

**RECREATIONAL AND COMMERCIAL WORKING WATERFRONTS IN
FLORIDA: PERCEPTION OF THE WORKING WATERFRONTS TAX
DEFERRAL PROGRAM**



Prepared for the Florida Department of Community Affairs
Waterfronts Florida Partnership Program and Florida Sea Grant

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This report provides the results of a survey of how current working waterfront property owners perceive the working waterfronts tax deferral program that is outlined in Chapter 2005-157 L.O.F. under Section 14.

I. WORKING WATERFRONTS PROPERTY TAX DEFERRAL PROGRAM

Section 14 of Chapter 2005-157, Laws of Florida establishes a property tax deferral program that would allow working waterfront property owners to defer a portion or all of their property taxes along with interest. Before the tax deferral program could be used by qualifying property owners, the local government responsible for taxing the property must adopt an ordinance that establishes the program, and determine the portion of taxes that may be deferred. However, once a tax deferral ordinance is in place, working waterfront property owners would be able to defer their property taxes as long as a few requirements are met.

First, a tax deferral application must be filed each year with the local tax assessor before any taxes can be deferred. Once the deferral application has been received and accepted, there are a few situations which would cause the working waterfront property owner to lose the ability to claim the deferral. These situations include a change in use, which causes the property to lose its status as a working waterfront, a change in “legal or beneficial ownership” of the property, or if the proper insurance is not maintained for the property. Further, if a deferral has been previously granted and the total amount of deferred taxes, interest, and all other unsatisfied liens on the property exceeds 85% of its assessed value, then the amount which exceeds 85% must be paid annually.

II. WORKING WATERFRONTS TAX DEFERRAL SURVEY

A. Survey Overview

Researchers developed a survey to gain better insight into the individual situations and challenges facing working waterfronts around the state. Working waterfront property owners were located with the assistance of the Florida Department of Community Affairs’ “Waterfronts Florida Program,” and survey responses were attained by in-person interviews, telephone interviews, and through written correspondence. Working waterfront property owners from 8 different counties around the state responded to the survey and gave their perception of the new tax deferral program and the condition of working waterfronts in their communities as well as around the state.

The survey began by asking general questions about the character and location of the working waterfront property, along with the organizational structure and nature of the operations that exist on that property. Working waterfronts ranging from small single employee operations to operations consisting of over 100 employees responded and some have been ongoing for up to 60 years.

The survey then solicits information about property taxes, and gave the working

waterfront property owners an opportunity to describe any changes in taxes that they have observed over the course of their ownership. Respondents were also asked how changes in property taxes, if any, have affected their business or business decisions relating to their working waterfront operations.

Next, respondents were asked to comment on the character of their community and its waterfront, along with any changes they have observed over the course of time spent living in that particular community. Respondents were also asked about the historical significance of working waterfronts in their community, and whether the traditional waterfront land-uses in their community are being displaced by other land-uses.

Finally, after gaining a better understanding of each individual's situation, the respondents were asked whether they would take advantage of the tax deferral program if their local government adopted such an ordinance. The respondents were also asked to comment on how certain changes to the tax deferral program may affect their decision to use the program or not, and also for suggestions on how to protect working waterfronts in Florida.

B. Survey Responses

The survey process was ongoing from February through May of 2006, and fourteen complete and two incomplete responses were attained from the following counties: Brevard, Levy, Manatee, Nassau, Palm Beach, Pinellas, Sarasota, and St. John's. Responses were received from a wide range of commercial and recreational working waterfronts, with about half of the responses coming from each category. Owners of the following working waterfront operations provided input for the survey: marinas, storage facilities, boat repair facilities, waterfront restaurant's with public beach access, shrimp boat fleet owner, shrimp boat dock, boating club, fresh seafood market, fueling facilities, boatyards, sail repair and canvas shop, bait & tackle shop, kayak rental, aquaculture, and a marine supply shop for commercial fishing. Some of the working waterfront property owners surveyed engaged in a combination of the above listed operations.

Every survey response noted an increase in property taxes for their community. This rise in property taxes has had varying affects on different working waterfront operations, and virtually all of the respondents have been forced to adjust their business decisions as a result in order to maintain their current operations. Even with significant property tax increases, in some of the smaller waterfront communities a few respondents maintain a refusal to sell their working waterfront property to residential developers because it is their livelihood. However, many others seem to be waiting until they get the right offer. Other working waterfront property owners have considered seeking a change in their property's land-use classification to allow for condominium development. A shrimp boat dock owner explained that if part of his dock required repairs, he could not afford the repairs, so he would just shut down that portion of the dock. Other working waterfronts were concerned that destructive natural phenomenon such as storms or red tide can compromise an aquaculture crop and make meeting their tax burden virtually impossible.

In addition to concerns over property taxes, working waterfront property owners have noticed dramatic changes in the character of the waterfront areas in their communities over the past few years. Most survey respondents have seen an increase in residential development on the waterfront and noted the displacement of working waterfronts and continuing increases in demand for public access to the water. Additionally, working waterfronts have a lot of historical significance for many communities around the state, especially for some of the smaller areas such as Cedar Key and Fernandina Beach. Respondents in these areas were concerned that the historical working waterfront foundations of their communities are being lost in order to make way for high-value residential development. Others explained that new residents are moving into their communities along the waterfront and are complaining about traditional commercial enterprises that pre-existed their arrival. These new residents moving into some of these waterfront communities have no ties to the area, and have no appreciation for preserving some of the historical land uses that started some of these communities. Yet another common complaint for working waterfront property owners was a noticeable change in the character of the waterfront in their communities, and many felt that it was only a matter of time before all of the working waterfronts have vanished due to the various pressures that they are all facing. Many working waterfront owners commented that their communities were losing their traditional “fishing town” character, and while realizing change will always occur, they still wished to see some of the historic working waterfront-related roots of their communities preserved.

Finally, survey respondents were asked whether they would use the tax deferral program outlined in Chapter 2005-157, Laws of Florida and to comment on the program. While some working waterfront property owners felt that there were certain benefits to the tax deferral program, most felt that it is not a very practical solution to the problems facing working waterfronts in Florida. Only 20% of the respondents said that they would use the tax deferral program if their local government were to adopt it. Some working waterfront owners commented that they have already experienced an increase in debt in large part due to rising property taxes, and are concerned that if they used the tax deferral program, their financial situation would only worsen in the long run. Other comments ranged from “the law doesn’t address the problem” to “why would I put myself into more debt,” “the deferral program is worthless,” and “the law is a waste of everyone’s time.” Many responses were also concerned with the “change in ownership” provision, which if violated would cause all of the taxes and interest to become due. Owners of some of the smaller working waterfronts were concerned that they would not be able to pass their current operation along to a family member after they decide to retire without the family member being required to pay all of the deferred taxes and interest. Therefore, some respondents felt that allowing more flexibility in the “change of ownership” provision might make the deferral program more appealing overall. Working waterfronts that did believe the program would be useful were generally from the larger communities around the state.

The final section of the survey asked respondents to give their suggestions on how to protect working waterfronts and improve recreational access in Florida if they are unsatisfied with the tax deferral program. By far the most common suggestion was to

treat working waterfronts like agriculture for property tax assessment purposes. Many respondents were in favor of this type of treatment because it would allow working waterfront property to be assessed based on its current use or income earning potential rather than fair market value. Another suggestion from the Senate Committee Report was implementing a no-net loss policy for working waterfronts, and in line with this idea one survey suggested a first right of refusal for local governments to allow them the opportunity to purchase waterfront property when it goes up for sale. Other survey respondents opined that tax incentives for recreational waterfront facilities to remain open to the public are necessary to help alleviate the problem of diminishing public access around the state.

III. Conclusion

Florida's recreational and commercial working waterfronts have been declining in numbers all around the state. The current survey of working waterfront owners suggests that this will likely continue unless property tax relief is granted very soon. Shrinking profits and rising taxes are driving many of these working waterfronts out of business, and resulting in the conversion of once public access facilities or water-dependent industries into private docking facilities or residential developments. While having a mix of land uses along the waterfront, including residential, is desirable for many communities, it remains important historically and economically to maintain some of the traditional waterfront land-uses that helped form many waterfront communities around Florida.