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Incline area taxpayers demand justice

Guest column

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Special to the Bonanza

Consider this: A lakefront property in Incline Village is assessed $74,000 in annual property taxes. Meanwhile, to the south in Douglas County, another very similar lakefront property with a slightly higher total market value is assessed only $18,000. This is not make believe, it is fact. This type of inequality in tax assessment between Washoe and Douglas Tahoe properties has existed for years, and is not just limited to lake front homes.

The problem began in 1981 when the Legislature enacted our current property tax system. Under the constitutional requirement for "uniform and equal assessment and taxation," the Nevada Tax Commission was supposed to establish a detailed code of assessment rules to be applied uniformly throughout the state. But the Tax Commission chose instead to leave it up to the different county assessors, as to how they were going to apply the new system. As a result different assessors made up their own assessment standards and applied their own methods, as they saw fit.

Different assessment methods can produce different levels of value for the same type of property. The magnitude of the inequity between Douglas and Washoe assessments in Tahoe is living proof of what such differences can produce over time.

Several years ago the Village League became aware of this huge inequity and brought it to the attention of the State Board of Equalization, which is required by law to handle unequal assessments between different counties.

The only standard applied by state tax officials for decades has been whether an assessment exceeds the total market value of a property. Under such a standard, it doesn't matter whether one county is assessed at 50 percent of total market value, while another is assessed at 75 percent of market value — as long as the assessments are below total market value.

Accordingly, many taxpayers such as those of us in Incline/Crystal Bay have been forced to endure excessive tax burdens compared to others. Yet, because the assessments do not exceed their total market value, taxation officials consider them "undervalued." They have even gone so far as to label refunds for our excessive and unequal taxes a "windfall."

Needless to say, the state board ignored our claim, so we took the matter to court. Last week we received the latest in a series of decisions on all of these issues by the Supreme Court:

(1) In 2006 the Bakst decision held that assessors may use only those specific methods approved for uniform, statewide use in Tax Commission regulations.

(2) In the 2008 Barta decision, the court ruled that assessments made by nonuniform methods are unconstitutional regardless of whether total market value is exceeded.

(3) In the 2008 Village League decision the court upheld the county board's 2006 action equalizing all 9,000 Incline/Crystal Bay assessments to the remedy ordered by the courts in Bakst.

(4) In a recent decision, the Supreme Court ruled that the unequal taxation between Douglas and Washoe was a valid claim that must be resolved.

All of this should be enough to convince anyone with an IQ greater than that of a vegetable as to what is the right thing to do: everyone in Incline/Crystal Bay must receive the same remedy for the unconstitutional and excessive taxation. So why does the county still refuse to do it? Are we to assume that they just don't get it?

Not a chance! The truth is, they just don't want to pay back the money. It's really not so much an issue about the assessment values anymore. Even Assessor Josh Wilson has been helpful and has expressed an interest in resolving this matter. It is the County Commission, the District Attorney and other county officials who are just not willing to let go of the money and return it to the taxpayers from whom it was taken illegally.

Sure, times are tough and government at all levels has been forced to cut back. But the validity of an assessment must be based on assessment rules, not on a county's need for money. Local government's financial concerns do not and should not ever supersede guaranteed constitutional rights. And, by the way, times are tough on taxpayers, too.

All residential property in Incline Village was subjected to the unconstitutional assessment. Therefore, justice demands that everyone affected — all 9,000 parcels — must receive the proper refunds, not just a few hundred, but everyone! The courts know this. The county and state know this, as well. We all know exactly what justice demands.

We are profoundly troubled by the behavior of county and state officials. Interest on the tax repayments grows at $12,000 daily. Liabilities increase with each additional lawsuit we must bring. The longer they delay the more they damage the county and the credibility of government. Justice should be the common goal for all of us, and we can not in good conscience settle for anything less.

Les Barta is an Incline Village and board member of the Village League to Save Incline Assets.

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Background to the Four Supreme Court Rulings

(not publish in the LT Bonanza newspaper)

(1) In 2006 the Bakst decision held that assessors may use only those specific methods approved for uniform, statewide use in Tax Commission regulations.

> "We note that the legislative amendments to NRS 361.260(7) remove any argument that an assessor might make in the future that he or she could select appraisal methods that have not been **expressly approved** in regulations adopted by the Nevada Tax Commission." (emphasis added) Bakst 1409, footnote 13.
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> "The rule thus enunciated requires county assessors to apply **only those valuation methodologies set forth in regulations adopted by the Nevada Tax Commission** for use throughout the state, ensuring that taxpayers' properties are uniformly assessed and taxed." (emphasis added) Barta p.20.

(2) In the 2008 Barta decision, the Court ruled that assessments made by nonuniform methods are unconstitutional regardless of whether total market value is exceeded.

> "We conclude, as we stated in Bakst, that a property value determined using unconstitutional, nonuniform methods is necessarily unjust and inequitable. Thus, because the methods used to value a taxpayer's property are a material consideration in determining whether the property was justly and equitably valued, a taxpayer may challenge an assessment based on the use of unconstitutional methods even if the assessment does not exceed full cash value." Barta, P.5
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> "Nevada's Constitution guarantees 'a uniform and equal rate of taxation.' That guarantee of equality should be the boards of equalization's predominant concern, and that concern is not satisfied by merely ensuring that a property's taxable value does not exceed its full cash value." Barta p.22; also pp.18-22.

(3) In the 2008 Village League decision the Court upheld the County Board's 2006 action equalizing all 9000 Incline / Crystal Bay assessments to the remedy ordered by the Courts in Bakst.

> "NAC 361.624 places a duty on county boards to equalize within a geographic area."
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> ...The [County Board's] equalization decision was affected by this court's opinion in Bakst because the 300 properties' value reductions were based on the reasoning of the district court order in the Bakst case. Village League, pp.16-17.

(4) In last week's decision the Supreme Court ruled that the unequal taxation between Douglas and Washoe was a valid claim that must be resolved.

> "...insofar as Village League alleged that the State Board failed to perform an act required by law and sought an order **directing** that act's performance, such was appropriately raised in its district court complaint." March 19, 2009 Supreme Court order case No. 43441, p.7.