Chapter 4: Public Restrictions on Ownership

Four basic powers of government over real property
- Taxation
- Escheat
- Eminent domain
- Police power

Property Tax - Ad Valorem Tax
- The property tax is an “ad valorem” tax, which means that it is levied in proportion to the value of the property.
- Property taxes are expressed in millage rates, where one mill is equal to $1 of tax per $1,000 of value
- Some jurisdictions choose to tax only a portion of a property’s market value and therefore multiply the market value of each property by an assessment ratio.
- Additionally, some jurisdictions exempt a portion of some properties’ value from taxation. For example, the first $25,000 of the value of homestead properties (residences of the property owners) in Florida is exempt from taxation.
- The tax bill for a property with a market value of $120,000 in a jurisdiction that assesses a millage rate of 25 mills on 40% of a property’s market value and permits a exemption of $2,500 for this type of property is calculated as follows:

<table>
<thead>
<tr>
<th>Market Value</th>
<th>$120,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>multiplied by Assessment Ratio</td>
<td>x .40</td>
</tr>
<tr>
<td>equals Assessed Value</td>
<td>$48,000</td>
</tr>
<tr>
<td>minus Exemptions (if any)</td>
<td>-$2,500</td>
</tr>
<tr>
<td>equals Taxable Value</td>
<td>$45,500</td>
</tr>
<tr>
<td>divided by 1000</td>
<td>÷1000</td>
</tr>
<tr>
<td>times Millage Rate</td>
<td>x 25</td>
</tr>
<tr>
<td>equals Property Tax</td>
<td>$1,137.50</td>
</tr>
</tbody>
</table>

Administering the Property Tax
- The first step in the process is to estimate the market value for all properties within the jurisdiction.
  o All properties (and their owners) must be identified.
  o The value of all properties must be estimated.
- The second step in the process is to develop of a budget and tax rate.
  o The budget is determined by the appropriate government officials based on the costs of providing government services to the community (police and fire protection, schools, libraries, street, etc.)
  o Dividing the budget amount by the tax digest (total value of properties in the jurisdiction) yields the tax rate necessary to generate the budget amount.
- The third step in the process is to bill the property owners and collect the taxes.
See the Real Estate Today Feature “Mechanics of the Property Tax Certificate Market in Florida” on page 65 to see how tax collections are enforced.

Power of Escheat – government’s right to acquire ownership of land when the landowner dies without an heir or a valid will

Power of Eminent Domain - right of the government to take private property for public use upon the payment of just compensation
- Use must be a valid public use.
- Property owner must be compensated fairly.
- If a property owner feels the value of his/her property has been destroyed by governmental regulation (even if the property was not taken from the owner), the owner can pursue an “inverse condemnation” lawsuit against the government to attempt to collect compensation. See the Real Estate Today Feature “The Supreme Court Grapples with the ‘Takings Issue’” on pages 83-86.

Police Power - power to regulate use of private property to protect public health, safety, morals and general welfare
- Land uses are interdependent, meaning that the way one property is used affects other nearby properties. To protect public health, safety, morals and general welfare with respect to real estate issues, the government enacts a variety of land use control measures.
- To manage the development and operation of urban areas, many local governments have formulated and adopted a “comprehensive general plan.” Such plans typically include:
  o An analysis of projected economic development
  o The transportation plan to provide for necessary circulation
  o A public-facilities plan that identifies such needed facilities as schools, parks, civic centers, water and sewage disposal plants
  o A land-use plan
  o An official map

Implementing the Comprehensive Plan

Comprehensive zoning – division of a community’s land into districts to regulate the use of land and buildings and the intensity of various uses
- Type of use – residential, commercial, industrial categories
- Intensity of use - developmental density
  o Height and bulk limitations
  o Bulk regulations
  o Floor-area ratio
  o Minimum lot size and setback regulations

Zoning changes must be accomplished through legislative, administrative, or judicial means.
- Legislative relief
- Administrative relief
- Variances
- Special use permits
- Judicial relief

Nonconforming Uses – a use that was legal in the past but not longer complies with current land use controls

Building Codes - establish standards for new construction and renovations

Subdivision Regulations - establish standards for subdivision of land

Subdivision Approval Process
- Preapplication conference
- Approval of the preliminary plat
- Approval of the final plat

Mandatory Dedication - required dedication of land for public purposes

Impact Fees - assessments on new development for public facilities

Innovative Land-use Control Methods
- Planned unit development
- Performance zoning
- Incentive zoning
- Transfer of development rights