, such as apartment buildings, retail space, and office buildings. Among working waterfront properties, it would appear suitable for marinas that provide rented or leased boat slips but not for other uses, unless there are sufficient leased properties in these other uses.
- Even if the income approach is appropriate to the property, a capitalization rate based upon the debt coverage ratio may not be the best way to determine the property's value. According to appraisal literature, the capitalization rate must include an effective tax rate, a return *on* and a return *of* investment.²⁴ A capitalization rate based solely on debt coverage does not include a return on investment, and may not include the effective tax rate (depending on the terms of the lease) and will result in an artificially low rate (and higher property value).²⁵
- The income approach is not suitable for owner-occupied businesses unless there are comparable leased properties in the same market.
- The language requires the capitalization rate to be based on data that is county specific unless insufficient data is available, in which case the property appraisers shall use data from counties with similar conditions and characteristics, or data provided by the Department of Revenue. For many counties and properties there is not sufficient market information about comparable rental rates, expense rates, and vacancy rates and the Department of Revenue reports that it does not have this information.
- The income approach yields a market value of property, including the potential proceeds from the sale of the property, which may overstate its value in its current use.

HB 825 relied upon the property appraisers' professional judgment, and provided the following requirements for assessment of working waterfront property:

Property classified as working waterfront property under this section shall be assessed solely on the basis of the property's current use. The property appraiser shall consider only the following use factors:

- a. The condition of the property.
 - b. The present market value of the property in its current use for the foreseeable future.
 - c. The income produced by the property.
2. In no event shall the assessed value of the property exceed just value.

While the language that says the property shall be assessed solely on the basis of its current use appears to require the property appraiser to apply the constitutional standard for assessing this property, it was unacceptable to some working waterfront interests who felt that it was not specific enough. They were also concerned that this language would result in too much variation among counties' assessment of working waterfront property.

The compromise language proposed by the Senate eliminates some of the problems inherent in the original Senate and House proposals, but still has some of their shortcomings. It recognizes that the income approach may not be

Florida, "market" (arms-length) rental rates, expense rates, and vacancy rates for waterfront property are scarce.

"The term "market" seems to contradict the implied intent of assessing these "working waterfront" properties on the basis of their respective "current use." In theory and in market practice, an owner would desire a "triple-net" rental rate that provided an acceptable rate of return on the land value at its highest and best use, plus a comparable or higher rate of return on the value of improvements if they constituted the highest and best use of the land "as improved."

Excerpt from a letter dated July 27, 2009, from Chris Jones, Escambia County Property Appraiser

²⁴ The International Association of Assessing Officers, *Property Appraisal and Assessment Administration* (Chicago 1990), p. 267.

²⁵ "(I)n many cases the cap rate calculated by the debt coverage ratio will be lower, thus increasing classified value." E-mail message dated August 20, 2009 from Frank Desguin, Charlotte County Property Appraiser

appropriate for all working waterfront property, but it does not provide any guidance about who determines whether the income approach is appropriate. The language specifies an incorrect method for using the income approach where it is appropriate, and requires data that may not be available.

Options and/or Recommendations

Based on suggestions from representatives of working waterfront industries and property appraisers, and review of assessment standards and methodologies recommended by the International Association of Assessing Officers, working waterfront property should be valued using the income approach if sufficient data are available on market rental rates, expense rates, and vacancy rates, and if the income approach would normally be applied to the property in its current use. The capitalization rate should be based on the debt coverage ratio, adjusted for the percentage of equity multiplied by the equity yield rate and the effective tax rate. If data are not available, or the property is not amenable to appraisal by the income approach, the property appraiser should be required to value the property in a manner which recognizes the sale price that the parcel would command in the marketplace if it were required to remain in its current working waterfront use.