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# Uh-oh - the public is starting to understand

## Nevada tax officials, call your defense attorneys

Steven Miller

When does a prolonged, demonstrated indifference to state law and the state constitution among elected politicians and appointed bureaucrats become a malevolent conspiracy against the public?

That question has to be on the minds of many Nevada government officials today, now that word is out that for the last quarter century they have operated — and currently still are operating — the state's property-tax system significantly outside the law.

Under that regime, virtually every Nevada home or property owner has arguably been defrauded by the state.

While the Nevada Constitution requires "a uniform and equal rate of assessment and taxation," state and local tax officials for decades have successfully blocked both the creation and the application of uniform assessment standards that would implement the constitutional guarantee.

The absence of those standards — required additionally by state statutes but never produced by the interminably foot-dragging Nevada Tax Commission — has never been publicized by either the State of Nevada nor county assessors, although there is a clear fiduciary obligation to do so.

Close observers of Nevada government corruption may find the lack of public candor unsurprising: The absence of standards means the valuation notices issued by county assessors and the tax bills issued by county treasurers are based on illegal assessments, which — if that fact were known — could easily be challenged in court. Not letting taxpayers know about the situation prevented such challenges.

State and county secrecy about the lack of standards has also meant unconstitutional power for

every county assessor. With a big wink and nod from the state, they have been able to use, in any given year, just about any arbitrary methodology they may choose — and to thus produce whatever level of tax revenue an assessor, or his political sponsors, may desire.

Such complete discretion is a direct violation of not only state law but also the Nevada Constitution.

Nevada's covertly arbitrary and shifting standards have also had another consequence: They have ensured that most taxpayers would have little chance when appealing their assessments. Even at the state level, Nevada tax rules are a bottomless Sargasso Sea of confusion and incoherence that even state bureaucrats admit they cannot fathom. Thus, appeal-minded taxpayers have soon learned that contesting their assessments would mean huge expenditures and years in the courts, going up against the unlimited legal budgets of the State of Nevada — which regularly sides in court with the assessors.

Not surprisingly, therefore, property owners of modest wealth — lacking resources to fight what increasingly appears to be systemic governmental corruption — almost always have backed away, swallowed their anger and just paid up.

There has been an important exception to that rule, however. Homeowners on the north shore of Lake Tahoe, surprised by huge increases in their tax bills in late 2002, sought expert advice. They learned that the Washoe County assessor had simply changed his appraisal rules so that valuations for the 2003-04 year would be as much as 100 percent higher.

This was the wrong group to mess with. It had resources.

Organizing itself as the Village League to Save Incline Village Assets, the community went to court. Since then it has won multiple legal victories of watershed importance at both district and Supreme Court levels. And this was in the teeth of the combined forces of the state Tax Commission, Tax Department, State Board of Equalization, the Nevada attorney general, the Washoe County assessor, the Washoe County district attorney and the Washoe County Commission.

Today, back-channel reports out of the offices of state and county tax-assessment apparatchiks suggest increasing chaos, as attempts by government attorneys to defend a clearly unconstitutional system repeatedly fail and public understanding of the scandal continues to grow.

Such increased public understanding, for a large clique of government officials, is quite a serious matter. Under the federal civil rights statutes, 42 U.S.C. § 1983, state and county officials can be sued as individuals. And the kind of prolonged and apparently entirely intentional negligence to public duties that appears to have characterized many actors in this melodrama is very much what that law — which goes back to the Civil War — is about.

Already four members of the State Board of Equalization have been sued in their individual capacities — as the law requires — for failing to

perform their duty under the law of equalizing assessment practices statewide.

That case is scheduled to be heard by the Nevada Supreme Court in early January.

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The above article was also published in the Las Vegas Review Journal, on November 29, 2009, under a different article title

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