

## **Jim Crow is Alive and Well in Calvert County**

In 1966, the United States Supreme Court [Harper v. Virginia Board of Elections] abolished the practice of using poll taxes to disenfranchise racial minorities and the poor. Poll taxes, certain prequalification tests, and literacy tests, pay to vote schemes are all forms of Jim Crow laws. Jim Crow laws often take on cloaks of legitimate local law using a seemingly infinite variety of creative mechanisms to accomplish the task of controlling the ballot boxes in local elections by establishing mechanisms that deny certain populations their right of franchise. These laws are especially effective against the poor and play havoc on the tax payer's rights of due process. There exists a long and clear line of case law striking these offensive local public laws down.

Calvert County operates two special taxing districts under Local Public Law, Title 4 which is unique to Calvert County as passed by the Maryland General Assembly. The language of Title 4 and the application of a County ordinance creating the Special Taxing District for Chesapeake Ranch Estates and its companion ordinance defer due process to the mechanisms of the bylaws of the home owners association. That "due process" implied by Mr. Demedis in his testimony is the voting process which decides the election of the management board in each of these organizations and any referenda or bylaw change that may be presented. Calvert County incorporates the bylaws by assigning the petition right to the HOA instead of the property owners. The County has long opined that constitutional due process in the matters of taxation are satisfied by the application of these bylaws.

In a case brought in the Circuit Court of Calvert County, Calvert County Attorney Demedis said: "The other point I wanted to make was I don't think due process requires that the people in this subdivision be given the opportunity to vote as to whether or not their board of directors makes the petition. They have the power to vote them out if they want." [Transcript of hearing case # C-09-706, pg M-23,M-24, April 8, 2010]

Mr. Demedis remarks in the transcript of the above hearing clarifies that Local Public Law Title 4 and its companion ordinance for the Special Taxing District of Chesapeake Ranch Estates rely entirely on bylaws of the Property Owner's Association of Chesapeake Ranch Estates to provide "due process" with respect to the property owner's right to have a voice or appellate right in this tax district. This is clearly true because without the HOA bylaws there is no process at all provided for in Title 4 and it never would have passed legislative review.

The bylaws of the Property Owners Association of Chesapeake Ranch Estates (POACRE) contain a provision that requires that all fees, fines, dues, or other accounts held owing be paid before the property owner can vote in any election or referenda. It is also a fact that at the time of any election of board members, there is a large volume of unpaid fees which bar a significant number of property owners from voting.

It is also a fact that at the time the current Board of Directors was installed the issue of the STD was assumed to be behind us creating an illusion that the board being elected would not be an

STD issues Board. That illusion was created by the BOCC's delay in approval/disapproval of the former petition which was ultimately extended for one year. But not until after the right Board of Directors was installed.

Where the bylaws of the POACRE are incorporated by reference or practice in the scheme of taxation they are Jim Crow law through and through designed not just to be racist, but more pointedly they deny the less advantaged the right to vote. It does not matter if that was not the intent. Notwithstanding intent, it is the result. The County government is well aware of this and yet continues the practice, therefore it is THEIR intent to maintain Jim Crow.

The cure for this offense is simple: The County could hold a special referendum on the special tax district to allow the tax paying property owners the exercise of their elective franchise. This would allow the HOA to keep their bylaws intact and their election process to remain disgustingly offensive. OR, the Board of County Commissioners could suspend the Special Taxing District pending an amendment of the HOA bylaws removing the offensive language. Given that there is an approximate \$4 million in suspense and another several million to be collected over the next 5 year cycle, it doesn't seem to be too much to ask to be allowed our rightful due process.

On May 14, the Board of County Commissioners will hold a hearing on the renewal of the Special Taxing District for another 5 year cycle. The petition for this rendition was not advanced by the body of tax paying property owners but by the 5 individuals that sit on the POACRE board. The less advantaged property owners of the community were not allowed to vote in any election that placed these people in their seats of power and to submit the request for the continuation of the tax district. The BOCC has boldly endorsed this tax district and have clearly showed their intention to continue it despite any result of the hearing process.

Does the BOCC wish to continue its complicity of incorporation of Jim Crow into their taxation scheme? We will know in a few short weeks.

George Hanson