

WHAT'S THE BIG DEAL ABOUT (NON) AD-VALOREM TAXATION FOR EMS?

(By John Thompson ©, Reprinted from *By-the-Sea Times* of November 23, 2004)

The Town's Fire Administrator, former Broward Fire-Rescue Chief Frank Buchert, hired last year to manage "functional consolidation" of the LBTS Volunteer Fire Department (VFD) with BSO's Fire-Rescue Division, has been more than generous with his time in attempting to answer all our many questions. He has done his best to educate us, also by suggesting ideas that had not even occurred to us.

Last week Chief Buchert pointed out that, were LBTS to terminate its fire-service contract with BSO in favor of an all-volunteer regime, BSO would have to increase the price to the Town of their emergency medical services (EMS). That is because they could no longer "borrow" a paramedic from (fire) Engine 36 at Assumption R.C. Church to supplement the 2-man crew of their EMS ambulance, Rescue 12, whenever there was need for an advance-life-support (ALS) transport to hospital. Since a career-service position fully funded 24/7 costs around \$450,000, our cost of BSO's EMS service would rise from \$882,210 this year to over \$1.3 million. (Of course, our costs for fire suppression would drop by much more than \$450,000.)

Chief Buchert added that he had crunched the numbers and found that since EMS must, by court order, be funded from ad-valorem taxes while our fire service is paid by a special **non**-ad-valorem (flat-rate) assessment, some 1,300 LBTS taxpayers would be paying more for EMS than at present. Since we had urged at budget time that our fire service as well as EMS should be funded from ad valorem taxes, that got us to thinking. According to the latest expert contract study on fire services, there are over 7,000 households in the Town. If Buchert is right and only about 1,300 would be paying more, that means that more than 80 percent of households would be paying the same or **less** under an ad-valorem tax. That only strengthens our conviction that continuing to fund fire service by a flat tax gives "fat cats" huge tax breaks at the expense of a majority of "middle-class families."

That also got us interested in the court order under which EMS must be funded from ad-valorem taxes, while normal fire services may also be funded by **non**-ad-valorem assessments. We found that the "LEXIS" on-line legal data-base is open to us ordinary mortals, as well as to attorneys, and that it contains a great wealth of information. Particularly interesting to us was the fact that after reversing the trial court by insisting on ad valorem funding of EMS, the 4th District Appeals Court wisely asked the Florida Supreme Court to review their finding. While they were at it, to make things as clear as possible, they asked the Supreme Court a direct question requiring only a yes-or-no answer:

"Can a fire rescue program funded by a special assessment use its equipment and personnel to provide emergency medical services for accidents and illnesses...?"

The Florida Supreme Court, quite simply, answered that question "in the negative" – "No!" We found **that** to be extremely interesting because BSO's Engine 36 and its career-service crew of three are clearly funded by the Town's special **non**-ad-valorem assessment. As mentioned above, Engine 36 regularly "loans" one of its paramedics to Med (Rescue) 12, without which Med 12 would not be capable of providing ALS transports under current regulations.

But beyond that, Engine 36 is officially designated as an "ALS Engine", fully staffed and capable of providing the vast majority of EMS services short of transport. In fact, according to the latest consultant report, 856 of 1,100 calls to which Engine 36 responded in 2003 (77.8%) were to EMS rather than "fire" incidents. Only 193 responses were to "fire" calls, but since 25 of those (about 13%) were to business properties, the business community (which comprises much less than 13% of total properties) has been asked to pick up 13% of the bill, **including 13 % of the bill for 856 EMS calls (77.8% of total calls), largely unrelated to commercial properties.** We are clearly not impressed by the leap of logic needed to justify that recommendation by the consultants, later fully accepted by the Commission.

But two findings by the consultants do, we believe, deserve greater attention. On page 10 of their September 2004 Report they argue that "Fire protection services possess a logical relationship to the use and enjoyment of improved property by: (i) protecting the **value** of improvements and structures ... [and] (iii) lowering the **cost** of fire insurance" – a reference to the ISO ratings used to calculate our insurance rates. (Note, however, that it has not been demonstrated that the new "consolidation" will yield any lower ISO rating than could be achieved by the VFD itself, with some additional equipment and procedures.)

If the consultants are correct, and the principal benefits of fire protection services are to **protect property values** and **lower insurance costs**, then equitably the funding of those services should bear some resemblance to values of respective properties and their associated insurance cost, which a flat-rate, **non-ad-valorem** assessment does not do. And the simplest way of doing that (without the need for a \$15,500 consultancy) would be by funding fire services from ad-valorem taxes.

Is it a violation of the Florida Supreme Court decision to use ALS Engine 36 and crew, funded by a special **non-ad-valorem** assessment, to provide EMS, either indirectly (in the case of a paramedic regularly "borrowed" for service on Med 12), or directly by Engine 36 itself (77.8 percent of whose responses in 2003 were to EMS calls)? Not having had the benefit of a fine legal education, we cannot even venture a guess on that! But **it does certainly appear to be something the Town Attorney, along with those other Town officials who have sworn to "support the Constitution of the State of Florida and the ordinances of the Town..." would want to look into.**