

even though he permits the farmer to remain on the land actually farming it, everyone in the neighborhood getting the benefit of the open spaces? Could the State Department of Assessments and Taxation not provide by rule or by regulation that as soon as the farmer who may have farmed the place for 50 or 25 years or less sells it to someone who is in the developing business, that it must be assessed as subdivision property, even though in fact it will continue to be actually farmed and devoted to bona fide agricultural uses until the developer actually, five, ten or 25 years later, devotes it to subdivision purposes?

Could the State Department of Taxation not provide such a rule?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Judge, would you mind restating that question? (*Laughter.*)

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: Let me ask first whether the witness retains the factual situation which predicated this.

DELEGATE CASE: I cannot remember whether that fellow was there for 25 or 50 years. That is the part that got me stumped.

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: I submit, Mr. Chairman, that does not make any difference, and that is my point. If the developer sure enough buys the property in order sometime in the future to develop it so that he can stay in business, and we will suppose a case where he does not want to use it for 10 years, and he either devotes it to a continuing agricultural use or maybe permits the farmer who sold it to him with or without rent to remain on the place and devote it to bona fide farm or agricultural use, could the regulations adopted under this section by the State Department of Assessments and Taxation make the transfer of the property to a developer who is in the building business, regardless of the fact that he continues to use it or someone does, for farm use? Could the assessment be then and there increased under rules and regulations set up under 8.02?

DELEGATE CASE: I think that could be done even without this section.

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: You mean that

if a farmer continues to use his place and does not sell it, that the assessment could be increased?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: I thought your question was when the assignment was made by the farmer to the developer, could the assessment be increased, and my answer is that it could be.

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: In spite of the fact that the land would continue maybe five or ten years more to be used for bona fide farm use?

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: I did not understand the developer would continue the farming.

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: I postulated that.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Then the question would be whether or not the regulations were reasonable or not. I think that each case would have to stand on its own facts. There is no black and white judgment that can be drawn when you have got the General Assembly, either on its own or delegated to an administrative agency, with a set of criteria to be established as to whether a fact exists. You are going to have cases falling on one side of the line or the other side of the line, depending upon the finding of fact of the tribunal. I cannot answer you categorically what a court can decide in any given situation. These fact cases, like evaluation cases, for example, in the tax field, find many different answers which the courts provide, and sometimes, indeed, you must admit that those of us who deal with these subjects know they seem to be inconsistent. But this is true in all fact cases.

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: Well, Delegate Case, just eight years ago a constitutional amendment was put up to the people because our Declaration of Rights prior to that did not permit different land taxes, the way I understand it.

DELEGATE CASE: That is correct.

DELEGATE SYBERT: When the 1959 constitutional amendment was submitted