

Illegal taxes

letters to the editor

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Incline Village

January 31, 2007

Last week Washoe County manager Katy Singlaub offered us the county's rendition of where we stand with the property tax refund ordered by the Supreme Court. I would like to respond.

First, Ms. Singlaub does not speak for the taxpayers - she represents the interests of the Washoe County government. Here are just a few examples of what Washoe County has been up to recently:

- The county commission has tampered with the scheduling and the membership of the County Board of Equalization ("CBE"). With the assistance of district attorney Gammick and his staff, they have conspired to harass and intimidate certain CBE members in an apparent attempt to influence the vote. In 2006, when they were unhappy with the CBE decision favoring taxpayers, the county commission set up a second county board to hear the Tahoe appeals, hoping to get a decision more favorable to the county.

- The Washoe DA has routinely manipulated its legal advice to the various county bodies in order to further its agenda - in this case, to do whatever it takes to hold on to our illegally acquired tax money. This has been done in total disregard of ethical standards which prohibit such conflicts of interest.

- Under instructions from the D.A., county officials have conspired to deny thousands of taxpayers their due process rights by manipulating the hearing process. Last year the CBE voted unanimously to roll back all of the Tahoe assessments. Instead of issuing the written decision as required by law, the County called it a "discussion."

Now that the Supreme Court has ruled, the CBE "decision" has miraculously reemerged and has been mailed to all local taxpayers. Had the decision been properly published last year, the State Board would have been forced to agree with the CBE and the assessor's appeal would then have been nullified by the Supreme Court. However, the taxation officials are looking for a way to get around the Supreme Court's decision by setting up an illegal opportunity to appeal to the State Board of Equalization ("SBE"). It would be utterly naive to presume that this was done without close cooperation and collusion between county and state officials.

- Despite the findings of two expert consultants and the Dept. of Taxation, itself, that we are out of equalization, despite being admonished by the Nevada Tax Commission, and despite repeated rulings by the CBE, two district courts, and now the Supreme Court, the Washoe Assessor has changed nothing and continues to practice the same illegal assessment methods to this day.

Like the Wizard of OZ, Ms. Singlaub proclaims an elaborate process which must occur before taxpayers can expect relief. Hold on, says the county: the Dept. of Taxation, the Experts, and the Supreme Court - all of them are wrong. According to the County Manager, the Assessor wants to argue that we are NOT out of equalization, because the Tahoe assessments average 57 percent of total market value, which is allegedly in line with the rest of the county.

However, this argument is fatally flawed. First of all, under Nevada's property tax system assessments should be far below total market value, and assessments must not be equalized at total market value. The County claims that Tahoe assessments average 57 percent of total market value, yet just last year we were supposedly at 71 percent. The statistics show that Tahoe land assessments, alone, have

averaged about 65 percent of total market value, yet County Assessor Josh Wilson, himself, openly concedes that this number should normally be around 33 percent. That means that our land values are about double what they are supposed to be!

Second, the assessor claims that if assessments are at 57 percent of total market value, presto, you have equalization. Yet hundreds of taxpayers may be assessed at 40 percent of total market value, while hundreds of others with property of similar value may be at 80 percent. Two expert consultants and the dept. of taxation have shown that this is precisely the type of inequity which presently exists within our community.

Third, indisputable evidence has shown that our assessments have been averaging nearly 70 percent higher than those of equivalent Tahoe properties in Douglas County.

Finally, regardless of how the County may seek to fabricate the illusion of equalization, the Supreme Court has ruled that the assessment methods used by the assessor are unconstitutional. That means that even if "somewhere over the rainbow" the values were correct, they are still invalid. Yet, absurd as it may seem, the County wants the SBE to overturn the Supreme Court and reinstate the unconstitutional assessments.

The Supreme Court has heard from the school district and other branches of local government affected by this. They have heard from the State and the County. They have considered how their decision might affect the rest of the county and the whole state. They have heard and considered all the facts and arguments and have ordered that the assessments in IV/CB are unconstitutional, that they must be reduced to the 2002 levels, and that taxpayers affected must receive refunds for excess taxes.

As the Supreme Court ruling states, the taxpayers have had an enormous burden to prove that the assessments are invalid, yet we have met that burden. The CBE, the experts, the Dept. of Taxation, the Nevada Tax Commission, the district courts, and the Supreme Court have spoken. The County must let go of its theory that the world is flat, repay the property taxes which it has illegally taken, change its ways, and move on.

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Following is Katy Singlaub's article that Les refers to

County comments on tax revolt fallout

Katy Singlaub

special to the bonanza, on page A6
January 26, 2007

As many readers may be aware, the Nevada Supreme Court recently ruled on a lawsuit that was filed several years ago by 17 Incline Village property owners representing 18 parcels claiming that some of the Washoe County Assessor's property valuation methods were unconstitutional. The Nevada Supreme Court ruled in favor of the litigants, and approximately \$80,000 in property tax refunds inclusive of interest has been made.

This case is very complex and may have impacts upon the way counties throughout the state assess property values for years to come. In an effort to shed some light on this complicated issue, I'd like to provide the following:

Q: Why are some Incline property taxpayers receiving a refund?

A: As stated above, several years ago a lawsuit was filed by 17 Incline Village property owners representing 18 parcels claiming that some of the Washoe County Assessor's property valuation methods were unconstitutional. The lawsuit was filed as a result of the Assessor's reappraisal of Incline Village/Crystal Bay real property for the 2003/04 tax year.

In order to value the property for tax purposes, the Assessor applied four valuation techniques to help ensure equal and uniform valuation in this area. Those techniques included a view classification system, teardown consideration, time adjustment and a beach classification system, all based on the impact those elements have on selling prices.

The property owners appealed their valuations to the Washoe County Board of Equalization which, upheld the Assessor's valuation methods. They then appealed to the State Board of Equalization that did the same. They continued their appeal to the District Court which then reversed the decision. Both the county and the taxpayers then took the case to the Nevada Supreme Court which ruled in the Incline property owners' favor on December 28, 2006.

Q: What was the Nevada Supreme Court's decision?

A: In summary, the Nevada Supreme Court disagreed with the county's claim the methodologies used were based on NRS 361.260(7). The court stated that the statute did not "create a broad grant of authority in the county assessors to develop individualized valuation methodologies county by county," -the basis upon which the county assessor found authority to adopt valuation techniques to meet unique situations not addressed in statute or regulations. The Court further held that the Nevada Tax Commission failed in its "statutory duty to establish regulations that the county assessors could adopt for circumstances in which comparable rates might be difficult to determine." They said that, "Without uniform regulations from the Tax Commission, the Assessor, understandably, created the methodologies he deemed necessary to assess the properties in the Incline Village and Crystal Bay areas. These methodologies are unconstitutional, however, because they are inconsistent with the methodologies used in other parts of Washoe County and the entire state."

Q: How much will the refunds to the 17 property owners be?

A: Washoe County has refunded approximately \$80,000 back to the 17 property owners which is inclusive of interest earned. This amount represents the difference between taxes paid by those individuals on their 2003/04 property values minus the taxes paid on their 2002/03 values.

Q: What if I were an owner of one of the 18 affected parcels during the 2003/04 tax year, but have since sold the property? Am I entitled to the refund if I paid the 2003/04 taxes?

A: Yes, a person who paid the taxes on the affected property for the 2003/04 year but has subsequently sold the property would be entitled to the refund. The previous property owner should contact the Washoe County Assessor's Office at (775) 328-2233 to ensure the Assessor has the appropriate documentation to make the refund.

Q: Where will the refund money come from?

A: The refunds will be deducted from the 2006/07 tax distributions to state, county and special district funds per state statute. The

refunds will be taken from each of those receiving entities according to the funds they received in 2003/04. The percentage breaks down as follows:

Washoe County: 42 percent

Washoe County School District: 34.6 percent

North Lake Tahoe Fire District: 15.9 percent

State of Nevada: 5.2 percent

Incline Village General Improvement District: 2.3 percent

Q: Will the refund made reduce county services?

A: At this time, Washoe County does not anticipate that the estimated \$80,000 refund to the 17 property owners will adversely impact services received by any of the nearly 400,000 Washoe County citizens, including the approximate 10,000 living in the Incline Village area.

Q: I understand that there are other property owners in the Incline Village area that also have lawsuits pending protesting their property valuations. What's the status of this and are refunds expected for those people?

A: While there are 22 additional plaintiffs whose cases are waiting a decision from the Nevada Supreme Court on their 2004/05 property valuations, it is very uncertain at this time when the court will rule on those cases and/or what the outcome will be.

Q: What is the next step?

A: Washoe County has asked the State Board of Equalization to expedite its hearing on the appeal of the March 8, 2006 decision of the County Board of Equalization as well as the other pending Tahoe appeals. The County Board of Equalization's March 8, 2006 order was to roll back Incline residential values to 2002/03 levels for the 2006/07 fiscal year. The appeal request filed on March 9, 2006 had been put on hold until the Nevada Supreme Court ruled on State of Nevada et al vs. Alvin A. Bakst et al case (see above).

In its appeal to the State BOE, the county will argue that it be allowed to present statistical evidence that shows the Incline Village/Crystal Bay area is NOT out of equalization with property values in the rest of Washoe County meaning that taxable values as a percentage of market values are relatively the same in all areas.

The county was not allowed to present this statistical evidence to the County BOE during the equalization hearing on March 8, 2006. The county will be asking the State BOE to reverse the County BOE decision based on the statistical evidence which demonstrates, as measured by the median assessment ratios, properties were in equalization prior to the County BOE decision. The median assessment ratio represents a simple ratio of the property's total taxable value in relation to its market value as indicated through sales. Prior to the rollback, the median assessment ratio of Incline Village/Crystal Bay single family residences (SFR) was approximately 57 percent, similar to the rest of Washoe County. After the rollback, the median assessment ratio is roughly 39 percent, well below the rest of Washoe County.

Q: How will Incline properties be valued for the 2006-07 tax year?

A: The County Assessor has implemented the decision of the County Board of Equalization to roll back the 2006/07 values to their 2002/03 levels plus any new construction. The hearing before the State Board of Equalization will finalize the 2006/07 values.

Q: If I have questions about my current or past property valuation, who should I contact?

A: Call the Washoe County Assessor's Office at (775) 328-2233 for any questions regarding your property valuation. Call the Washoe County Treasurer's Office at (775) 328-2510 with any questions regarding your property tax payment timelines.

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