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## Property-tax conflict enters Nevada governor's race

Montandon calls for system overhaul amid record number of appeals

John Dougherty

LAS VEGAS — Republican gubernatorial candidate Mike Montandon on Wednesday called for broad-based reform of Nevada's property-tax system by returning to market-based assessments and scrapping property-tax caps enacted in 2005.

The three-term former mayor of North Las Vegas made the comments in the wake of a record number of property-tax appeals filed in Clark County that could impact more than 130,000 parcels and indications of a widening property-tax revolt in Washoe County.

The surging number of property-tax appeals, up 33 percent in Clark County over last year's record number, is a clear signal that Nevada's taxable-value system is failing to keep pace with rapidly changing economic conditions, Montandon said.

Trained as a commercial real estate appraiser, Montandon said the state should abandon the taxable-value system that has been the basis for determining property taxes in Nevada since 1981.

"There's not a chance that it is constitutional," Montandon said during an interview at his campaign headquarters. "Let's go to a market-based system."

Nevada is the only state in the country that uses the taxable-value methodology to determine assessed values. Indiana was the last state to use a similar system and abandoned it more than 10 years ago after its Supreme Court ruled it was unworkable.

The basic problem with the taxable-value system is that it is not based on market values, critics say. Taxable value is the sum of the full cash value of land plus the

replacement cost of improvements less 1.5 percent depreciation based on the age of the structure. Replacement cost is determined by using a private construction costing service — Marshal & Swift.

The system has become increasingly cumbersome in markets where undeveloped land sales are becoming increasingly scarce, such as many parts of Clark County. The lack of data requires assessors to use complicated appraisal methodologies to estimate the value of land.

The methods used by assessors vary across the state, leading to the likelihood that similar properties are not assessed equally, which would violate Article 10 of the state constitution.

Unlike the taxable-value system that values land and improvements separately, a market-based system would allow assessors to use readily available data on the sales of residential property to set assessed values for property taxes, Montandon said.

Montandon said property-tax reforms should be an issue for the 2011 Legislative Session and are too complicated and far-reaching to be broached during an upcoming special session.

Republican Governor Jim Gibbons is expected to announce in early February that he will call the Nevada Legislature into a special session to find ways to close a \$900 million shortfall in this year's budget.

Montandon and former U.S. District Court Judge Brian Sandoval are challenging Gibbons in the Republican primary. Clark County Commissioner Rory Reid is the lone Democrat in the race.

Sandoval, Gibbons and Reid declined to comment on the surging number of property-tax appeals.

Montandon said the state should also abandon the property-tax caps that the legislature put in place in 2005. The property-tax caps have been widely criticized because they impose a 3 percent cap on the increase in property taxes on owner-occupied residential homes while most rental properties and commercial properties have an 8 percent cap.

The different property-tax caps, property-tax experts and some legislators say, appear to violate the state constitution's requirement of fair and equitable assessment and taxation. No one, however, has challenged the provision in court.

Welcomed at first during a period of rapidly rising real estate prices in the mid-2000s, the tax caps have become a source of bitterness for tens of thousands of property owners who have seen their property taxes go up even as their property values have declined dramatically. Assessed values of property must fall below 2005 levels for property taxes to fall.

Approximately 661,000 of Clark County's 730,000 parcels have fallen below the 2005 benchmark for the 2010-11 tax year, according to the county treasurer's office. The number of Clark County property owners seeing a reduction in property taxes is up from 470,000 in 2009 and 55,000 in 2008.

Montandon said rather than imposing a cap, taxing districts such as cities, counties and school districts could lower tax rates to ensure that property owners are not hit with skyrocketing taxes during periods of rapidly rising real estate values.

Montandon said he opposed the tax caps when he was North Las Vegas mayor and lobbied the legislature against their adoption.

"I went to the legislature and said, 'Leave it alone. Let us reduce our tax rates,'" he said.

Montandon also took aim at the state Board of Equalization, saying it needs to be reformed so that it will actually take steps to ensure that similar property is taxed equally across the state.

Although required by state statute and Supreme Court rulings to ensure that statewide equalization is occurring, the state board lacks the necessary regulations to carry out this duty.

"If the law says statewide equalization needs to be done, then the Board of Equalization should be doing it," he said.

Regulations have never been implemented, in part because state tax regulators have not yet figured out a way to implement statewide equalization under the

taxable-value system. In fact, the state has never developed a definition of "statewide equalization" for a taxable-value system, state records show.

The systemic failure of the state's taxable-value system reached a new low last month when Supreme Court Chief Justice James W. Hardesty said during a court hearing that the state has no clear regulations and statutes in place detailing how statewide equalization is to occur.

The taxable-value system first came under attack in 2002 by property owners in Lake Tahoe who discovered that the Washoe County assessor was using appraisal methodologies that were never approved by the state to determine valuations.

The taxable-value assessment system requires assessors to use far more discretion in determining property and improvement values than a market-based system, property-tax experts say.

The Village League to Save Incline Assets, Inc., a nonprofit group of Incline Village and Crystal Bay property owners, launched a series of expensive and contentious lawsuits that have uncovered fundamental flaws in taxable value and the non-uniform ways county assessors implement the system.

The Village League lawsuits led to landmark state Supreme Court rulings in 2006 and 2008. In the 2006 *Bakst v. State Board of Equalization* case, the court ruled that county assessors must only use appraisal methodologies that have been first approved by the Nevada Tax Commission.

Two years later, in *State Board of Equalization v. Barta*, the court ruled that a taxpayer may challenge taxable value based on the use of unconstitutional appraisal methods even if the taxable value does not exceed full cash value.

Despite the ruling, county assessors and county boards of equalization routinely dismiss assessment appeals on the basis that the taxable value doesn't exceed full cash value.

The Nevada Tax Commission, an eight-member citizens' panel appointed by the governor, meanwhile, has failed in the wake of the Supreme Court rulings to implement detailed appraisal regulations for the state's 17 elected county assessors to follow when they determine the taxable value of the state's one million parcels.

State records, for example, show the commission has violated state law for more than a decade by failing to provide assessors with a policies-and-procedures manual on how to conduct appraisals. The commission withdrew its 350-page policy-and-procedures manual from county assessors in 1999 and has never replaced it.

The legislature adopted taxable value in 1981 to thwart a citizens' initiative to enact a property-tax system similar to California's Proposition 13. The California system limits property taxes to 1 percent of full cash value and caps the increase of assessed values at 2 percent annually, until a change of ownership when the assessed value resets to the sales price.

Montandon said his support of a market-based assessment system does not mean he also supports implementing a Proposition 13 system in Nevada. He said the California system has led to unjust situations. But, he said, moving the state to a market-based system to determine assessments would provide property owners with a more fair and accurate valuation of their property.

Montandon, a former commercial appraiser with Bank of America, said a market-based appraisal system would be relatively easy for assessors to adopt because Nevada requires extensive public disclosure of property-sales data.

"We have the data on every single home sale in Nevada," he said. "If we just plug it all into a computer model, it's going to come back and give you a market-based answer for our residential homes."

Montandon's criticism of the state's property-tax system comes as more than 8,100 property-tax appeals have been filed with the Clark County Board of Equalization — a 33 percent increase over 2009, which itself set a record.

Last year, 6,082 property owners filed appeals, with most winning property-tax reductions that resulted in lowered assessments on 127,000 parcels, according to Assistant Clark County Assessor Rocky Steele.

Steele said Clark County has not yet determined the number of parcels impacted by this year's record number of appeals.

He said the county only counts the number of parcels that have their assessments lowered by the county Board of Equalization, rather than the total number of parcels seeking reductions.

But if this year's record number of appeals involves a number of parcels similar in proportion to those of last year, the total number of parcels before the county board seeking lower assessments should be expected to exceed 130,000.

The Clark County equalization board will meet at least several times a week throughout February to handle the deluge in appeals. Property owners unsatisfied with the county board rulings can appeal to the state Board of Equalization, which will hold hearings later this year. The state board's ruling can be appealed to state court.

The Washoe County Board of Equalization, meanwhile, has received 964 appeals representing 3,920 parcels. Unlike Clark County, Washoe County counts the number of parcels included in appeals and releases the total to the public.

The Village League, which includes most Incline Village property owners, decided not to file property-tax appeals for 2010-11 after Washoe County Assessor Josh Wilson reduced assessed values for land by 10 percent on the heels of a 23.5 percent reduction in 2009-10.

Only 17 of the appeals have come from Incline Village. While Incline Village property owners have largely sat out this year's appeal process, far more Washoe County property owners from other areas are appealing their property values.

Last year, 1,038 of Washoe County's 1,549 appeals came from Incline Village. Adjusting for Incline Village-based appeals, Washoe County has received 947 appeals from areas outside the Lake Tahoe enclave this year, up from 511 for last year.

The increase in countywide appeals comes after the state Board of Equalization voted last July to roll back property-tax assessments for 9,000 Incline Village residents for the 2006 tax year to 2003 levels. The ruling requires Washoe County to repay \$13 million, plus \$7 million in interest, to the property owners.

Washoe County is appealing the decision, but it appears property owners outside of Incline Village are increasingly eager to reduce their property-tax assessments and tax bills as well.

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