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Land Use Equilibrium
Aligning Private Property Rights and Quality of Life

The State of Florida, including counties and municipalities, is at a crossroads on many levels including land use planning and development. The current planning protocols are not working and the methodology applied to solve the problem is deference to the almighty state. This situation is detrimental to Floridians' quality of life and the quality of life of Floridians' posterity.

The Bundle of Rights
Property Owner Bill of Rights
F.S. 70.002

For better or worse the rights included in a land owner's bundle of rights includes more rights than the singular right to do whatever a land owner wants to do with his or her property. The Property Owner Bill of Rights (Bill), established in FS 70.002 specifically states that the rights addressed in the Bill do not include all of a property owner's rights. Where do we go to identify all of a property owner's rights? The Florida Constitution should, after robust public debate, be amended to specifically define each and every one of a property owner's rights, responsibilities and limitations thereon. It is widely asserted that a property owner owns the right to the quiet enjoyment of his or her property. The right to quiet enjoyment arguably protects one property owner from a neighboring property owner's development right that results in an intrusion on his or her quiet enjoyment of the subject property. Comprehensive Land Use Plan amendments often disrupt the right of quiet enjoyment of neighboring property owners' rights.

- The State of Florida must legislatively, constitutionally and exhaustively establish property owners' rights, responsibilities and limitations thereon.
- Comprehensive Land Use Plans must be updated every two years, not every ten years
- Amendments to Comprehensive Land Use Plans must be prohibited or greatly restricted outside regular two year planning cycles

First in Time, First in Right
The Policy of Avoiding Inefficient Conflicts – The Law of Nuisance
(Nebraska Law review Volume 64:349)

Property owners purchase real property based on existing conditions that are heavily influenced by the land use or zoning ordinances in place at the time of purchase. Comprehensive Land Use Plans are required to be submitted to the State of Florida every ten years. A lot happens in Florida over a ten year period. The financial calculus available to property owners, particularly owners of property currently

designated agricultural, changes dramatically when agricultural land (for example) becomes feasible for alternative development models such as high density, multi-family, government subsidized housing projects. The change in circumstances triggers the application for a land use amendment. One definition of the word nuisance is, "An action or condition that interferes with someone's right to enjoy their property." The vast majority of citizens living in Lake County, FL interpret unnecessary land use amendments granting applicants approval for increased densities to be nuisances.

- The granting of land use amendments in favor of applicants whose projects negatively impact the quiet enjoyment of neighboring property owners' rights is a violation of the neighboring property owners' property rights.

The Purpose of Political Subdivisions

After many years of struggle and futile negotiations between the Crown Colonies and the British Crown the representatives of the Crown Colonies found it necessary to declare independence from the British Crown. The Declaration of Independence was drafted and the world was notified of the colonies' independence. The conflict between cities and counties and the conflict between cities, counties and the State of Florida are much the same today as the Crown Colonies experienced with the British Crown in the 1770's. The State of Florida unabashedly wields its unbridled authority over its subjects for profit while the loyalists and patriots fight it out among themselves locally to determine the most effective way to deal with the tyrannical authoritarians in control of the State of Florida. The loyalists and state leadership lick their chops in preparation for the decadent feast of financial windfalls they impose on the largely unsuspecting commoners while the patriots, relatively few in number and resources, sacrifice their blood, treasure and sacred honor protecting their G-d given rights and cherished quality of life on behalf of themselves and their posterity.

Counties are incorporated as political subdivisions within the State of Florida and cities are incorporated as political subdivisions within the various counties. What are the political lines of demarcation? Given the State of Florida's willingness and apparent desire to control cities' and counties' affairs from Tallahassee, what is the purpose of cities and counties?

Generally, the most common characteristic of government officials is their rabid commitment to growing their organizations' budgets. This compulsion to grow government budgets is the root cause of all political problems. In America, government was created to guarantee the inalienable rights of the people. Providing lavish lists of government services for citizens and **lucrative employment opportunities** for political insiders is not, and never was, the intention of the majority of the founding fathers. The departure, away from volunteer private sector citizen governance to a government of career politicians, is the cause of the derailing of liberty both federally and locally. High density land use projects enormously profit many special interest groups and one must acknowledge that government is a special interest. Profiteering on land use manipulation is pitting neighbor against neighbor and community against community.

The political subdivision known as County must be the final authority over land use and zoning within the county's jurisdiction superseding the State of Florida and municipalities. Land use densities in unincorporated areas of the counties must be capped at an agreed upon density. Development projects calling for densities higher than the county density cap must occur within the geographical boundaries

of incorporated municipalities. Land annexations into municipalities must be approved by the county of jurisdiction. Municipal zoning ordinances must be approved by the Board of County Commissioners. The State of Florida and municipalities must petition and lobby county leadership in order to secure state and municipal development objectives.

Capping allowable densities in unincorporated areas within a county limits the county's ability to raise county funding by approving high density projects in unincorporated jurisdictions and removes many inherent conflicts of interests between city and county governments. County government is responsible for delivering Comprehensive Land Use Plans to state government. City zoning ordinances fall within the geographical jurisdiction of the county and therefore must be harmonious with the county's land use plan and the zoning plans of other municipalities within the county. The county is the best arbiter of land use and zoning across all interested parties within the county and the State of Florida.

The phrase Great State of Florida in this context means Economically Enormous State of Florida. It is unrealistic to ask Florida's legislators and Florida's executive branch officials to walk away from the gigantic self-enrichment schemes that are laid at their feet as a function of their "membership" in the Florida leadership "club". There are no punitive mechanisms in place to prevent state officials from abusing Florida's citizens in order to unjustly enrich themselves. In all of Florida's history there has never been a body of legislators or executors that has restrained itself from self-enrichment to the detriment of Florida's citizens. Past performance is the best indicator of future performance. Unless Floridians clip the wings of their state leaders, state leaders will continue to acquiesce to special interests, in this case developers and development related beneficiaries. County government is best positioned to serve the interests of Florida's citizens and accommodate the state and local requirement for land management planning that advances the economic competitiveness interest and the quality of life interest at both state and local levels. The two objectives, economic prosperity and optimal quality of life go hand in hand. No one likes ugly dysfunctional buildings or communities. Everything built in Florida must be harmonious with aspirational human experience expectations and the laws of nature and nature's G-d. Development projects must be aesthetically beautiful and as cost effective as possible. Affordable housing is a formula, not an entitlement. Boards of County Commissioners must be the visionaries who chart the course for Florida's communities. No other political subdivision is capable of balancing the forces in play in the highly lucrative business of land use planning and real estate development.

- Cap densities in unincorporated areas to an acceptable negotiated density
- Municipal Annexations must be approved by County government
- Municipal Zoning ordinances must be approved by County government
- The State of Florida must be prohibited from usurping authority over land use from city and county governments
- Development projects consisting of densities that exceed the unincorporated area density cap can only be approved in incorporated municipalities

Affordable Housing

The housing market, in all of its manufactured complexity, is the driver behind all things land use and zoning. Housing affordability is a formula, not an entitlement. The way affordable housing is addressed

by government determines whether housing will be more easily affordable in the future or becomes less affordable. Housing is a monstrous industry by virtue of the fact that everyone needs housing. Wall Street became acutely aware of the business opportunities available in the housing market and housing industry related cash flows as a function of the great and unnecessary recession. Wall Street involvement in housing is a major factor affecting housing affordability and attainability influencing both the supply of and demand for housing. Land costs are another major factor that must be included in the calculation of housing affordability. Comprehensive land use plans and zoning ordinances affect the price of land. Let's not pretend that housing affordability quotients are primarily driven by our children's performance in school. The Wall Street marionettists have heavy hands in several of the economic sectors that determine housing affordability. These marionettists are the poster children for the term "Special Interests." Every aspect of land use planning, zoning and every category of land use is greatly influenced by the special interests that is Wall Street including Florida's development community, related industries and government. The State of Florida gets more money per transaction when the median house price is \$500,000 than it receives when the median house price is \$250,000. Everyone is incentivized against affordable housing. Pandering to developers, home builders and related special interests by subsidizing housing and the construction of government subsidized apartment complexes at each and every level exacerbates the problem of housing affordability. That's why politicians insist on controlling elections and the public mindset. When we remove local control over land use and zoning we feed our neighbors to the wolves. Until someone stands up for Johnny Lunch Bucket our communities will continue to decline into ghettos and will become more and more dangerous over time. Deporting illegal aliens does help.

- Corporations consisting of more than ten shareholders must be prohibited from owning residential properties consisting of four dwelling units or less.

Land use planning and zoning is big business. Everyone involved has always known this. This is why local leaders cherry pick planning and zoning board members. Cities exploit annexations as a method for growth and drive density through zoning ordinances. State politicians line their pockets with development related special interest money and personal conflicting interests. County Commissioners are the middle ground between the two alternative competing political subdivisions. County Commissioners, please save the citizens of Florida from the Great State of Florida and those who are willing to harm them for money.

Sincerely,

A handwritten signature in black ink that reads "Michael Levine". The signature is written in a cursive, flowing style with a small flourish at the end.

Mike Levine