

how assessors can deal with the term exclusively. Because my time is limited, I won't go into the details of that. But I want to ask Senator Warner a question, and as I stated when I first began, I'm trying to get some kind of history before us. Senator Warner, are you saying that if, at some point in the future, the Legislature could be prevailed upon to allow a definition of agricultural and horticultural, which would include an activity that produces more income than the agricultural use of that land, that land could still, because of the legislative definition, qualify for the preferential agricultural treatment for purposes of taxation?

SENATOR WARNER: Not...I can't think of a circumstance where you could use property for a nonagricultural purpose without changing the zoning. In that case it wouldn't have a use...a value.

SENATOR CHAMBERS: Would the zoning be...excuse me. The zoning is a matter of, not Constitution, but county or city, or even the state.

SENATOR WARNER: Well, that's true, except zoning cannot be arbitrary or capricious. Just as any other law, you have to have a rational, more than just a rational, local government has to have a rational plan under which their zoning is based. They can't just arbitrarily and capriciously do it.

SENATOR CHAMBERS: But, Senator Warner, has the Legislature enacted legislation for the purpose of granting exemptions which it presumed were rational and not arbitrary, which subsequently were struck down by the courts, but prior to being stricken down, certain economic activities had occurred which created complications?

SENATOR WARNER: Not in the area of real estate, that I'm aware of, other than you're talking about the general ag land, which was in conflict, because of the special legislation, right.

SENATOR CHAMBERS: Well, let's talk about that LB 1 and LB 7, was that the other one, were there classifications that were determined not to be rational?

SENATOR WARNER: Classification on LB 7 dealt with personal property as opposed to real property.