

Incline Village tax settlement offered from Washoe County

Refunds for 830 parcels may come in a month

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Refund checks from the county could arrive within a month for the 830 Incline Village and Crystal Bay single-family dwellings entitled to a tax rollback to the 2002-03 assessed property values as recently ordered by a U.S. District Judge.

“At this time, we anticipate the refunds will be mailed within the next 30 days,” said Washoe County Manager Katy Simon, in an e-mail statement Tuesday to the North Lake Tahoe Bonanza. “While we do not have an exact figure as to the total refund amount, we estimate it will be in the range of \$1 million.”

The refund money will come from the county’s general fund, Simon said, out of the proceeds of third quarter tax payments.

The county is cutting \$10 million of departmental budgets for this fiscal year, Simon said, after cutting a cumulative \$54 million in spending in the past three years.

“The overall cuts in our general fund are resulting in service impacts that are being reviewed with the County Commission on January 27,” Simon said. “This additional reduction in revenues compounds those impacts, but is not separately identified in our budget reduction plans.”

Simon’s statement comes 19 days after U.S. District Court Judge Charles McGee, in a Dec. 19 ruling, ordered the Washoe County Assessor’s Office to return the land valuation of the affected parcels, which challenged the assessed values

from the 2005-06 tax year, and roll back the tax rates to the 2002-03 levels, plus interest.

McGee’s order says the 830 parcels in question for the 2005-06 tax year fall in the same category as the Bakst (from November 2006) and Bakst II (July 26, 2008, formerly referred to as the Barta case) Nevada Supreme Court rulings, in that unconstitutional methods were used to assess property values.

Simon said Washoe County is committed to abiding by Judge McGee’s ruling. The county is also committed to settling other outstanding cases involved with the Incline Village/Crystal Bay tax revolt, as represented by the Village League to Save Incline Assets, the nonprofit group of tax revolters.

“Like the residents and property owners we serve in Incline/Crystal Bay, we remain anxious to have these issues resolved fairly and consistently for everyone affected,” Simon said in the statement. “Given the precedent-setting Nevada Supreme Court Bakst Case decision in 2006, our offer stands to settle outstanding cases with the same facts, consistent with this ruling which provides refunds with interest to eligible property owners as defined by the court.”

Suellen Fulstone, the Reno attorney representing the Village League, said she sees Simon’s statement as a talking point for the future.

“I’m happy to view this as an open settlement offer, and I’ll be definitely in touch with (Simon),” said Fulstone. “We can certainly work to get that accomplished.”

In all, about 1,130 parcels were named in Judge McGee’s ruling; however, McGee ruled

that about 300 units, dubbed “condominium parcels,” need to be heard as soon as possible by the Washoe County Board of Equalization to determine if they fall in the same category as the other 830 parcels.

It is now unknown when the county board of equalization will convene to hear the 300 cases, Fulstone said. She said she will represent the cases when heard, but until a status conference takes place between counsel for both sides and Judge McGee, a hearing date will be unknown. That conference could take place as early as next week, she said.

Based on McGee’s ruling, Simon offered an explanation as to the county’s decision to offer settlement in like decisions.

“When the courts have ruled in favor of the property owners and ordered refunds, it has been in recognition of the fact that at least one of the four tax assessment methods used by the assessor was unconstitutional. The Supreme Court’s rulings on this issue has stated that, ‘The Nevada Tax Commission failed to fulfill its statutory duty to update general and uniform regulations governing the assessment of property,’ and, in that absence, those used by the Washoe County Assessor have been deemed unconstitutional.”

Simon continued: “Second, the courts have also ruled so far that refunds only be issued to eligible property owners. Eligible property owners are defined as those who have exhausted their administrative remedy processes (i.e., appeals before lower ruling bodies) and whose property was valued using one of the four tax assessment methods that have been found unconstitutional. We believe that is the reason why Judge McGee did not include 300 condominium parcels that were included with the 830 parcels that he ruled on...”

Based on this explanation, Fulstone said she sees the county’s urge to settle a good thing — for the single-family dwellings involved in this and other lawsuits. Fulstone said it still isn’t right to not include the other units, considering the original November 2006 Bakst decision ruled that the assessment methods were unconstitutional and were not in line with the Nevada Tax Commission regulations.

“What they’re doing is limiting the application of the Bakst decision,” Fulstone said. “The way I read (Simon’s statement) is they (Washoe County) are willing to settle with the single-family cases, but not for the condo units.

We’ll gladly discuss with (Washoe County) how to settle those, but I’ll still defend the condo units through the courts.

“There shouldn’t be a difference between the two, because they both were assessed using a method that was not promulgated as a Constitutional way to assess property values in the state of Nevada.”

Washoe County Manager Katy Simon statement on tax revolt

The following is a statement from Washoe County Manager Katy Simon regarding the property tax revolt situation in Incline Village and Crystal Bay.

The statement was submitted to the North Lake Tahoe Bonanza, via e-mail, Tuesday afternoon.

“On December 19th, U.S. District Court Judge Charles McGee ruled that the Washoe County Assessor roll back the 2005-06 property values for some 830 identified parcels in the Incline Village/Crystal Bay area to 2002-03 levels. His ruling includes an order that Washoe County provide refunds to the eligible property owners along with interest. This ruling is consistent with settlement offers previously made by Washoe County to eligible property owners having the same facts as those who will receive refunds as a result of this ruling. Like the residents and property owners we serve in Incline/Crystal Bay, we remain anxious to have these issues resolved fairly and consistently for everyone affected.

“Following the issuance of the ruling, the Washoe County Assessor’s Office immediately began the process of individually revaluing the affected parcels. At this time, the Washoe County Assessor’s office has revalued 825 parcels subject to this decision and will provide that information this week to the Washoe County Treasurer to begin refund processing. The refunds will include interest at 6 (percent) as ordered by the court. At this time, we anticipate the refunds will be mailed within the next (30) days. While we do not have an exact figure as to the total refund amount, we estimate it will be in the range of (\$1 million).

“There are several important points to remember with regard to the various lawsuits that have been filed with regard to property valuation methods in the Lake Tahoe Basin and the court decisions that have been made so far. First, when

the courts have ruled in favor of the property owners and ordered refunds, it has been in recognition of the fact that at least one of the four tax assessment methods used by the Assessor was unconstitutional. The Supreme Court's rulings on this issue has stated that, "The Nevada Tax Commission failed to fulfill its statutory duty to update general and uniform regulations governing the assessment of property, and, in that absence, those used by the Washoe County Assessor have been deemed unconstitutional.

"Second, the courts have also ruled so far that refunds only be issued to eligible property owners. Eligible property owners are defined as those who have exhausted their administrative remedy processes (i.e., appeals before lower ruling bodies) and whose property was valued using one of the four tax assessment methods that have been found unconstitutional. We believe that is the reason why Judge McGee did not include 300

condominium parcels that were included with the 830 parcels that he ruled on. The Judge remanded those back to the Washoe County Board of Equalization to determine if they fall in the same category as the 830 parcels he did rule on.

"And, as stated Washoe County offered twice to settle this particular lawsuit for all eligible property owners with the same facts, but the offer was rejected both times by the property owners' legal representative. Given the precedent-setting Nevada Supreme Court Bakst Case decision in 2006, our offer stands to settle outstanding cases with the same facts, consistent with this ruling which provides refunds with interest to eligible property owners as defined by the court."

— *Washoe County Manager Katy Simon.*

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