5/9/07

Comments in opposition to HB # 4642
Committee on Agriculture

I am convinced this bill has more to do with its prospective application than any assertion as to the validity of unrecorded pre-1956 easements on file in a Drain Commissioners office. It is instead the vexatious use to which Sec. 6 can serve as a claim of Quiet Title to an unrecorded easement for its proposed use in conjunction with "petitioned" projects. The most significant change from current Sec. 6 is found where an open-ended emphasis from past to present tense is given to the meaning of "intrests in property" as an easement. As you are aware intrests in property that affect Taxpayer/Landowners include those intrests a landowner ought to remain capable of possessing, asserting, or defending. Examples are: the expectation that one might reciere fair market value for property prior to any eventual Condemnation for a specific project ROW, or whether "standing" is afforded a plantiff in a court to defend an intrest to clean water stemming from ownership of riparian land, erosion of this States Public Trust doctrine, or even the expectation that current local zoning will remain applicable to you or me. Further it should be recognized that as a general rule that the period for a claim of prescriptiv easement corresponds by analogy to The Statutes of Limitations. So if this committee is to provide for the rights of a landowner to defend their intrests in property against the claim of evidence in a Drain Commissioner's office - evidence that appears nowhere in the Register of Deeds because it may be incapable of being discerned from a project description ~~only~~ rather than on a tract by tract basis — is not notice to anyone and this committee should re-conside support for this bill.

William B. Bishop