Why Research Farm Land Ownership and Values (Part IV)
By Dr. Mason Gaffney

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WHY RESEARCH FARM LAND OWNERSHIP AND VALUES? – Part IV

By Dr. Mason Gaffney, Riverside, CA

(Part I was published in the August 2015 GroundSwell, and Parts II and III were published in the Sept-Oct. 2015 issue.)

IV. On Publicizing Public Land Records

A major concern of this group is how best to access public land records. I yield to no person in admiration of computers, but others speak more eloquently to that. I will rather say a word for the ancient mystery of cartography, computerized of course, but still cartography. It sounds even more ancient if we put values on a map and call it a "cadaster"; and downright spooky to call it a "doomsday book".

Richard Hurd wrote in 1902 that urban land values are characterized by continuity in space, both concentric and axial. Rural land values too vary with mappable location factors like climate, slope, soil, water supply, roads, drainage and so on. Even zoning is locations, whether urban or rural. Here, however, we can identify examples where zoning goes with the person rather than the place, and then mapping is in trouble. When we fall to the depths of Imperial Rome with its ius Italicum which exempted from taxation and various other public servitudes whatever lands were held by Roman potentates, mapping is through. So was Imperial Rome after a few generations of that. So were Louis *XVI* and Czar Nicholas II. Would America withstand it better?

The usefulness of cadasters presupposes a social psychology of objectivity about land, a cultural heritage from before the 16th Amendment with its *in personam* approach to public finance. The ancient thought was that land value is based on the highest bid, not the personal circumstances of the present holder; and that adjacent lands are normally close substitutes. It was even thought that lot lines are or should be fluid enough in an active market so that assessors could presuppose optimal sizes and shapes and, by valuing accordingly, make the supposition come true.

Subdivision and assembly were accepted not as extraordinary traumas and crises but as ordinary heaving and squirming and wrestling in the quest for economic optimality. Perhaps I romanticize the past, but it would be hard to imagine a Richard Hurd or Frederick Babcock writing today, for the trade, in their quasi-scientific mood and tone, calm and objective without hysteria or misanthropy. Today it would be centered on tax avoidance, the secrets of operating from Curacao, which partner gets the depreciation, how you can profit from the impending tsunami, and so on.

But if we could rise above such obsessions we would find that maps based on the square foot or front foot are the quickest, easiest way to give everyone easy access to public records. I have several such maps on file and they tell more on less paper than almost anything known to man.

More important, such maps are a valuable tool of assessment. No one should be allowed to assess land without one. A unit land value when pinpointed on a map is spread around and multiplied into information relevant to other unit values around a wide radius, and the cumulative value of several hundred such points is overwhelming. That presumes that the unit value has been duly standardized to correct for parcel idiosyncracies, a mystery within the expertise of assessors. Then the map makes the most of all sales information.

As to land records, the clear implication of mapping is that the primary unit for records should be the location on the map, rather than "parcels" based on ownership . Parcel records are needed too, but they are a shoddy sort of primary reference. Maps are inclusive and unambiguous and constant; parcels are none of the above.

Square feet are forever. So are base lines and meridians, townships, ranges, sections, and grids within sections. Meantime parcels come and parcels go like shifting sands. Here is a current case I had to learn by heart with more than an academic interest.

"C", a developer, spotted the empty interior of an oversized block. The land is in the back halves of eight long, narrow "bowling alley" lots, seven of which have houses on their fronts. Over some time C acquired the backs of the seven, and all of the eighth for street access. Five of the seven are encumbered to the sellers (C is quite a talker). Title is in HS I-td., with C as general partner.

C then planned a unit development with 70 condos, went to public hearing and got a Certificate of Compliance (COC) under the California Subdivison Map Act. Needing more cash in a hurry (they always do) he offered the three unencumbered parcels to X, an individual lender, to secure a note. The Title Company duly advised X in an addendum that, although X could foreclose on his three parcels, he could never use them without severing them from the whole.

X went to W in City Planning to see what this might involve. W pointed out that it would require a new COC, a new public hearing, a new Council vote, and a requirement of providing access to the five landlocked parcels which might now have separate owners. Mr. S, X's lawyer, grumbled "It could get nasty" and advised keeping out.

C then offered X a deed of trust covering all eight parcels to secure the note. It would be a second on five and a first on three. In the event of default X could conserve the plottage so laboriously assembled by C by assuming payments on the five senior notes. What X decided to do is anticlimactic here. The point is that parts of eight parcels were joined into a new one, which is to be turned into 70. The original eight will still exist but seven have been split, making fifteen. Five of the subject eight are separately encumbered and continue as separate parcels on title records. (continued on page 8)

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Tax bills continue coming on each of the eight parcels, for tax parcels do not adapt to Subdivision Map Act parcels. Each deed presented for recording must have an assessor's parcel number and a title search. The Title Company moves in a different world than City Planning. X hasn't talked to the assessor yet but that may be a third world or a fourth, I am losing count.

That is what happens if everything goes as planned. If C should suffer from cardiac arrest, bankruptcy or burnout or dissolution of partnership then, as S warned, things could get nasty. Nasty or as planned, the parcel picture is undecipherable without a map-based unit of assessment, and unnecessary with one. Don't miss the next lesson -- we're going to do strata titles.

Meantime the block and the map under all this roiling and shuffling rest unvexed and unchanged. But it is doubtful if the sum of parcel records at any time is or could be made to yield up a fair record of the block. The parcel is a disorderly and unsystematic basis for land records.

A parcel boundary is an artifact, more comparable to a building than to land itself. To rule otherwise is to relieve individuals of responsibility for the matter and treat lot lines as Acts of God or government, neither of which acts in the matter of unrealized plottage. I sympathize with landholders afflicted by difficult neighbors and tricky plottage problems, but that's real estate. We cannot have a system work without responsibility.

A parcel-based system may not be comprehensive, either. Some parcels have no surveyed boundaries. Some lands are not listed at all until discovered by analysis of aerial photographs. There is an *in personam* quality about 'parcel listing that denies the *in rem* character of land registry and taxation, and was so used deliberately by the ancient Romans and the French of the *ancien regime* who exempted lands held by potentates'. We have to wonder, too, about the effects of separate (but equal?) white and colored assessment rolls used not long ago in some southeastern jurisdictions.

Who could oppose a splendid idea like mapping? Resistance to mapping springs, logically enough, from slower-adapting landholders in zones of dynamic change. It is part of the eternal struggle of Abel the shepherd against Cain the tiller; of cowboys against homesteaders; of timbermen against nesters and recreationists; of small-grain growers against irrigators; of growers against city subdividers; of single-family residents against apartment builders; of all residents against office builders. We all know of assessors who routinely screen out land sales at high values for use as comparables in such areas, responding to such pressures. Whenever density rises misanthropy flourishes. A few empty beer cans is all it takes, and I don't like them either.

But here we meet one of those ironies and anomalie's of the human tragicomedy where resistance to a perceived problem is itself the problem.

Recall my earlier comment about markets that rise irrationally high. Were the assessor to share the madness of the crowd in such times he would not reinforce it but shower it with cold water, a statement that no other participant can make. The fast-moving tax assessor is a sobering, equilibrating force.

The analogy is nearly perfect between the above excesses in time, and the spatial excesses of urban sprawl and other sprawling margins of supersession. The quicker the assessor follows the peripheral market forces outwards the quicker will he motivate land sellers to meet the outthrusting demand and the shorter it will travel outwards before being soaked up by supply. It is almost that simple. Higher assessments and resulting cash drains are what turn holdout speculators into motivated sellers and move the market. Thus the opponents of sprawl, by holding down land taxes and encouraging holdouts in ripe areas become the major cause of sprawl as they send it coursing out beyond them to the next eligible area, where the same performance may repeat, until settlers finally find a home 50 miles or more from where they work and/or want to live.

Thus we need not apologize for using cadastral maps as assessment tools, provided we do so reasonably near the center of demand. At the periphery of demand we might do better to avoid this kind of assessment. At locations in between it becomes a matter of judgment in each case where reasonable people can and do differ.

Of course we can still use maps for organizing land data, in all areas. But to be realistic we should remember the kamikaze behavior of the 1909 House of Lords when faced with a valuation of land. The French have a word for it. The verb *percevoir* has two meanings: to perceive; and to collect taxes. So let us not imagine that when we go about merely perceiving things we are not influencing policy. How then should we perceive these things? I have made my own preferences reasonably evident. What are yours?

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