

PROTECTING EQUINE RESCUE FROM BEING PUT OUT TO PASTURE: WHETHER RANCHES DEDICATED TO ABUSED, ABANDONED, AND AGING HORSES MAY QUALIFY FOR “AGRICULTURAL” CLASSIFICATIONS UNDER FLORIDA’S GREENBELT LAW

*Michael T. Olexa, Joshua A. Cossey & Katherine Smallwood**

I.	Introduction.....	69
II.	Historical Background of the Florida Greenbelt Law.....	71
III.	Argument	72
	A. The Legislative Intent of the Greenbelt Law Supports the Inclusion of Rescue Ranches.....	72
	B. The Text of the Greenbelt Law Supports Inclusion of Rescue Ranches.....	74
	1. The Primary Purpose Requirement.....	76
	2. Rescue Horse Ranches Exemplify a “Bona Fide Agricultural Purpose”	77
	C. How the Lack of Guidance Regarding Agricultural Classification Defeats the Intent of the Law	82
	D. The Benefits of Applying the Greenbelt Law to Rescue Horse Ranches.....	85
IV.	Conclusion	88

I. INTRODUCTION

In light of recent special sessions,¹ hiring freezes,² lagging real estate markets,³ and numerous articles on greenbelt abuse,⁴ local governments need a

* Michael Olexa, Ph.D., J.D., is a Professor and Director of the University of Florida/Institute of Food and Agricultural Sciences (IFAS) Center for Agricultural and Natural Resource Law; Joshua A. Cossey, J.D., is the Managing Attorney for Sentinel Law, P.A., Jacksonville, Florida; and Katherine Smallwood is a third-year law student at the University of Florida.

1. See Geoff Fox, *Session ‘Entirely About the Budget’ Weatherford Says*, TAMPA TRIB., May 16, 2009, <http://www2.tbo.com/content/2009/may/16/pa-session-entirely-about-the-budget/> (failing to pass landowner related legislation during the recent session).

2. See Rebekah Allen, *Schools Freeze Hiring: District Trying to Lessen Effects of \$5.4 Million in Cuts*, PENSACOLA NEWS J., Jan. 14, 2009, http://www.manatee.k12.fl.us/hot_topics/new

legal adaptation to help ease the tensions between property owners and property appraisers. Despite tensions over property values, Florida's population continues to grow steadily⁵—including Florida's equestrian community.⁶ Florida boasts the third largest horse population in the country, surpassed only by California and Texas.⁷ With an economic impact on gross domestic product of about \$7 billion, and generating over 72,000 jobs, the Florida equestrian industry is a significant agricultural commodity.⁸

s_2009/pnj_1_14_2009.html; Deana Poole, *Officials Ponder Layoffs, Reduced Services After Tax-Cut Vote*, PALM BEACH POST, Jan. 31, 2008, http://findarticles.com/p/news-articles/palm-beach-post/mi_8163/is_20080131/officials-ponder-layoffs-reduced-services/ai_n51983989/.

3. See Jerry W. Jackson, *In Metro Orlando, Even Just-Built Homes Going on Auction Block*, ORLANDO SENTINEL, Mar. 21, 2009, <http://articles.orlandosentinel.com/2009-03-21/news/builders21+1+notice-of-foreclosure-repossession-foreclosure-sale> (explaining a rise in foreclosures and an inability to sell furnished homes); Paul Owers, *Prices Down, Deals Up: Bargain Hunters Continue to Stir Broward County's Market for Existing Homes*, SUNSENTINEL.COM, June 24, 2009, http://articles.sun-sentinel.com/2009-06-24/business/090623021_1_median-price-home-prices-buyers (describing a continued drop in property value).

4. See Josh Hafenbrack, *Proposed Tax Break Has No Cost Estimate: Amendment 4 Offers Incentive to Preserve Land*, SUNSENTINEL.COM, Oct. 20, 2008, http://articles.sun-sentinel.com/2008-10-20/news/0810190131_1_conservation-land-property-taxes-conservation-tax (discussing abuse where developers put a few cows on land to claim the agriculture exemption); Wes Smith, *Mooing Tax Breaks Annoy Appraisers*, ORLANDO SENTINEL, Jan. 29, 2006, http://articles.orlandosentinel.com/2006-01-29/news/CASHCOW29_1_property-appraiser-windermere-county-property (discussing developers who give grazing rights to others in attempt to claim tax exemption); Patrick Whittle, *Greenbelt Stays Loose For Now*, HERALDTRIBUNE.COM, May 14, 2007, <http://www.heraldtribune.com/apps/pbcs.dll/article?AID=/20070514/NEWS/705140366/1017/NEWS0501> (stating legislators charge the greenbelt law is susceptible to abuse by property owners who falsely represent their properties are farms); Patrick Whittle, *Tax Break is a Cash Cow: Local Governments are Losing Millions to the Loophole*, HERALDTRIBUNE.COM, Feb. 11, 2007, <http://www.heraldtribune.com/article/20070211/NEWS/702110455> (discussing individual who planted coconuts to avoid large annual tax bill).

5. In 2000, the United States Census Bureau estimated that Florida's total population was just under sixteen million. U.S. CENSUS BUREAU, FLORIDA FACT SHEET: CENSUS 2000 DEMOGRAPHIC PROFILE HIGHLIGHTS, http://factfinder.census.gov/home/saff/main.html?_lang=en (follow "fact sheet," select "2000," then select "Florida") (last visited Apr. 22, 2011). The Census Bureau's community survey for 2005-2009 estimated Florida's population to be over eighteen million. U.S. CENSUS BUREAU, FLORIDA FACT SHEET: 2005-2009 AMERICAN COMMUNITY SURVEY 5-YEAR ESTIMATES, http://factfinder.census.gov/home/saff/main.html?_lang=en (follow "fact sheet," select "2005-2009," then select "Florida") (last visited Apr. 22, 2011).

6. Press Release, American Horse Council, *Most Comprehensive Horse Study Ever Reveals a Nearly \$40 Billion Impact on the U.S. Economy* (June 28, 2005), *available at* <http://www.floridahorse.com/2005/ahcstudy.html> [hereinafter *Horse Study*] ("[The] horse population in this country has reached 9.2 million.").

7. *Id.* (estimating 500,000 horses in Florida).

8. See *Florida's Horse Industry*, FLORIDA HORSE.COM, <http://www.floridahorse.com/> (last visited Apr. 22, 2011). In fact, Ocala/Marion County has been called the horse capital of the world with more horses than any county in the country. FLA. DEP'T OF AGRIC. AND CONSUMER

Florida's equestrian community is currently experiencing an influx of horse owners and equestrian facilities. This generates opposition within those counties refusing to recognize equestrian property uses as "agricultural." Subject to the restrictions set out in section 193.461 of the Florida Statutes (otherwise known as the Greenbelt Law) only property "used primarily for bona fide agricultural purposes shall be classified agricultural."⁹ This article addresses whether the use of property to board, train, and graze abused, abandoned, and aging horses (referred to throughout this paper as "rescue" horses) should fall under the Greenbelt Law's "agricultural" tax classification. Several points support classifying rescue ranches as "agricultural." The use of property for rescue horse ranches is consistent with the purpose of the Greenbelt Law, and the rescue horse ranches provide other benefits to Florida's communities. While acknowledging the quantitative and qualitative variations in each county's standards and application processes, emphasis is given to substantive criteria and legal precedence of Greenbelt Law as applied to rescue horse ranches.¹⁰

II. HISTORICAL BACKGROUND OF THE FLORIDA GREENBELT LAW

In 1959 the Florida legislature created a separate ad valorem tax classification for agricultural land.¹¹ This legislation effectively converted tax assessments from the traditional fair market appraisals to income valuation derived from the use of the land.¹² The change in property tax assessments was intended to protect and foster the agricultural uses of property.¹³ Without these agricultural assessments, the traditional fair market value of the land would overwhelm the incentive to continue any agricultural production of critical commodities such as timber or staple crops.¹⁴ If landowners' taxes are assessed based on a property's

SERV., THE FLORIDA HORSE INDUSTRY, available at http://www.florida-agriculture.com/pubs/pubform/pdf/Florida_Horse_Industry_Brochure.pdf (last visited Apr. 22, 2011).

9. FLA. STAT. ANN. § 193.461(3)(b) (West Supp. 2011).

10. Rather than delving into hypothetical scenarios of differences in acreage or best management practices, this Article addresses the function of grazing, boarding, and training. The Article does not attempt to rehash or debate the seven factors of "bona fide." See FLA. STAT. ANN. § 193.461(b)(1)(a)-(g) (West Supp. 2011). Nor does this Article address the two-dozen factors for consideration in rule 12D-5.004 of the Florida Administrative Code.

11. FLA. STAT. ANN. § 193.201 (Supp. 1959); see also MICHAEL JACOBSON, UNIV. OF FLA. EXTENSION, UNDERSTANDING COUNTY FOREST PROPERTY VALUE ASSESSMENTS 1 (2003), available at <http://edis.ifas.ufl.edu/pdf/FR/FR02300.pdf> (noting that, in 1959, "the [Florida] legislature saw the need to moderate assessments for agricultural use, including forestry. As a result the 'Greenbelt' law was instituted with the intent to provide taxation on agriculture and forestry land that makes it economically possible to continue such usage.").

12. JACOBSON, *supra* note 11, at 1

13. *Id.* (identifying three reasons for the change).

14. *Id.*

highest and best use, “then it makes economic sense for them to convert rural lands into more intensive and profitable uses.”¹⁵ Given the economic and environmental benefits of agriculture, the legislature saw the need to moderate tax assessments for agricultural use.¹⁶ As a result, the Greenbelt Law was instituted with the intent of increasing the economic feasibility of agricultural operations through a decrease in property tax assessments.¹⁷

III. ARGUMENT

A. *The Legislative Intent of the Greenbelt Law Supports the Inclusion of Rescue Ranches*

Amended nine times in the last decade,¹⁸ the Greenbelt Law is one of the most contested statutes of recent time.¹⁹ Determining whether the Greenbelt Law applies to rescue horse ranches requires consideration of the intent behind the statute, as dictated by the legislature and clarified by the Florida courts. The Greenbelt Law manifests the state government’s declared policy for agriculture to remain a viable component of Florida’s economy.²⁰ The sixty-seven counties, as divisions of the state, are required to implement statutory provisions pursuant to the intent of the legislature, which are enforced by the courts.²¹ The purpose and benefits of rescue horse ranches are consistent with the intended goals of the Greenbelt Law. As the Florida Supreme Court put it, “[t]he reduced taxation for farmland is based on a legislative determination that agriculture cannot reasonably be expected to withstand the tax burden of the highest and best use to which

15. *Id.*

16. FLA. STAT. ANN. § 163.3162(2) (West Supp. 2011); JACOBSEN, *supra* note 11, at 1.

17. JACOBSEN, *supra* note 11, at 1.

18. *See* 2010 Fla. Laws 277 (codified as amended at FLA. STAT. ANN. § 193.461 (West Supp. 2011)); 2008 Fla. Laws 197 (codified as amended at FLA. STAT. § 193.461); 2006 Fla. Laws 45 (codified as amended at FLA. STAT. § 193.461); 2003 Fla. Laws 162, 254 (codified as amended at FLA. STAT. § 193.461); 2002 Fla. Laws 18 (codified as amended at FLA. STAT. § 193.461); 2001 Fla. Laws 279 (codified as amended at FLA. STAT. § 193.461); 2000 Fla. Laws 308 (codified as amended at FLA. STAT. § 193.461).

19. Counties such as Broward and Palm Beach report up to three hundred hearings a year challenging property appraiser assessments. Interview with Jay Sweirs, Property Appraiser, Alachua Cnty. (Sept. 9, 2007). More rural counties, such as Alachua, report between ten and twenty hearings a year. *Id.*

20. *See* FLA. STAT. ANN. § 163.3162(2) (West Supp. 2011) (stating “improvement of agriculture will result in a general benefit to the health, safety, and welfare of the people of the state. It is the purpose of this act to protect reasonable agricultural activities conducted on farm lands from duplicative regulation.”).

21. *See* FLA. CONST. art. VIII, § 1(a), (f), (g) (amended 1998) (describing the division and limited powers of Florida counties).

such land might be put.”²² This principle clearly applies to rescue ranches. These ranches, working to rescue unwanted horses, cannot reasonably be expected to withstand the tax burden placed on the land unless they are given relief under the Greenbelt Law. Rescue ranches must shoulder the cost of food, shelter, and care for horses. These costs lack the traditional markers of profit potential. Yet, these ranches may not receive the preferential tax status given to farms raising, boarding, or breeding wealth-producing horses.

The Florida Legislature has stated that preserving agriculture helps to further several important goals, including (1) preserving the landscape and environmental resources of the state, (2) contributing to increased tourism, and (3) furthering economic self-sufficiency of the people.²³ Including rescue horse ranches under the Greenbelt Law furthers these goals because rescue horse ranches produce the same benefits as horse breeding ranches. First, allowing more ranches to survive, and preventing more intense development in Florida’s scenic rural lands, clearly preserves the landscape and environmental resources of the state. Second, protection of rescue ranches could lead to more tourism for the state. Florida is already the third most populous equine state in the nation.²⁴ Cultivating the growth and protection of the horse community by showing support for rescue ranches could help increase the state’s prestige in the horse community at large, and such an improvement in reputation could lead to increased horse related investment and tourism. Third, the Florida horse industry already generates thousands of jobs and acts as a multi-billion dollar boon to the state’s economy.²⁵ Fostering the growth of rescue horse ranches would provide new opportunities for jobs in the already economically productive horse industry.

Several Florida courts have agreed that the intent, not to mention the text, of the Greenbelt Law supports the inclusion of rescue type activities. In several cases, property appraisers’ decisions to exclude horse-related agricultural operations from inclusion under the Greenbelt Law have been overturned by the courts.²⁶ One example is *Markham v. PPI, Inc.* which addressed whether horse boarding could qualify for agricultural status under the Greenbelt Law.²⁷ In *Markham*, the court determined that “the boarding and training of horses constitute[d] a ‘bona fide agricultural purpose’” under Florida law.²⁸ “PPI applied for an agricultural classification . . . for approximately 115 acres representing [a]

22. *Straughn v. K & K Land Mgmt., Inc.*, 326 So. 2d 421, 424 (Fla. 1976).

23. FLA. STAT. ANN. § 163.3162(2).

24. *Horse Study*, *supra* note 6.

25. *Florida’s Horse Industry*, *supra* note 8.

26. *See, e.g.*, *Markham v. PPI, Inc.*, 843 So. 2d 922, 923 (Fla. Dist. Ct. App. 2003); *Robbins v. Racetrack Training Ctr., Inc.*, 833 So. 2d 306, 310 (Fla. Dist. Ct. App. 2003).

27. *PPI, Inc.*, 843 So. 2d at 923.

28. *Id.*

boarding [and] training area and [a] racing track.”²⁹ The appraiser “denied the request, concluding that the boarding and training of horses was not an agricultural use since it did not lead to the production of an agricultural product.”³⁰ The court disagreed, noting that the definition for “agricultural purpose” included the term livestock.³¹ The court concurred “with the third district’s conclusion that the phrase ‘all forms of farm products and farm production’ contained in section 193.461(5) ‘is not meant to be a limiting phrase but rather a catch-all’ and that the term ‘livestock’ should be given its plain meaning.”³²

The court in *Markham* noted, “‘doubtful language in taxing statutes [generally] should be resolved in favor of the taxpayer,’” but the opposite is true for an unclear exemption—it should be resolved against the taxpayer.³³ The court concluded, however, that there was no need to construe the language of the exemption against the taxpayer because the Greenbelt language was clear, and the rule is inapplicable when the language is not doubtful.³⁴ This strong language from the court offers substantial support for the proposition that horse boarding institutions, including rescue ranches, should be included under the Greenbelt Law. Not only does the legislative history behind the Greenbelt Law support inclusion of rescue ranches, but the text of the law itself does as well.

B. *The Text of the Greenbelt Law Supports Inclusion of Rescue Ranches*

The text of the Greenbelt Law supports the inclusion of rescue horse ranches as an agricultural use. The text of the law states, in its relevant part, that:

(1) The property appraiser shall, on an annual basis, classify for assessment purposes all lands within the county as either agricultural or nonagricultural.

....

(3)(b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term “bona fide agricultural purposes” means good faith commercial agricultural use of the land.

29. *Id.* at 924.

30. *Id.*

31. *Id.* (emphasis omitted) (quoting FLA. STAT. § 193.461 (2001)).

32. *Id.* at 925 (emphasis added) (quoting *Robbins v. Racetrack Training Ctr., Inc.*, 833 So. 2d 306, 309 (Fla. Dist. Ct. App. 2003)).

33. *Id.* (citation omitted) (quoting *Robbins v. Yusem*, 559 So. 2d 1185, 1187-88 (Fla. Dist. Ct. App. 1990)).

34. *Id.*

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors *may* be taken into consideration:

- a. The length of time the land has been so used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
- e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
- f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
- g. Such other factors as may become applicable.

....

(c) The maintenance of a dwelling on part of the lands used for agricultural purposes shall not in itself preclude an agricultural classification.

....

(5) For the purpose of this section, “agricultural purposes” includes, *but is not limited to*, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production.³⁵

Even a brief perusal of the statutory language demonstrates that the text tends towards broad inclusion, rather than narrowness.³⁶ The legislature chose to

35. FLA. STAT. ANN. § 193.461(1), (3), (5) (West Supp. 2011) (emphasis added).

36. *See* FLA. STAT. ANN. § 193.461(3)(b). In fact, the only text in the law mandating a non-agricultural classification reads:

(4)(a) The property appraiser shall reclassify the following lands as nonagricultural:

use inclusive language such as “factors may be taken into consideration” and “includes but is not limited to.”³⁷ The two following subsections of this Article break down the language of the Greenbelt Law into its component parts and analyze the applicability of that language to rescue horse ranches.

1. *The Primary Purpose Requirement*

The first criteria for rescue horse ranches to qualify for agricultural status requires the agricultural use to be the “primary” activity that takes place on the land.³⁸ Although the presence of a house on the part of the land used for agricultural purposes does not itself preclude agricultural classification,³⁹ the land on which the house sits will be excluded from the agricultural classification.⁴⁰ On the remainder of the land, the agricultural use must be the most significant activity and not merely an incidental use.⁴¹ This statutory requirement is often unnecessarily muddled by the consideration of minimum acres, specific commercial unit size, and stocking rate.⁴² Rescue ranches, however, would likely overcome any type of minimum acreage requirement because of the significant space and resources used in housing and caring for multiple horses.

A counter argument to the inclusion of rescue horse ranches under the Greenbelt Law is that the classification would allow any person to place a few broken horses on his or her property and call the site a rescue horse refuge. The simple argument that abuse could occur can be made about almost any change to the law, so this type of conjecture should not be given undue weight. It is not suggested, however, that minimum operation standards be extinguished in making classifications. Tax assessors would still have the responsibility to examine

-
1. Land diverted from an agricultural to a nonagricultural use.
 2. Land no longer being utilized for agricultural purposes.
 3. Land that has been zoned to a nonagricultural use at the request of the owner subsequent to the enactment of this law.

Id. § 193.461(4)(a).

37. *Id.* § 193.461(3)(b), (5).

38. *Id.* § 193.461(3)(b).

39. *Id.* § 193.461(3)(c).

40. *Id.* § 193.461(3)(d). However, the portion of the property containing the dwelling is still eligible for homestead exemption. *See id.*

41. *See* *Walden v. Borden Co.*, 235 So. 2d 300, 302 (Fla. 1970) (holding that the legislative classification of agricultural lands was not intended to give preferential tax treatment to land that accommodated an incidental agricultural use).

42. This is despite the fact that the statute explicitly states that, while size may be a factor in agricultural classification, “a minimum acreage may not be required for agricultural assessment.” FLA. STAT. ANN. § 193.461(3)(b)(1)(d).

the use and confirm that a rescue ranch applying for agricultural classification meets the “primary” requirement of the law.⁴³

2. *Rescue Horse Ranches Exemplify a “Bona Fide Agricultural Purpose”*

The Greenbelt Law also requires that “only lands which are used primarily for bona fide agricultural purposes shall be classified as agricultural.”⁴⁴ The statute, in a somewhat convoluted attempt to define “bona fide agricultural purposes,” provides three different ways to do so: (1) an actual definition of a bona fide agricultural purpose; (2) a list of factors that tax appraisers may take into consideration when determining whether a bona fide agricultural purpose is present; and (3) a non-exhaustive list of examples of agricultural purposes.⁴⁵

Examining the second point, the statute allows appraisers to consider several factors when determining whether an agricultural use is bona fide.⁴⁶ None of the optional factors indicate a reason why rescue ranches should be excluded from the exemption. In fact, the language of the last factor, which allows “[s]uch other factors as may become applicable” to be taken into account, makes it clear that property appraisers are to be given wide discretion in determining the applicability of the exemption.⁴⁷

Under the third point, the Greenbelt Law defines “agricultural purposes” as including but “*not limited to*, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production.”⁴⁸ While this list is broad and inclusive in its general terms, it does not necessarily exclude categories not specifically listed. Courts have ruled, for example, that horses are livestock.⁴⁹ Nor does the statute specifically exclude rescue ranches from consideration. Therefore, using the land to keep livestock, whether for breeding, boarding, training, or for other commercial purposes can be classified as agriculture.⁵⁰ There is also very little discrepancy as to whether horses constitute an agricultural commodity or product.

43. *Id.* § 193.461(3)(b); *see also* *Walden*, 235 So. 2d at 302.

44. FLA. STAT. ANN. § 193.461(3)(b).

45. *Id.* § 193.461(3)(b)(1)(a)-(g), (5).

46. *Id.* § 193.461(3)(b)(1)(a)-(g); *see supra* Part III.B.

47. FLA. STAT. ANN. § 193.461(3)(b)(1)(g).

48. *Id.* § 193.461(5) (emphasis added).

49. *See, e.g.,* *Markham v. PPI, Inc.*, 843 So. 2d 922, 925-26 (Fla. Dist. Ct. App. 2003); *Robbins v. Racetrack Training Ctr., Inc.*, 833 So. 2d 306, 310 (Fla. Dist. Ct. App. 1990).

50. The term livestock does not include greyhound dogs, however, and therefore use of the land for raising or training dogs for racing is not an agricultural use. *See* *St. Petersburg Kennel Club v. Smith*, 662 So. 2d 1270, 1272 (Fla. Dist. Ct. App. 1995). This distinction may stem from a desire to prevent gambling establishments, often associated with greyhound racetracks, from gaining specialized tax treatment. If so, there is certainly no such “vice industry” that would gain from

Aside from the factors and examples listed in the Greenbelt Law, the first point highlights that the law actually defines a “bona fide agricultural purpose” as a “good faith commercial agricultural use of the land.”⁵¹ This language breaks down into three key components: a 1) good faith, 2) commercial, and 3) agricultural use.⁵²

The good faith language simply means that an applicant’s agricultural purpose should “be real, actual, of a genuine nature, [and not] a sham or deception.”⁵³ Opponents of Greenbelt classification for rescue ranches may argue that rescue horse ranches could not offer a good faith effort because their profitability would be limited as compared to stables that board, breed, and train horses or animals. Profit alone, however, does not determine whether an operation is being conducted in good faith.⁵⁴

The commercial requirement may appear to present a major challenge to the inclusion of admittedly non-profit oriented horse rescue operations. However, once the language is examined on a deeper level, it is clear that this requirement does not actually exclude rescue ranches from special tax status under the Greenbelt Law.⁵⁵

Much confusion surrounds the “commercial requirement” component and its use in determining whether an agricultural use of property is, in fact, bona fide. Some property appraisers consider the commercial factor to be an independent criterion, separate from the other requirements present in the statute.⁵⁶ Under this reasoning, a ranch that boards and trains rescued horses would likely need to demonstrate that the use of the land parcel is done with intent to make a profit.⁵⁷

specialized tax treatment for rescue ranches. In fact, the opposite moral argument can be made. *See infra* Part III.D.

51. FLA. STAT. ANN. § 193.461(3)(b).

52. *See id.*

53. *Bystrom v. Union Land Invs., Inc.*, 477 So. 2d 585, 586 (Fla. Dist. Ct. App. 1985).

54. *See id.* at 586-87 (stating that “actual use” is also a requirement in assessing lands used for agricultural purposes); *Fisher v. Schooley*, 371 So. 2d 496, 500 (Fla. Dist. Ct. App. 1979) (quoting *Straughn v. Tuck*, 354 So. 2d 368, 370-71 (Fla. 1978) (“Commercial agricultural use simply adds another factor . . . [i]t does not . . . limit agricultural classification to commercially profitable agricultural operations.”)).

55. *See generally Bystrom*, 477 So. 2d 585 (discussing the language used in the Greenbelt Law).

56. *See, e.g., Agricultural Classification & the Greenbelt Law*, BROWARD CNTY. PROP. APPRAISER (2011), <http://www.bcpa.net/ag.asp> (demonstrating that many authors and appraisers treat “commercial” as a separate requirement, rather than one factor, in the determination as to whether a use is bona fide). *But see* FLA. STAT. ANN. § 193.461(3)(b) (stating that there are three requirements, which are (1) agricultural use, (2) primary use, and (3) a bona fide use, and making the separate requirement interpretation contrary to Florida law).

57. *See Walden v. Tuten*, 347 So. 2d 129, 131 (Fla. Dist. Ct. App. 1977) (stating “[p]rofit motive is a relevant consideration”).

Case law, however, does not support this conclusion. Under Florida law, it is not necessary to have the expectation of meeting the investment costs of the land and realizing a profit overall to be “commercial.”⁵⁸ The statute does not restrict an agricultural classification to only those parcels that are commercially profitable.⁵⁹ While it is not enough to grow fruit or keep a pet cow for pleasure or sport, the use need not generate a return on the investment.⁶⁰ The “commercial” requirement, looking to “profit,” should not be misconstrued as the same “profit” used by the IRS or the Florida Department of Revenue.⁶¹ The question instead is what threshold exists in the determination of a property’s profitability.

In *Gianolio v. Markham*, the court provided a subtle clarification regarding “profitable” and “commercial” in ruling that profit achieved through the use of the land need only suffice to sustain that particular use.⁶² In that case, the property appraiser had concluded that the landowner did not have “a reasonable expectation of meeting investment cost and making a profit, and therefore was not a ‘good faith commercial operation.’”⁶³ The appraiser was relying on *Markham v. Nationwide Development Co.*,⁶⁴ and *Walden v. Tuten*,⁶⁵ to conclude that while the “commercial” factor did not require the landowner to make an actual profit, it did “require a reasonable expectation of meeting investment cost and making a profit.”⁶⁶ However, the court stated that the property appraiser’s “reliance upon those cases [was] misplaced.”⁶⁷

Furthermore, the Florida Supreme Court has gone so far as to state:

Agricultural use is now and has always been the test. ‘Commercial agricultural use’ simply adds another factor, i.e., profit or profit motive, which *may* be considered by the tax assessor in determining whether or not a claimed agricultural use is bona fide. It does not . . . limit agricultural classification to commercially profitable agricultural operations.⁶⁸

58. *Fisher*, 371 So. 2d at 500.

59. FLA. STAT. ANN. § 193.461; *see also* Dep’t of Revenue v. Goembel, 382 So. 2d 783, 786 (Fla. Dist. Ct. App. 1980) (citing *Straughn v. Tuck*, 354 So. 2d 368, 370-71 (Fla. 1977)).

60. *See infra* Part III.C.

61. *See Gianolio v. Markham*, 564 So. 2d 1131, 1135-36 (Fla. Dist. Ct. App. 1990) (stating the Florida Supreme Court expressly disapproved requiring a reasonable expectation of profit).

62. *Id.* at 1136

63. *Id.* at 1135.

64. *Nationwide Development Co.*, 349 So. 2d at 220.

65. *Walden*, 347 So. 2d at 129.

66. *Gianolio*, 564 So. 2d at 1135.

67. *Id.* at 1136.

68. *Straughn v. Tuck*, 354 So. 2d 368, 370-71 (Fla. 1977).

Courts should continue to reject a requirement for a showing of profitability, or even a requirement for showing a return on investment costs.

The third major component of a defined agricultural purpose is that the use must be agricultural in nature. An establishment that trains and boards horses has already succeeded in qualifying as agricultural.⁶⁹ The legislature has recognized agricultural land values are especially sensitive to the severe and catastrophic conditions that arise due to weather, pests, disease, world market conditions, and other factors.⁷⁰ The breeding, training, grazing, or boarding of livestock expose a landowner to these same hazards, which is why rescue horse ranches should be treated as agricultural under the statute.

In *Robbins v. Racetrack Training Center, Inc.*, the Florida Third District Court of Appeals found property used for boarding and training horses fell well within a “bona fide” agricultural use.⁷¹ There, the court made it clear that the statutory phrase, “all forms of farm products and farm production,” was not meant to limit the definition of “agricultural purposes.”⁷² In fact, the *Robbins* Court held that no product production is needed under the statute in order to qualify for the agricultural exemption.⁷³ Clearly, it is no stretch to say rescue ranches constitute a bona fide agricultural endeavor under current Florida law.

While at first glance the boarding and training of rescue horses may strike appraisers as failing to qualify as “commercial” under the “bona fide” requirement of the statute,⁷⁴ it should be clear based on the case law above that a property owner does not need to produce a “farm product” in order to qualify for the exemption. Furthermore, a lack of profit or return on investment costs is not dispositive. An appraiser may still find there is a bona fide agricultural purpose despite the lack of profit or return on investment costs. Despite the precedent to the contrary, however, some may argue that profit is still a relevant factor in the analysis of bona fide agricultural purposes because the “commercial” language was added to the law.⁷⁵

It should be noted that there is the possibility of profit for rescue ranches. In the case of horse boarding and training, some may question what possible profit or revenue could be generated by attending to horses that no one wants.

69. See *Robbins v. Racetrack Training Ctr., Inc.*, 833 So. 2d 306 (Fla. Dist. Ct. App. 2003).

70. See, e.g., STAFF OF ENVTL. & NATURAL RES. COUNCIL, COMM. ON AGRIBUSINESS, 2008-2009 INTERIM PROJECTS: AN ASSESSMENT OF THE DEVELOPMENT AND FINANCING OF THE DEPARTMENT OF TRANSPORTATION’S FIVE-YEAR WORK PROGRAM 3 (Comm. Print 2008) (project proposal recognizing weather, pests, diseases, and other factors endanger agricultural lands).

71. *Robbins*, 833 So. 2d at 310.

72. *Id.* at 309.

73. See *id.* at 309-10.

74. See FLA. STAT. ANN. § 193.461(3)(b) (West Supp. 2011).

75. *Id.*

There are numerous aspects, however, to using the land for the purpose of boarding and training rescue horses.⁷⁶ Interestingly, an appraiser may collect higher taxes from the income generated through horse boarding than other common agricultural uses. Horse boarding properties often have higher appraised values than other agricultural sites, which are usually undeveloped, in addition to having a higher profit margin. In addition, one avenue of profitability is caring for horses that are the beneficiaries of an estate. Florida law permits a person to leave an estate for animals.⁷⁷ In fact, Florida law states that a “trustee may maintain separate accounting records for [certain activities, including] raising . . . animals.”⁷⁸ Therefore, in addition to higher property appraisal values, a horse boarding operation provides additional tax income from estate and trust taxes. Arguing that boarding for aging horses is not commercial in nature may be the equivalent of arguing that nursing homes cannot be considered commercial enterprises.

Another benefit aside from profitability that should be taken into consideration is when boarding facilities open up their ranch for horses left or moved during hurricanes, floods, tornadoes, or other disasters. The Sunshine State Horse Council, for example, provides a searchable database of stables for this exact purpose.⁷⁹ Even if the rescue ranches were unable to derive any income from opening up their properties in these situations, they would still be helping to perform a vital disaster relief service.

76. Examples of profitability for rescue horse ranches are numerous. Horse hair, for example, may be utilized in numerous products. Manure, sold as compost for fertilizer or used in some areas to create ethanol-based fuels, is another important product that could potentially be gained from these organizations. Rescue ranches could also offer horse riding lessons, child confidence training, merchandise, and participation in an after school facility where children could learn to work on farms or stables.

77. FLA. STAT. ANN. § 736.0408 (West 2010). The statute provides that:

(1) A trust may be created to provide for the care of an animal alive during the settlor’s lifetime. The trust terminates on the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor’s lifetime, on the death of the last surviving animal.

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.

Id.

78. *Id.* § 738.403(1), (3)(c).

79. *Hurricane Fire Emergency Equine Evacuation Information*, SUNSHINE STATE HORSE COUNCIL, <http://www.sshc.org/evac/dbinfo.htm> (last visited Apr. 22, 2011).

C. *How the Lack of Guidance Regarding Agricultural Classification Defeats the Intent of the Law*

Despite the case law discussed in Part B of this article,⁸⁰ the Florida Legislature has not seen fit to remove or clarify the application of the Greenbelt Law, as it pertains to horse boarding. While several jurisdictions recognize boarding and training of horses as an agricultural purpose under the Greenbelt Law,⁸¹ others do not consider boarding an agricultural use of property.⁸² Because Florida's counties are free to determine whether horse boarding is an agricultural purpose under the Greenbelt Law, there is a lack of uniformity across counties. For example, one county may consider horses when classifying the activity as agricultural, while no more than three miles away, an adjacent property appraiser may give no consideration to the presence of horses.⁸³

This is not to suggest the property appraisers are to blame for such gross disparities. With dozens of factors drawn into consideration, appraisers may err on the side of caution in their exclusionary actions. Some appraisers suggest there are too many factors and too many vagaries to allow the inclusion of "grey

80. See discussion *supra* Part III.B.

81. See, e.g., *Agricultural Classification & the Greenbelt Law*, *supra* note 56; *Requirements for Agricultural Classification of Lands*, MARION CNTY. PROP. APPRAISER, <http://www.pa.marion.fl.us/agclass.html> (last visited Apr. 22, 2011); *Agricultural Classification*, MARTIN CNTY. PROP. APPRAISER'S OFFICE, http://www.pa.martin.fl.us/index.php?option=com_content&view=article&id=9&Itemid=20 (last visited Apr. 22, 2011) [hereinafter *Agricultural Classification*, MARTIN CNTY.].

82. See, e.g., *Agricultural Classification*, GILCHRIST CNTY. PROP. APPRAISER'S OFFICE (Jan. 2, 2007), <http://www.gcpaonline.net/agap.pdf> (alluding to only breeding as amounting to agricultural classification and requiring three registered mares and ten acre minimum); *Guidelines for Agricultural Classification of Lands*, LAKE CNTY. PROP. APPRAISER OFFICE (July 1, 2010), http://www.lakecopropappr.com/pdfs/Commercial_Agricultural_Requirements_2010.pdf ("An agricultural classification is not normally granted for horses only boarded in a stable.").

83. A good example is the difference between Lake and Marion Counties. Marion is very equine friendly, while Lake does not consider boarding an agricultural use unless there are other agricultural uses on the property. Compare *Requirements for Agricultural Classification of Lands*, *supra* note 81, with *Guidelines for Agricultural Classification of Lands*, *supra* note 82.

areas.”⁸⁴ Many have stated that the legislature needs to provide more direction and less flexibility.⁸⁵

Although the rescue ranches are not uniformly granted agricultural status under the Greenbelt Law, case law and custom shows that this type of classification is far from speculative.⁸⁶ The disparity derives from the manner in which an appraiser’s office formulates specific quantifiers. Two factors that influence the formulation of the quantifiers are the composition or demographics of the county, in relation to the IFAS best management practices for agriculture, and the likelihood that adverse classifications will result in litigation.⁸⁷

Counties such as Alachua only consider property used to breed, board, or train a horse.⁸⁸ The requirements for a horse ranch to qualify as a breeding facility are often very strict and designed to make meeting the requirements impossi-

84. See Ed Havill, Letter to the Editor, *Letter Writers Should Check Their ‘Facts’ Before Writing*, ORLANDO SENTINEL, Aug. 5, 1992, http://articles.orlandosentinel.com/1992-08-05/news/9208050456_1_greenbelt-law-havill-property-appraiser (using conservative adherence to statutory guidelines as a defense to unpopular agricultural exemptions); Stephen Hudak, *Pasture Up for Tax-Break Ruling Today: Developers Hope to Get Agricultural Billing from the County, Over the Appraiser’s Protests*, ORLANDO SENTINEL, Feb. 20, 2007, http://articles.orlandosentinel.com/2007-02-20/news/LAGEXEMPTION20_1_havill-agricultural-classification-property-taxes (providing examples of how the many factors have amounted to a “loophole” for property owners seeking tax breaks).

85. Smith, *supra* note 4 (discussing proposed amendments and legislation to curb abuse).

86. See, e.g., *Schultz v. Love PGI Partners*, 731 So. 2d 1270, 1271-72 (Fla. 1999) (finding that zoned use of land does not determinatively show agricultural use); *Straughn v. Tuck*, 354 So. 2d 368, 370 (Fla. 1978) (concluding that land in its natural and unimproved state is not being used for a bona fide agricultural use); *Straughn v. K & K Land Mgmt.*, 326 So. 2d 421, 424 (Fla. 1976) (stating that land sold for three or more times the agricultural assessment price creates the presumption that the land is not being used for a “good faith agricultural use”); *RH Resorts, Ltd. v. Donegan*, 881 So. 2d 1152, 1153, 1155 (Fla. Dist. Ct. App. 2004) (finding that 230 acres of land was not a bona fide agricultural use because site work had commenced consistent with the development of a golf course); *Markham v. PPI, Inc.*, 843 So. 2d 922, 923 (Fla. Dist. Ct. App. 2003) (holding land used as a boarding and training area for horses is a bona fide agricultural purpose); *Robbins v. Racetrack Training Ctr., Inc.*, 833 So. 2d 306, 310 (Fla. Dist. Ct. App. 2003) (stating land use to board and train horses was an agricultural purpose); *St. Petersburg Kennel Club Inc. v. Smith*, 662 So. 2d 1270, 1272 (Fla. Dist. Ct. App. 1995) (concluding that land used for raising and training greyhound dogs was not an agricultural use of land); *Aitken v. Markham*, 595 So. 2d 159, 161 (Fla. Dist. Ct. App. 1992) (finding land used to breed horses was an agricultural purpose); *St. Joe Paper Co. v. Adkinson*, 400 So. 2d 983, 986 (Fla. Dist. Ct. App. 1981) (holding that beach frontage is not agricultural land and lake frontage is agricultural because it is forested for timber).

87. Many appraisal offices have internal policies that ensure consistency to avoid litigation.

88. See *How Does Property Qualify for Agricultural Classification*, ALACHUA CNTY. PROP. APPRAISER, <http://www.acpafl.org/agclass.html> (last visited Apr. 22, 2011).

ble or economically infeasible.⁸⁹ Many counties establish internal office policies that are designed to ensure consistency. One consistent sentiment amongst property appraisers and numerous property owners is the frustration over the vagueness and interpretability of the hodgepodge of factors meriting consideration in determining whether a specific parcel “qualifies” as either agricultural or non-agricultural land.⁹⁰

Appraisers are not the only victims of the law’s vagueness. Property owners will also suffer from property appraisals as they are often not predictable. Although property owners may choose to challenge the tax determinations, litigation is hardly a perfect solution. Under the current law, a property owner may challenge the appraiser’s classification by showing the decision either: 1) failed to properly consider the statutory criteria set forth in Florida Statute section 193.011 or 2) was arbitrarily based on appraisal practices different from those generally applied to comparable property in the same county.⁹¹ For the challenging party, this is no easy task since

county property appraisers are constitutional officers, entitled to a presumption that their actions are taken in accordance with the law. Assessments of property for ad valorem tax purposes fall under the discretion of the officer, and are presumed correct. . . . [T]he taxpayer challenging the assessment must prove more than a difference of opinion⁹²

Unfortunately, this can become unsolvable for the disgruntled landowner. As we have seen, the statute draws broad lines, granting much discretion to the appraiser. If the challenging landowner must show more than a difference of opinion, he will have a difficult time doing so because the appraiser is granted such broad discretion that any determination is little more than his or her own opinion. The taxpayer would need to show that the appraiser’s determination

89. See *Guidelines for Agricultural Classification of Lands*, *supra* note 82 (requiring “at least three registered brood mares in production, a stallion, or evidence of stud service”); *Agricultural Classification*, MARTIN CNTY., *supra* note 81 (requiring “at least one registered stallion as well as several brood mares”); *Agricultural Classifications*, OKALOOSA CNTY. PROP. APPRAISER, <http://www.qpublic.net/okaloosa/ag.html> (stating at least three mares must be in production annually) (last visited Apr. 22, 2011).

90. Smith, *supra* note 4 (stating appraisers’ hands are tied until legislature closes loopholes); *Proposed Florida 2010 Legislation*, REDGIE TEDDER: FORESTRY AND GREENBELT CONSULTING (Mar. 29, 2010), http://www.teddergreenbeltconsulting.com/Florida_2010_Legislative_Proposals.html (“As the Appraiser Administrator for agricultural property taxation with the Department of Revenue, we saw numerous interpretations of the language and the methodology applied in an effort to comply with the vague language. . . . Ask 10 appraisers what [that] means and you will get a variety of responses. We hope someone will pick up the ball and change a few words to clarify the meaning.”).

91. *In re Steffen v. Turner*, 342 B.R. 861, 871 (Bankr. M.D. Fla. 2006).

92. *Id.* at 865.

was wildly outside of the statutory guidelines.⁹³ The taxpayer must prove this by a preponderance of the evidence.⁹⁴

In sum, the lack of directive from the statute undermines the very intent of the law. The broad language encourages litigation while simultaneously creating a confusing patchwork of county-by-county determinations, leaving many horse owners without answers. It is these very horse owners that the Greenbelt Law was intended to, and should, protect.

D. *The Benefits of Applying the Greenbelt Law to Rescue Horse Ranches*

In addition to complying with the statutory guidelines enumerated by the legislature and courts, assessing rescue horse ranches as “agricultural” offers numerous benefits to both rural and urban communities.

First, by increasing the incentives for these ranches, crimes of animal abuse and neglect will decrease. The killing of animals, as addressed in Chapter 828 of the Florida Statutes, finds “[a]ny person who willfully and unlawfully . . . kills . . . or causes great bodily harm or permanent breeding disability to any [horse]” guilty of a second degree felony.⁹⁵ The care and maintenance of horses is an expensive proposition. In a downward economy, more stories emerge of horse neglect, abuse, and abandonment.⁹⁶ In Florida, one increasing problem from the recession is the release of domesticated horses into the state and national forests, where the animals are starting to band together into small herds.⁹⁷ Many horse owners can no longer afford the upkeep of their animals, but the lack of willing buyers leaves the owners with few alternatives to abandonment. Allowing a tax exemption for rescue ranches allows more of these ranches to survive and prosper, which in turn provides more outlets for horse owners who are overwhelmed by their responsibilities.

When overwhelmed or financially stressed horse owners have nowhere to turn, they may be more likely to abandon or neglect their horses. This leads to more prosecutions under the animal abuse laws. Unfortunately for the counties, the prosecution and enforcement of these laws requires tax dollars, which come from both rural and urban communities.

93. *See id.* at 872.

94. *See id.* at 871-72. If the presumption is not overcome, however, the clear and convincing evidence standard is used. *Id.*

95. FLA. STAT. ANN. § 828.125(1) (West Supp. 2011).

96. Susannah Bryan, *New Coconut Creek Group to Save Abused, Neglected Horses*, THE PALM BEACH POST (Feb. 9, 2010, 4:18 PM), <http://www.palmbeachpost.com/accent/pets/new-coconut-creek-group-to-save-abused-neglected-223780.html>.

97. *See 20 Horses Running Wild in Hialeah, FL: Five More Captured and Brought to Rescue Ranch*, S. FLA. SOC’Y FOR THE PREVENTION OF CRUELTY TO ANIMALS, <http://www.spca-sofla.org/Rescue%20-19-2010/rescue.html> (last visited Apr. 22, 2011).

Second, recovery of abandoned or neglected horses not only restores a damaged good or commodity, but also prevents the mistreatment of animals. Horses, as a commodity, require resources. An owner may be likely to let a useful commodity spoil if limited resources are required to care for a more promising or lucrative commodity. In other words, an owner may not be willing, or able, to dedicate resources to an aging or retired horse if he has other horses that can still generate profit. Instead, the owner will be motivated to dedicate resources to the horses that can help his ranch survive. Facilities established to take in rescue horses have recovered as many as twenty-three animals in a month.⁹⁸ Unfortunately, these facilities are often forced to relocate when developers purchase the land.⁹⁹ Organizations such as the South Florida Society for the Prevention of Cruelty to Animals (SPCA) take in animals from owners unable or unwilling to care for them. Most are starving and neglected but can be restored to health by the South Florida SPCA.¹⁰⁰ Such instances of recovery and restoration allow for the possibility that a rescued horse can become a productive member of the community. Perhaps more importantly, recovery helps prevent the mistreatment of animals by owners who are either not willing or not able to care for the animals.

Rescued horses taken in by rescue ranches may be able to offer important benefits to communities. One benefit, for example, would be the likely boost in the state's reputation as a premiere equine center. Florida is already a big player in the horse industry with the third largest horse population in the nation, surpassing even widely recognized horse centers like Kentucky.¹⁰¹ Arguably, an increase of exposure and prestige in the horse community would lead to more economically productive equine centers for the state.

Rescued horses, housed on rescue ranches, could also provide wonderful community benefits as therapy animals. The positive impact of therapy animals is widely known.¹⁰² Recently, the benefits of hippotherapy, or equine-based ther-

98. See *August 4th Rescue Saves 23 Horses and Donkeys*, S. FLA. SOC'Y FOR THE PROTECTION OF CRUELTY TO ANIMALS, <http://www.sPCA-sofla.org/Archive/default.htm> (last visited Apr. 22, 2011) (noting a single day rescue of twenty three animals).

99. See, e.g., Donna Gehrke-White, *South Florida SPCA Looking for a New Home*, THE MIAMI HERALD (Nov. 26, 2010), <http://www.miamiherald.com/2010/11/26/1944802/south-florida-sPCA-looking-for.html> (noting the South Florida SPCA has had to move its facilities five times since 1992 because the land owners of the properties sold the land to developers).

100. Marian Rizzo, *Hoping to Find a Home: Rescued Horses Relocated from South Florida*, THE STAR BANNER (Oct. 29, 2005, 6:30 AM), <http://www.ocala.com/article/20051029/NEWS/210290346>.

101. Horse Study, *supra* note 6.

102. *The Benefits of Therapeutic Riding*, FORWARD STRIDE, <http://www.forwardstride.org/benefits.html> (last visited Apr. 22, 2011); see also Margaret M. Bass et al., *The Effect of Therapeutic Horseback Riding on Social Functioning in Children with Autism*, 39 J. AUTISM DEV. DISORD. 1261, 1261 (2009).

apy, have been supported by scientific research.¹⁰³ Rescue horse ranches could provide these types of hippotherapy services, whether for the purpose of producing a profit or simply offering a community service.

In addition to the other economic incentives promoting inclusion of rescue ranches under the Greenbelt Law, the sale of horses from entities that are not the breeders of these animals can generate sales taxes.¹⁰⁴ Unlike livestock sold directly from breeders, livestock sold indirectly is not tax exempt,¹⁰⁵ which means that indirect sales open up the possibility of an additional stream of tax revenue for the state government.

In addition to the economic arguments supporting the inclusion of rescue ranches under the Greenbelt Law, there are moral imperatives that lead to the same conclusion. Every day, the numbers of unwanted horses are growing due, in part, to a suffering economy.¹⁰⁶ The problem has gained national attention through the *Time Magazine* story entitled, "The Epidemic of Abandoned Horses."¹⁰⁷ The article reported "nearly 120 starving horses . . . were taken from a ranch of a Central Florida woman who had become overwhelmed by the demands of caring for the rescued animals."¹⁰⁸ Rescue ranches can help to prevent, control, and remedy the abuse, abandonment, and neglect of horses, but they should not be overwhelmed with unmanageable costs from property assessments in addition to the operating costs of boarding rescued horses.

Many horses, furthermore, deserve a restful end after serving critical roles in our society. For example, rescue ranches could board horses that served in the military or law enforcement. After these horses have proudly served their purposes, government agencies must find a landowner willing to care for the horses in old age.¹⁰⁹ While private individuals often take in some veteran horses, the high number of retiring horses, economic troubles, or unsuitable adopters can

103. Press Release, KC Henry, Exec. Director, Horses & Humans Research Found., Benefits of Equine Therapy Substantiated by Washington University Research Team: Hippotherapy is 'Therapy Disguised as Fun' for Children with Cerebral Palsy (June 2008), available at http://www.horsesandhumans.org/WUfinal_press_release.pdf.

104. See FLA. ADMIN. CODE ANN. r. 12A-1.049(1) (2000) (stating livestock sold directly from the breeders are tax-exempt).

105. *Id.*

106. Pat Dawson, *An Epidemic of Abandoned Horses*, TIME, May 28, 2008, <http://www.time.com/time/printout/0,8816,1809950,00.html>.

107. *Id.*

108. *Id.*

109. See Murray Weiss, *NYPD Big's Horse Trading*, NEW YORK POST, June 16, 2008, http://www.nypost.com/f/print/news/item_4L1763rXOLxi6JXuKz5x3O (discussing issues surrounding the awarding of contracts to care for retired horses).

make placement difficult.¹¹⁰ By promoting rescue ranches, the state can create positive “retirement homes” for equine veterans.

IV. CONCLUSION

Horses are an irreplaceable component of our agricultural history and industry. The numerous optional factors mentioned in Florida Statute section 193.461 and Florida Administrative Code rule 12D-5.004 show that no property use instantly qualifies for agricultural tax status.¹¹¹ Property appraisers are required to provide determinations from a hodgepodge of ambiguous factors, leaving appraisals open to costly and needless litigation. While headlines point to instances of Greenbelt misuse and abuse, previous efforts to reform the Greenbelt Law have met stiff opposition.

There is a common joke that everyone comes to Florida to retire. Elderly humans, however, are not the only ones who are in need of a safe and comfortable place to retire. It is clear that horses constitute livestock as defined in the Florida Administrative Code rule 1D-1.003. Little doubt surrounds whether the breeding and boarding of livestock on property may qualify as a “bona-fide primary agricultural” use. Regardless of whether rescue ranches specifically breed horses, generate significant profits, or produce a so-called “farm product,” those properties dedicated to rescue horses should qualify as a primary, bona fide, and agricultural use of the land because under the law and text of the statute, these ranches constitute a valuable agricultural entity.

Furthermore, rescue horse ranches fulfill the legislative and constitutional intent of Florida’s Greenbelt provisions. Careful examination of the law shows that “agricultural” is the most fitting tax classification for rescue horse ranches. These ranches are an efficient and economically sensible alternative to destroying salvageable agricultural commodities. Rescue horse ranches strengthen the equestrian community, create an additional revenue base for municipalities, provide an agricultural benefit to the public, and, perhaps most importantly, foster a humane alternative for all of the potentially useful, yet abused, abandoned, and aging livestock.

110. See Meghan Tierney, *Retired Police Horses Move to Greener Pastures: Park Police Looking for Potential Homes for Future Equine Retirees*, GAZETTE.NET, Dec. 19, 2007, http://www.gazette.net/stories/121907/olnnew205956_32360.shtml (discussing the issues with high numbers of horses retiring at the same time).

111. See FLA. STAT. ANN. § 193.461(3)(b) (West Supp. 2011) (listing the factors to be considered in classification of land as agricultural); FLA. ADMIN. CODE ANN. r. 12D-5.004 (1977) (listing more than a dozen other factors that may become applicable to classification of agricultural lands).

