

High court reversal could cost Washoe millions in tax refunds

Incline homeowners could see refunds

By Susan Voyles
svoyles@rgj.com

A Nevada State Supreme Court ruling last week opened the door for possible tax refunds to 9,000 Incline Village and Crystal Bay homeowners that could cost Washoe County tens of millions of dollars.

The Nevada Supreme Court on Friday reversed a decision by Judge Peter Breen not to hear the class-action lawsuit filed in 2004 by the Village League to Save Incline Assets seeking equalized property values and returned the case to Flanagan, Breen's successor.

"This is a smashing success," said Maryanne Ingmanson, Village League president.

Deputy District Attorney David Creekman said Flanagan will send the issue to the State Board of Equalization to resolve.

"It's a hollow victory," he said, adding he takes comfort in a footnote that says the village league failed to exhaust its administrative remedies.

"The state board always had authority to equalize throughout the state," he said. "At most, the case merely recognizes what has always been the case."

Incline residents protested that their property values were set 55 percent higher than for similar lake homes in Douglas County for the 2003-04 tax year.

The Supreme Court found no governmental procedures exist for citizens to challenge the State Board of Equalization on whether it is fulfilling its statutory duties to equalize property values, particularly when considering "county-

by-county equalization issues." The Nevada Constitution gives property owners the right to uniform and equal rate of assessments, called equalization.

In another case over 2003-04 taxes, the so-called Bakst case, the Supreme Court in 2006 voided methods used by the Washoe assessor in valuing lake views, beaches and other factors in appraising Incline Village and Crystal Bay properties. The methods were ruled unconstitutional because they were not approved by the state.

In the Bakst case, the Supreme Court ordered refunds for the 17 property owners who filed appeals with the county and state and then the courts. Since then, the courts ordered refunds in cases over the next two tax years.

The case before Flanagan could extend tax refunds to 9,000 homeowners at Incline and Crystal Bay or even higher amounts if the judge rules the Incline properties should be reduced in line with those with in Douglas County, said Suellen Fulstone, a Reno lawyer for the Village League.

"Remedies should be available to everyone who was a victim of those unconstitutional methods," she said.

A decision in the League's favor, she said, could resolve all of the pending Incline Village resident lawsuits against property assessments over the last five years. She said she has no idea how much that could cost the county.

If Flanagan rolls back tax values as ordered in the Bakst case, it would mean tax values for 2003-04 and the following four tax years would be adjusted for the 9,000 owners, Fulstone said. That would roll back values to levels set before

a mass appraisal containing the non-sanctioned methods for those was used for those years.

County Treasurer Bill Berrum said he refuses to make any estimates on tax refunds until his office completes calculations for each property involved.

In another pending tax case seeking equalization for 2006-07, other county finance officials have testified the cost of equalization at the lake that year could be \$12-\$13 million for the 9,000 property owners.

The refunds could come as the county is attempting to cut \$47 million in spending for next year and the school district also faces budget cuts.

Since the lawsuits began, Incline Village owners have received tax refunds of about \$6

million, Berrum said. Included is \$4.3 million in refunds, including 6 percent interest, sent in recent weeks to 830 Incline residents for the 2005-06 tax year and two subsequent tax years.

Included is \$4.3 million in refunds, including 6 percent interest, sent in recent weeks to 830 Incline residents for the 2005-06 tax year and two subsequent years.

While the county is absorbing \$428,000 in interest costs, Berrum said the county, school district and several small Incline agencies will receive smaller property tax checks from the treasurer for the rest of this fiscal year to offset the \$4.3 million in refunds.

#