



www.TahoeBonanza.com, July 14, 2011, Front Page

# Incline Village tax revolt: 'A nine-year battle'

- High Court orders Washoe County to refund 8,700 Incline Property Owners
- Refunds likely to be near \$40 million; money could come from county taxpayers
- County commissioners will be presented options at July 26 meeting in Reno

**Matthew Renda**  
mrenda@tahoebonanza.com

INCLINE VILLAGE, Nev. — As the most critical portion of the nine-year Incline Village tax revolt nears a conclusion, Washoe County officials are scrambling for strategies on how to pay back Incline Village taxpayers who were illegally taxed five years ago.

A Thursday, July 7, ruling from Nevada Supreme Court Justice James Hardesty — which saw unanimous concurrence from the other six justices — affirmed an Oct. 23, 2009, decision by District Court Judge Brent Adams that orders the Washoe County treasurer to refund about 8,700 Incline Village and Crystal Bay property owners for taxes they paid for the 2006-'07 fiscal year.

“I am absolutely ecstatic,” said Maryanne Ingemanson, president of the Village League to Save Incline Assets — an organization formed to fight the county's tax assessment practices. “It's been a nine-year battle. I made this my personal mandate to win this case for everybody, regardless of whether they understood a very complicated tax system.

“We did that and that's the beauty of the whole thing.”

While Ingemanson and residents familiar with the Incline tax revolt are beaming, county officials are scrambling.

“At this time, we are reviewing the written Supreme Court's decision to evaluate its impact upon all Washoe County taxpayers,” said Washoe County Assistant Deputy District Attorney David Creekman, who has represented county taxpayers in multiple long-standing court cases involving the Lake Tahoe property owners.

Hardesty's ruling also reaffirmed the Village League's initial contention that then-Washoe County Assessor Bob McGowan used unconstitutional methodologies in assessing Incline Village/Crystal Bay properties that were inconsistent with his assessment approach elsewhere in the county.

## Which property owners get refunds, and how much will each receive?

While the Oct. 23 ruling by Judge Adams points to a \$13 million refund, Washoe

County District Attorney Tammi Davis estimates refunds with interest could be in excess of \$40 million. The amount will be further refined as the county works through the court's decision and actual parcel-by-parcel calculations.

Davis explained the complexity of determining to whom a refund should go.

“At first look of the court order, the refunds are to be made to the person who paid the property taxes,” Davis said in a written statement. “That could be different from the person who the tax bill was sent to and/or the person who currently owns the property, and each of these taxpayers, many of whom are not residents, must be found. We have a lot of work to do based on the guidance we receive from both the County Commission and the District Attorney's office...”

Once a process and timeline have been determined, Davis said information will be shared with the public; she discouraged Lake Tahoe property owners from calling her office since there is no information to share at this time.

Interest paid on these refunds is required to be reported to the Internal Revenue Service, Davis added, as it may qualify as a taxable event for the individual taxpayer.

### **How quickly will refunds be ready?**

Suellen Fulstone, legal representative for the Village League, issued a letter Monday to Creekman, demanding a timeline be ready by Friday, July 15.

Fulstone's letter says prompt repayment is warranted: “I read in the newspaper that the Treasurer was concerned about the passage of time and locating every taxpayer entitled to a refund. I am sure you will agree that is no reason to delay the payment of refunds to taxpayers who have resided in the Incline Village/Crystal Bay since before 2006 and whose unconstitutionally assessed taxes the county has already held for more than five years.

“If you would provide me with the names of taxpayers and the properties that the Treasurer's office is having difficulty locating, my clients may be able to assist in that process.”

The DA's office briefed county commissioners during a closed session Tuesday in Reno, according to published reports.

In a Wednesday phone interview, Washoe County Commissioner John Breternitz, who represents Incline Village, was reluctant to reveal particulars, although he did say commissioners were presented with many options.

“We asked some research be done and the results of that research be presented at the July 26 meeting,” said Breternitz, referring to the July 26 county commission meeting in Reno, in which the public will be allowed to participate in the discussion.

When asked if further legal appeals are part of the options given by the county's legal team Breternitz said: “Suffice it to say we are taking the (Supreme Court) decision very seriously.”

### **Where will the money come from?**

Whatever the final amount, the county does not have available resources to make those refunds based on its current budget situation, said Washoe County Finance Director John Sherman, considering the county has been severely impacted by property and sales tax revenue declines due to a prolonged recession and collapse of the housing market.

Washoe County has reduced its budget by \$154 million in the last five years and eliminated 20 percent of its staff, said County Spokeswoman Kathy Carter.

The budget deficit for the current 2011-12 fiscal year, which started July 1, is \$33.8 million, Carter said, of which approximately \$20 million is still being identified through employee wage and benefit concessions and

the ongoing elimination of programs and/or services.

Under certain circumstances, state law does allow for a county to assess a tax on unaffected property owners to pay for a court-ordered refund if general funds are unavailable.

While Breternitz has supported Incline taxpayers since taking office in 2009, he did express concern this week regarding the impact the reimbursement may have on county services.

“We’ll persevere, but some services will be impacted,” he said. “It will not sit well with everybody.”

In its evaluation of the court decision, the county DA’s office will evaluate the liability of other entities who share in Incline Village’s property tax revenues — Washoe County School District, North Lake Tahoe Fire Protection District, state of Nevada, Incline Village General Improvement District and Washoe County.

Washoe County District Attorney Richard Gammick told the Reno Gazette-Journal his office is still working the numbers.

“Our position is everybody that has received funding from this should be involved,” he said. “To what extent still needs to be determined.”

### **How much will local entities be affected?**

The local fire district, IVGID and county school district have all been setting aside money in the event the Supreme Court would rule in favor of Incline taxpayers.

Mike Brown, NLTFPD chief, said his district is analyzing the impact of the Supreme Court’s decision, but like many affected agencies, things are not certain.

“We just don’t know what the total cost is going to be yet,” he said. “We’ve been setting aside funds in anticipation of a ruling that favored the taxpayers, but we are awaiting the final numbers.”

IVGID General Manager Bill Horn said the impact to IVGID should be “immaterial.” He said he has received information from the Washoe County Department of Taxation the district may be responsible for approximately \$300,000.

“We do not believe that IVGID should be held responsible for paying interest on the taxes as we were not the agency that incorrectly assessed taxpayers,” Horn said.

Gary Kraemer, chief financial officer for WCSO, said the district — which began setting aside money in 2009 — will likely need to reimburse approximately one third, or \$14 million, of the final number, should it be \$40 million. Kraemer said \$9 million would come from the general fund and \$5 million from the debt service fund — which essentially functions as the district’s savings account, although withdrawing large amounts will affect the district’s bond rating and ability to borrow money for future capital projects.

“We were pretty conservative in anticipation of the possibility of this decision,” Kraemer said. “We’re pleased we set aside the money.”

### **Tax revolt timeline**

*Below is a brief timeline of the nine-year tax revolt. Learn more at the Village League’s website at [www.nevadapropertytaxrevolt.org](http://www.nevadapropertytaxrevolt.org).*

**December 2002** — Incline resident Maryanne Ingemanson founds the Village League to Save Incline Assets in response to what she perceived as unfair taxation practices by Washoe County. She enlisted the legal firm of Azevedo and Guenaga to represent the League.

**February 2003** — First appeals regarding illegal taxation were heard before the Washoe County Board of Equalization — 110 appellants were represented. Arguments made by the attorney centered on lack of equality in tax determinations and the arbitrary use of appraisal methods that were created solely for use in Incline Village.

**May 2003** — First hearing before the Nevada State Board of Equalization.

**October 2003** — First lawsuit filed by the Village League.

**November 2003** — First class-action lawsuit filed by Suellen Fulstone, the attorney for the Village League.

**March 2004** — The chairman of the Washoe County Board of Equalization resigns along with another member.

**February 2005** — All appellants receive a 8 percent reduction in their land value assessments.

**January 2006** — District Court Judge Bill Maddox issues an order that states the Washoe County Assessor did not use the approved rules to assess properties in Incline Village and Crystal Bay.

**February 2006** — The county appeals Maddox's decision, which is subsequently affirmed by District Court Judge Michael Griffen.

**June 2006** — The Nevada Supreme Court begins to hear oral arguments regarding the case.

**December 2006** — The Nevada Supreme Court unanimously decides in favor of the Village League.

**January 2007** — 900 Petitions for Appeal are filed by Fulstone with the CBOE in an attempt to have the 15 percent increase in land values for the 2006-07 years removed.

**August 2007** — Ingemanson meets with then Governor Jim Gibbons to discuss tax revolt.

**October 2008** — Nevada Supreme Court orders the SBOE to equalize all taxes for the 9,000 residential properties in IV/CB and issue a refund of all excess taxes paid and six percent annual interest.

**January 2009** — The CBOE reduced the land values of every parcel in the entire county by a minimum of 25 percent.

**October 2009** — District Court Judge Brent Adams orders the Washoe County treasurer to refund 8,700 Incline residents excess taxes paid during the 2006-07 year, a decision the county subsequently appealed.

**March 2010** — Washoe County District Attorney Richard Gammick argues that the state of Nevada is to blame for the tax revolt scenario as the state does not provide a universal tax appraisal methodology.

**July 2011** — The Nevada Supreme Court affirms Adams order, mandating the county repay excess taxes collected during the 2006-07 years plus interest.

# # #