

# History of the Incline Village/Crystal Bay Property Tax Revolt

By:

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**Introduction:** The following is a detailed history of the Incline Village and Crystal Bay, Nevada Property Tax Revolt efforts. This history is essentially a summary of all the email alerts, #001 through #197, from December, 2002 through January, 2009. Each one of these alerts has been archived on the [www.NevadaPropertyTaxRevolt.org](http://www.NevadaPropertyTaxRevolt.org) website.

## The History:

- The Village League began the Property Tax Revolt in December 2002, by engaging the legal firm of Azevedo and Guenaga to represent members and the League, in filing Petitions for Appeal of the assessed tax values of properties to the Washoe County Board of Equalization.

## 2003 YEAR

- First appeals were heard on February 21, 2003 before the Washoe County Board of Equalization. 110 appellants were represented.
- Arguments made by the attorney centered on lack of equalization in tax determinations and the arbitrary use of appraisal methods that were created solely for use in Incline Village and Crystal Bay by the Washoe County Assessors.
  - View categories to determine base lot values
  - Use of “tear-downs” to value “vacant” land because of a lack of actual vacant land sales, this increasing the land values for whole neighborhoods.
  - Time adjustments from 6 year old sales that the assessors used to estimate what the value of properties would be if they were sold currently.
  - Rocks on the beach methodology.
- Washoe County Board of Equalization reduced assessments on all Incline Village lake front parcels by 10%, and all of the parcels in Incline Village’s Mill Creek area from \$400,000 to \$320,000. Very little relief was obtained by individual taxpayers.
- A Town Hall meeting was held at the Chateau on March 7 to explain legal options available to taxpayers. (The Chateau is the Incline Village and Crystal Bay’s community center and golf club house.)

- April 7, 2003 – Nevada Tax Commission hearing. Norm Azevedo, Maryanne Ingemanson, Dale Akers and John Carney made presentations explaining the problems with the assessments in Incline Village. The Nevada Tax Commission voted unanimously to open hearings on the regulation making process.
- May 30, 2003 – First hearing before the Nevada State Board of Equalization .
- July 16, 2003 - Tahoe Tea Party at Burnt Cedar Beach (in Incline Village) covered by the TV media, the Reno Gazette-Journal newspaper and the local North Lake Tahoe Bonanza newspaper
- The Village League requested that all property taxes be paid with notices to “Pay Taxes Under Protest”.
- 123 Incline Village and Crystal Bay property owners were represented at the Nevada State Board of Equalization. County Attorney, Blaine Cartlidge stated that because so few of the property owners protested that they “sat on their rights”
- The Nevada Tax Commission agreed to hold “workshops” starting September 8 and 9, 2003, to review and revise current administrative procedures for appraising property taxes.
- August 18 and 19, 2003 - 89 petitioners will be represented at the Nevada State Board of Equalization hearings to appeal the Washoe County Board of Equalization decisions.
- August 25, 2003 – Nevada State Department of Taxation attempts to hold “workshop” in an attempt to ratify, after the fact, the illegal methods the Washoe County Assessors has been using to appraise properties in Incline Village and Crystal Bay.
- Ted Harris, Les Barta and Chuck Otto generated 2,600 signatures on a Petition to be presented to the Nevada State Department of Taxation at an upcoming workshop.
- September 24, 2003 – the Village League sustained the decision of the Washoe County Board of Equalization at the Nevada State Board of Equalization to the reductions of Lake Front and Mill Creek area assessments which total approximately \$100,000,000 in taxable value.
- October 17, 2003 – First lawsuit filed by the Village League – Complaint for Judicial Review was filed in First District Court of the State of Nevada in Carson City by Attorney Norman Azevedo.
- November 13, 2003 – The Village League’s first class-action lawsuit was filed by Attorney Suellen Fulstone of Woodburn and Wedge on behalf of the Village League, which includes all property owners in Incline Village and Crystal Bay.

## **2004 YEAR**

- January 15, 2004 – Over 1,500 appeals were filed at the Washoe County Board of Equalization.

- March 15, 2004 – efforts to date. Four lawsuits have been filed. The Chairman and another member of the Washoe County Board of Equalization have resigned.
- Les Barta and Maryanne Ingemanson have attended and are actively participating in writing the new Rules and Regulations at “workshops” sponsored by the Nevada Tax Commission for appraisal standards to be followed by all of the Assessors in the entire state of Nevada and Nevada 2005 Legislators are being approached in efforts to get changes made to the Nevada State statutes re: Taxation of Real Property. Our email data base has now grown to 2500 members.
- April 18, 2004 – The Village League has been working with the Washoe County Commission to appoint two new members to the Washoe County Board of Equalization who will provide a more balanced Board of Equalization to hear tax appeals.
- June 25, 2004 – 4,460 Petitions of Protest have been signed. 33 meetings and workshops have been attended to gain reforms to the Assessor’s appraisal techniques and get them changed. Washoe County Head Assessor McGowan is at the last minute engaging in back door efforts to subvert the process and the changes which have been agreed to by consensus of all of the other Nevada assessors, the Nevada Department of Taxation and the Nevada Tax Commission.
- June 25, 2004 – after nearly two years of negotiations and workshops, the new Rules and Regulations of assessment were adopted by the Nevada Tax Commission to huge applause by the 100 attendees at the hearing. The four illegal methods that had been being used by the Washoe County Assessor were no longer accepted in the new rules. Therefore, “tear-downs” will no longer be considered in appraising vacant land values, the time adjustment can no longer be used, all view adjustments must be made from the ground, condominium land values cannot be based on single-family residential values, and the elements of comparison that the assessor may use do not include rocks on the beach.
- The new rules became law on August 4, 2004 effective starting October 1, 2004.
- July 29, 2004 - Ted Harris, Dale Akers began their new careers as lobbyists, in support of a tax cap on property taxes.
- September 2, 2004 – Oral arguments were held before Judge Maddox in the taxpayers’ case for Judicial Review filed for the 2003-2004 tax year.
- September 27, 2004 – The Village League had engaged the services of Dr. Marvin Wolverton, a renowned appraisal expert, to analyze the Incline Village and Crystal Bay areas. He presented his findings and conclusions to the Nevada Tax Commission. His study showed that Incline Village and Crystal Bay’s tax values are systematically higher and less consistent for Lake Tahoe properties in Washoe County, compared with Tahoe properties in Douglas County. He also showed that Incline Village and Crystal Bay property values are out of equalization with each other, with the rest of Washoe County, and particularly with Tahoe properties in

Douglas County. According to Les Barta, a director of the Village League, “The problem is bigger than we expected … a complete mess … a statistical disaster.” The study had one clear message – that the assessment methods used by the Washoe County Assessor resulted in widely disparate, unequal and non-uniform valuations.

## 2005 YEAR

- January 24, 2005 – the CBOE voted unanimously to consolidate the hearings for the 1,220+ Petitioners in the Incline Village and Crystal Bay area. Representation will be by Attorney Tom Hall and presented by Todd Lowe, Maryanne Ingemanson and Les Barta. The Appeal addresses the following points:
  - That the 8% tax increase on all residential land in our area is invalid.
  - There has been a failure to properly equalize assessments inside and outside of Washoe County.
  - The Incline Village and Crystal Bay property owners have been denied due process of law.
  - There has been a failure to follow the proper Rules and Regulations in appraising and assessing properties.
- February 16, 17, 2005 – **Huge win for the Village League.** All 1,200+ Appellants received a reduction in their land value assessments of 8%. That was a \$3,000,000 reduction in taxes for Incline Village and Crystal Bay.
- Information revealed that Washoe County tried to intimidate Gary Schmidt, a member of the Washoe County Board of Equalization. On February 15, the night before the mass appeal hearing re: the 8% land value increase, a Summons was delivered to Gary Schmidt by the Washoe County Commission. It challenged his performance as a member of the Washoe County Board of Equalization and noticed him that, “His character, alleged misconduct, professional competence and physical or mental health” would be considered at the March 8th Washoe Commission hearing. It was an apparent attempt to blatantly intimidate Mr. Schmidt into resigning from the Washoe County Board of Equalization, before our hearing the next day; or to vote against us, in an effort to avoid being publicly humiliated.
- The Village League went into action. It requested that their members email all of the Washoe County Commissioners with their reaction to this attack, to attend the Washoe Commission hearing on March 8th, and/or to speak with the Washoe County Commissioners from the Incline Village and Crystal Bay area about their thoughts. The commission eventually dropped their threatened action.
- April 7, 2005 - Maryanne Ingemanson had been working with Nevada State Assemblyman Hettrick to try to pass a Bill through the Legislature to strengthen the Statute regarding the appraisal of land. Mr. Hettrick had agreed to carry the Bill and

Ms. Ingemanson would present it to the Nevada State Assembly and Senate Committees. Just before the first hearing, the Village League urged its members to “Vote for Your View” using the 2005 State Legislature website. And vote they did!!! AB392 was passed unanimously through both houses.

- Additionally, the Village League was instrumental in getting a 3% residential property tax cap signed into law.
- An Amendment was filed by Attorney Tom Hall to the Village League’s case in Judge Griffin’s court, against Assessor Robert McGowan personally.
- August 15, 2005 – The Nevada State Board of Equalization overturned the hard won win at the Washoe County Board of Equalization which had reversed the 8% increase in the land values of the 1,200+ appellants.
- October 2005, another Complaint for Judicial Review of the State Board of Equalization decision was filed in the court of Judge Griffin.
- On December 9, 2005 in a hearing before the Tax Commission to consider whether to accept the Tahoe Special Supplemental Study presented by the Department of Taxation, after 18 months of effort, the Washoe County Assessor’s office presented an hour long power point analysis of what they found it to be incorrect or dead wrong with the Study.
- The Village League has had serious doubts about the validity of the Study and had engaged yet another appraisal expert, Richard Almy, known as one of the 2 or 3 best in the world, to analyze what the Department had produced. He was aghast at what he found. The Nevada Tax Department’s entire idea was to raise Incline Village and Crystal Bay land values 200% to 300% higher than they already were.
- Now the Assessor was vilifying the Nevada Department of Taxation. The Nevada Tax Commission is furious at the Nevada Department of Taxation and the Washoe County Assessor; and the two top executives in the Nevada Department of Taxation are being personally sued by a Supervisor, because he was being told to do things that he felt were not legal.
- After four years of struggling against an entrenched bureaucracy, FINALLY, people are starting to realize that Village League and Incline Village and Crystal Bay property owners / taxpayers are not the problem.

## 2006 YEAR

- **WE WON!!!** January 2006 – Judge Maddox issued a stunning Order in the Village League’s favor. He ruled that:
  - The State Board of Equalization did NOT equalize property taxes in Incline Village and Crystal Bay with Douglas County or any other counties.

- The Washoe County Assessor did NOT use the approved Rules to appraise Incline Village and Crystal Bay properties, thus causing the unequal and non-uniform taxes.
  - The State Department of Taxation has a duty by law to have a continuing program in place to determine each year if ALL counties are equalized. They did NOT follow the law.
- It appears that the Incline Village and Crystal Bay taxpayers have been over charged \$30,000,000 since 2002-2003, which continues to increase by over \$7,000,000 each year.
- January 21, 2006 – Another win. This time in the court of Judge Griffin, and even stronger than the Judge Maddox Order.
- Another consolidated group was formed by the Village League that would be represented by Attorney Tom Hall. Petitions for 300+ appellants were heard by the Washoe County Board of Equalization on February 28th and March 1, 2006. Petitioners were requesting a roll back of their assessed property values to the year 2002, plus a refund of all excess taxes paid over the amount paid in 2002, plus 6 % interest.
- What an enormous 3 to 2 victory the CBOE decision was in the Village League's favor. This was unbelievable, especially since the Washoe County Commission's plan to sabotage any possibility of a win by the Village League had back-fired. The Washoe Commission had decided that they would form another Washoe County Board of Equalization in addition to the first Board. The second, new board, which didn't understand all of the tax laws or how the tax system in Nevada worked at all, was supposed to be "training" for the following year; however, they were given all of the cases that the Village League had consolidated which were the most difficult. Washoe County was coaching them from the very beginning, and had also determined that the Chair of the first Board, (who had voted against us the year before), would be a liaison to the new Board. It was another obvious attempt to "fix" the outcome. However, Village League member, Les Barta, presented such a strong case on the Village League's behalf that the Village League won in spite of the manipulations against us.
- The date of March 8, 2006 was set for a hearing before both of the Washoe County Board of Equalization panels to request equalization for all of the 8700 parcels in Incline Village and Crystal Bay.
- The Village League's dream came true. The Village League won, by unanimous vote, a roll-back of all 8,700 residential properties in the Incline Village and Crystal Bay area to the 2002 tax values. This had never happened before in the history of Nevada. The grass-roots organization had taken on the entrenched bureaucracy and WON.

- Of course, the Washoe County Assessors had appealed the Judge Maddox ruling to the Nevada Supreme Court.
- Judge Griffin made yet another Decision in our favor. The language was strong and unforgiving. Here are some quotes from the Order of Judge Griffin
  - “The evidence establishes that the taxes assessed in the Incline Village areas are not uniform or equal to other areas in the county.”
  - “...there is no indication that the ‘view’ factor is applied across the board.”
  - “As a result of the...subjective assessment of Incline Village property...a taxpayer cannot determine on what basis his property has been assessed.”
  - “There is no consistent regulation or procedure established by the county to ensure that the assessment of real property is not solely subjective ‘guess work’.”
  - “No two assessors could agree upon the methodology used, let alone the value resulting...”
  - “...the assignment of ...components and the resulting valuations are arbitrary standards with no limitations...”
- The Chairman of the Tax Commission also weighed in with strong conviction and I quote:
  - “...this has been going on for three and a half, four years now. The Village group has spent a lot of time, money and effort to bring their issues to the attention of a lot of affected constituencies. They've gone out and gotten an expert to address the situation, one of the top two or three experts on valuation in the country who incidentally has said **THERE'S A PROBLEM**. You've got the county board of equalization on a couple of different occasions saying **THERE'S A PROBLEM**. You've got Judge Maddox saying **THERE IS A PROBLEM**...and you've got the [Lake Tahoe] special study...saying **THERE ARE PROBLEMS**.
  - You know what, it sounds to me like **THERE'S PROBLEMS HERE**, and I don't claim to be the smartest guy in the world, but when you have that many constituencies coming from that many different places saying the same thing, maybe you're just not equalizing the way you ought to...
  - ...I'm aggravated at what seems to be the recalcitrance to admit that there's an issue here that's got to be dealt with by the assessor's office in Washoe County...”
- The BusinessNevada issue of May 24, 2006 published a scathing report on the status of tax officials in Nevada.
- On June 15, 2006 the Nevada Supreme Court will hear oral arguments, by all of the attorneys, ours and the oppositions', before all seven Justices. It is the culmination of all of our efforts for the last four years. No one had ever challenged the system before – far less a small group of citizens of good will who were trying to help fix

what they perceived as a tax problem. There was a problem all right, but no one realized at first how deep and pervasive it was.

- All will be in the hands of the Supreme Court in less than a week. We can only hope and wait for their decision.
- Oral arguments were presented to the Supreme Court by all attorneys on June 15, 2006. There was a huge standing room only attendance of observers who were joined by all media reporters, and live TV coverage of the moment. In our opinion the attorneys representing the taxpayers did a superb job and the opposition attorneys suffered a total meltdown. Now, we await the Court's Decision.
- League President, Maryanne Ingemanson, prepares for appearances before the Nevada Legislature, (starting February 5, 2007) to address deficiencies in the property tax laws.
- August 1, 2006 – All Incline Village and Crystal Bay taxpayers are reminded, once again, to always pay property taxes “Under Protest”. The form for doing so is posted in the Website of the Village League.
- The following Alert was issued regarding the status of pending legal actions:

We won the Order issued by Judge Griffin for the tax year 2004-2005, which was appealed by Washoe County to the Supreme Court, where it awaits a ruling. The ruling by Judge McGee also is awaiting a Supreme Court decision, as are three other cases in the courts of Judges Griffin and Judge Maddox for the tax year 2005-2006. The tax year cases for 2006-2007 will be heard before the State Board of Equalization, whenever it is re-scheduled. The current Supreme Court ruling is to determine if the tax year 2003-2004 Order issued by Judge Maddox withstands the Appeal of Washoe County.

- **On December 29, 2006 the Nevada Supreme Court issued a ground-breaking unanimous decision in favor of the Incline Village and Crystal Bay taxpayers!!**

## 2007 YEAR

- 900 Petitions for Appeal are filed by Attorney Suellen Fulstone with the County Board of Equalization in an attempt to have the 15% increase in land values imposed by the new Washoe County Assessor Josh Wilson removed.
- January 9, 2007 – Washoe County acknowledges that should the roll-back to tax year 2002-2003, granted for the 2006-07 tax year by the 2006 County Board of

Equalization for 8700 taxpayers stand, the cost to the County for just that one year would be approximately \$14,000,000.

- January 30, 2007 - The Washoe County Assessor requested that the State Board of Equalization now hold a hearing to decide if the County Board's Decision to roll-back the 2008-07 property values was correct! This is a year after the decision was made. The hearing is scheduled for February 25, 2007. Washoe County stated that they are going to fight us on every case and on every detail.
- February 21, 2007 – A HUGE victory by Attorney Suellen Fulstone before the County Board of Equalization for approximately 1000 Petitioners. It was an all day hearing, ending at 6:00 P.M. with a 3 to 2 vote in our favor. This followed yet another attempt by the Washoe County District Attorney to intimidate the County Board Chairman, who read aloud his letter of resignation and abruptly left the room. A new counsel for the board, who had been hired by the D.A., took his seat and a tortuous reading aloud of every one of the thousand appellants' names took place. The next day, we were informed after 45 minutes of waiting, that the new counsel was unavailable. The previous counsel then reappeared and stated that he would stay if the Board would waive the "conflict" problem, which the Board declined to do. Another day was lost. On day three we found that an alternate member of the Board had been appointed and the hearing was able to proceed. And, in what was obviously an ENORMOUS SETBACK to Washoe County WE WON! The tax year 2007-08 values were rolled-back to tax year 2002-03 values, with refunds and interest on the overpaid taxes to be paid to the taxpayers.
- More chicanery by Washoe County. The Village League Board had been made aware that Washoe County District Attorney Richard Gammick was preparing to bombard us with uncountable procedural and administrative blocks to allowing our Class Petition for all of IV/CB to go forward, as was scheduled, on February 23, 2007. We determined to withdraw our Class Petition to avoid the expenditure of time and funds that would be certain to follow as we fought, through the courts, the challenges that were going to be made by the D.A. Instead we authorized Attorney Fulstone to proceed to represent all IV/CB taxpayers at an "equalization hearing", which had been scheduled for February 28th. First, at that hearing, a blatant attempt was made by two of the County Board members to force two other members to recuse themselves!! This would have reduced the voting members of the Board to three, so that the two members who planned to vote against us could control the outcome. We defeated this attempt to reconfigure the Board. The Washoe County Clerk then stated that the extra hearing day, due to a clerical error, had not been properly noticed; therefore the "equalization" issue could not be on the Agenda. We now must appeal this situation to the State Board of Equalization.

- In response to the Assessor's previous appeal to the State Board of Equalization of our 2006-07 County Board of Equalization victory for all 8700 taxpayers in IV/CB, the State Board determined to send the ruling back to the County Board for a "do over". Attorney Suellen Fulstone filed a Writ of Mandamus and a Request for Emergency Stay with the Nevada Supreme Court to halt the County Board hearing scheduled for May 8, 2007.
- On May 5, 2007 the Nevada Supreme Court GRANTED the Stay Motion filed by the Village League which stopped the hearing before the County Board of Equalization, that the State Board had been trying to orchestrate, to reverse the 2006-07 decision for all 9000 of the IV/CB taxpayers. The opposition attorneys must now file answers to the Supreme Court stating why they feel that the Court should not issue the Writ of Mandamus in our favor.
- At the May 17 and June 27, 2007 hearings before the State Board of Equalization, agreements were reached to issue property tax refunds plus 10.25% interest to nearly all of the 300 taxpayers for whom the Village League filed appeals and won for the 2006-07 tax year. Tax bills were received and significant decreases, from 30% to 50% had been made for the 1000 appellants represented by Attorney Fulstone for the 2007-08 tax year. FINALLY, we are starting to see some results of our five years of effort in this battle for fairness and equality in taxation.
- July 31, 2007 – the Village League received another powerful and favorable Order from the Nevada Supreme Court which said in part:

"In Bakst (the 2003-2004 case), seventeen taxpayers and owners of real property located near Lake Tahoe and Incline Village contested exactly the same methods utilized by the Assessor in this appeal ...this court agreed, that Nevada statutes do not permit the Assessor to adopt methods of property valuation not authorized by the Nevada Tax Commission...this court held that the methodologies were invalid and unconstitutional because they violated the Nevada Constitutional requirement that property be taxed according to a uniform and equal rate of assessment." The Order was in answer to an Action for Declaratory Relief that was filed by Attorney Suellen Fulstone in November 2003 on behalf of the Village League. In other words, the Supreme Court clarified that the Decision that they issued last December (Bakst) did not just apply to those seventeen individual taxpayers, but is applicable to ALL of the residents of the IV/CB area.

- Washoe County Assessor Josh Wilson appeared at the IVGID Boardroom to answer questions from the public on August 1, 2007. He encountered a standing room only crowd of very animated people.

- On August 16, 2007 we were scheduled to present before the State Board of Equalization our remaining 2006-07 cases, and some of the 2007-08 cases. The remainder of the 2007-08 cases were to be heard on August 17, 2007. At the hearing the Board determined that because of a possible error in the hearing notice published by the Department of Taxation there was a potential for an “Open Meeting Law Violation” and the hearing for the 2007-08 cases was rescheduled for September 13th and 14th.
- Maryanne Ingemanson met for two hours with Governor Jim Gibbons to discuss our tax revolt. “He was stunned at some of the things that I shared with him”. When the Written Decisions were issued after the June 27 settlement hearing for the 300 tax year 2006-07 cases, the final assessed values assigned to the properties were larger than they should have been, based on the settlement agreement. When asked about the discrepancy, Dino DiCianno, the Executive Director of the State Department of Taxation, stated that there was a minor “rounding error”. The Department stated that no spreadsheet or paper trail existed as to how each case was calculated. The Treasurer unilaterally reduced the refund checks by the “Abatement” amount indicated on the recipients 2006-07 tax bills. In some cases that amount was substantial.
- October 5, 2007 – A description by Les Barta of the final hearing for the 2007-08 tax year by State Board of Equalization stated: “This same State Board, the one writing briefs and arguing fervently on behalf of the assessor, has now judged the assessor’s appeal on the same issues that they argued together in court. How can a taxpayer possible hope for justice when his adversary is his judge? These quasi-judicial public officials have engaged in nothing short of open contempt for the legal system and the public interest they are sworn to protect. They were even cautioned to respect the taxpayers and comply with the courts in a letter from Governor Gibbons, who was alerted to their errant behavior. The State Board’s response to the Governor was evident when they let it all hang out as a sort of parting shot in a grand finale of arrogance and disrespect.”

The State Board had offered the same type of “settlement”, proposed by the Assessor, for the 2007-08 year as had been previously accepted for the 2006-07 tax year. As we now knew that what was offered and what was actually delivered would be quite different, Attorney Fulstone denied to accept the offer on behalf of the 1000 Petitioners. A “Supplemental Tax Bill” from the office of the County Treasurer raising property taxes, which had previously been lowered, was then sent to the 1000 taxpayers.

- On November 1, 2007 a legal action was filed by Attorney Fulstone in the Carson City District Court requesting,
  - a) the “settlement” decision of the State Board be set aside and the decision of the 2006 Washoe County Board of Equalization be reinstated,
  - b) the 300 taxpayers be refunded the total amount of excess taxes that were paid for the 2006-07 tax year,
  - c) specific performance by the County of their contractual obligations under the settlement agreements or damages and
  - d) attorneys’ fees.
- Actual Fifth Year Anniversary of the first Tax Revolt Alert that was sent to our members by Ted Harris on December 23, 2002. It is interesting to note that the issues then are the same issues today. However, the battle is not over. We never anticipated the arrogance, the stubbornness, the deceitfulness and the lack of empathy of the office of the Washoe County Assessor, the Department of Taxation, the State Board of Equalization and the Nevada Tax Commission.

## **2008 YEAR**

- January 7, 2008 - Another Nevada Supreme Court hearing. **WOW!** Over 300 people braved the elements following the “Mother of All Storms” to attend the hearing yesterday. The Court Chambers were overflowing (Standing Room Only) and chairs were set up in the rotunda for an additional 90 attendees. Our attorneys, Suellen Fulstone and Norman Azevedo were superb in their presentations. All seven Justices were present and were keenly attentive. The cases being heard were the 2004-05 tax year appeal and the Writ of Mandamus filed by Attorney Fulstone re: the 2006-07 tax year.
- 1,335 individual appeals were filed by the taxpayers of IV/CB for the 2008-09 tax year prior to the cut-off date of January 15. Hearings must be scheduled and heard by the County Board of Equalization for each one of the cases before February 29. Six Petitions were filed that included attachments naming 6995 residents who didn’t file individual appeals. Maryanne Ingemanson, President of the Village League is one of those Petitioners. She stated that all of the people included in the attachment have “similarly situated properties”, which means, “that if I win then the ruling applies to all”. 3% of the Washoe County population lives in IV/CB, but 37% of the Petitions for review were from this area. While the option of combining some or all of the hearings, to avoid having 1,335 separate hearings, is possible, it must be adopted in a public meeting.

- February 6, 2008 – the class Petitions are scheduled to be heard by the CBOE on February 15. Every property in the IV/CB area is represented in the petitions filed by six individuals. Each Petition covers a different group of parcels, i.e. condos, East/West Slope (views), Lakefronts, etc. Attorney Fulstone will be representing all groups.
- As was expected, the County Board was again a stacked deck, as the members had been carefully selected and chosen by the Washoe County Commissioners. No relief was gained by any of the Petitioners as the County Board, on advice of the County counsel, determined that they did not have jurisdiction to hear Class Petitions. The record for all of the cases was established however, which would allow a further appeal to be carried forward to the State Board of Equalization. All of the individual petitioners were encouraged to file an “Agent Authorization Form” naming Attorney Fulstone as their counsel to represent them before the State Board. Over 900 appeals were filed to the SBOE naming Attorney Fulstone as their representative. Class Petitions were also filed on behalf of every property owner in IV/CB. Following are the pending lawsuits now awaiting decisions by the district courts:
  - 2005-2006 – Three (3) cases protesting the illegal appraisal methods used in determining land valuations for 1200 Appellants; as well as, relief from the 8% factor applied to increase land assessments.
  - 2006-2007 – Protesting the determination of the amount of Settlement Refunds paid to the 300 Petitioners who filed individual appeals. (The remaining 8700 Appellants are represented in one of the cases currently under submission at the Supreme Court).
  - 2007-2008 – Appealing the incorrect “factor” of 15% used in the calculation of land assessment values.
  - 2007-2008 – Protesting the “Settlement” valuation accepted by the SBOE.
  - 2007-2008 – Civil Rights (due process) violations are highlighted. Four members of the SBOE are individually named in this case.
- The State Board of Equalization started returning all of the ORIGINAL Agent Authorization forms back to the taxpayers who had submitted them, along with a “form” letter stating that additional information was needed regarding each case. The 1300 taxpayers were then told to resubmit another ORIGINAL signed Agent Authorization form to the State Board of Equalization. This debacle, caused by the Department of Equalization, was not unraveled until late December 2008.

- April 19, 2008 – the media reports that the average price of a home in Incline Village and Crystal Bay has dropped by 31%; however, the assessed values continue to rise.
- Attorney Suellen Fulstone files our first Federal Court Complaint on April 23, 2008. This class action pleads that the Federal court find as follows:
  1. That the Court determine, adjudge and declare that, in valuing residential real property at Incline Village and Crystal Bay, Lake Tahoe, for the 2008-2009 tax year, the Washoe County Assessor failed to follow the valuation methodologies promulgated by the Nevada Tax Commission for uniform use throughout all seventeen counties in Nevada, that the resulting valuations and assessments violate the Nevada and U.S. Constitutions and Nevada statutes, and that any tax bills based on those valuations/assessments are unconstitutional and void;
  2. That the Court determine, adjudge and declare that the plaintiff homeowner taxpayers and other similarly situated homeowner taxpayers have no plain, speedy, efficient or otherwise adequate remedy under state law from the unconstitutional valuation and assessment of their properties or from the unconstitutional and excessive tax bills based on that unconstitutional valuation and assessment;
  3. That the Court enter an order preliminarily and permanently enjoining Defendant Washoe County Treasurer Bill Berrum from collecting any taxes on any residential real property at Lake Tahoe, in Washoe County for the tax year 2008-2009 based or calculated on the unconstitutional valuations and resulting unconstitutional assessments;
  4. That Plaintiffs be awarded costs of this action and their reasonable attorney's fees; and
  5. That Plaintiffs be awarded such other and further relief as they may be adjudged entitled to in the premises.
- Maryanne Ingemanson, President of the Village League to Save Incline Assets, Inc. is named the Grand Marshall for the 4th of July, Red, White and Tahoe Blue Parade.

- **WE WON! WE WON!** – For the second time the Nevada Supreme Court issued a unanimous decision in our favor yesterday, July 25, 2008. Their Conclusion states:

**CONCLUSION:** In these cases, the State Board erred by disregarding the Taxpayers' arguments that the Assessor used unconstitutional methods to determine the taxable values of their properties and by failing to recognize that a taxable value may be unjust and inequitable despite being less than the full cash value of the property. Thus, the Taxpayers met their burden of proving that the taxable values of their properties were unjust and inequitable by showing that, in assessing their properties, either by reappraising or factoring, the Assessor used methods or adjusted values that we declared unconstitutional in Bakst. We conclude that nothing significant distinguishes these cases, factually or legally, from Bakst, and we therefore affirm the district court's orders granting judicial review, declaring the Taxpayers' 2004-2005 assessments void, and setting their assessed values for 2004-2005 to the 2002-2003 levels. The Taxpayers are entitled to refunds of all excess taxes paid and six percent annual interest.”

- The Bonanza newspaper stated the following in an Editorial on July 27, 2008.

How many individual opinions will it take to rectify this obvious problem? Will there be another ruling two years from now that decides assessed property values in 2005-2006 were unconstitutional, therefore calling to order another roll back to 2002-2003? What kind of ramifications will this latest opinion have on Incline Village? What about other areas of Washoe County? Or what about the entire state?

The decision means that there is something drastically wrong with the way taxes are assessed — not in the county — but in this state. The county assessor simply follows orders from the county tax department, which gets its orders from the state department of taxation.

We are definitely getting the attention of the media!

- Washoe County District Attorney Dick Gammick is quoted as saying “... it just all seems to be a big game.” Following is a response from the Village League.

#### North Lake Tahoe Bonanza - Letters to the Editor

August 1, 2006, page 6A

#### Gammick's 'Game-ick'

I was delighted to read of the Nevada Supreme Court's ruling in last Sunday's Bonanza that concluded that the Washoe County Assessor's methods of assessment were illegal and unconstitutional.

However, I was appalled at Washoe County District Attorney Dick Gammick's comments that the whole situation was a "game."

The Village League to Save Incline Assets, through donations from Incline Village/Crystal Bay taxpayers, has spent close to a million dollars in legal fees to

play in his so-called “game.” Some would choose not to call this a “game,” but rather a “circus,” a “fraud” or a “farce.”

Mr. Gammick and his office along with the defendants in this case (the assessor’s office, Washoe County, the Nevada Department of Taxation and the Nevada Tax Commission) have done everything in their power to attempt to frustrate our efforts, prolong the process, dodge the inevitable bullet and cover their tails.

How many times does the Supreme Court have to tell these bureaucrats and legal beagles that the assessment methods used up here are illegal and unconstitutional leading to unfair and unequal treatment?

There are two more cases pending for different tax years. Since these suits are similar to the two cases already decided, the outcome seems predictable. But, do you think the county is ready to yield and settle these matters?

No, my guess is they will find other ways to bob-and-weave, appeal on baseless grounds, and try to prolong the agony.

The next cases involve all taxpayers in Incline and Crystal Bay!

And, to think that we, the taxpayers, fund the salaries of these folks, galls me to no end.

We pay them to fight us and we have to raise funds to fight them! Incredible!

It is apparent from the article that Mr. Gammick has a new Gimmick (Gammick’s Gimmick Game!). He’s pointing the finger at the state for failure to provide proper direction to the county.

He’s playing the game of “Blame the State.” Knowing that the county is losing, he’s hoping to get the state to foot the bill and refund the monies illegally gained by the county (plus interest).

This would set up another legal contest between the county and state, use our taxpayer dollars to fund the fight, and keep the game going.

Gammick says that “if the court comes back three, four, five years later and rules on tax assessments, to litigate them, we have to follow the order.”

Well, sir, how do you think we taxpayers feel being jerked around for three, four or five years — we have had to deal with the county’s gerrymandering the county Board of Equalization for the purpose of thwarting our appeals, a State Board of Equalization that is arrogant, condescending and has no clue what “equalization” means, and an Assessor’s Office which has a culture of arrogance and maintains a posture of “we know better than anyone else so we’ll do it our way.” Blame the state? Partially! Blame yourselves? Absolutely!

The county got the illegally gained money. I say return it to all of the property owners with interest.

That goes for the two cases already decided plus those pending — same issues, same consequence.

It’s time to face reality — the game is over.

The players on our side are energized, confident and have a firm legal basis. It’s time for your side to throw in the towel! Point, set, match!

**Chuck Otto**  
Incline Village

- The State Board of Equalization hearings, which were scheduled to be heard on August 21 and 22, have been postponed due to the lack of a quorum to sit as an appeal board. The governor refused to re-appoint two of the former members of the Board, whose terms expired in March 2008 and two of the remaining members have been personally named in lawsuits by the Village League; therefore, they would suffer from a “conflict of interest” in hearing any of the IV/CB cases. All SBOE hearings for the 1350 individual petitions and 6995 co-plaintiffs are now delayed until new appointments to the Board are made by Governor Gibbons.

- **In Memoriam – Ted Harris, Director of Village League**

On Wednesday October 22, 2008, Ted Harris passed into eternal life. He was an original member of the Village League and for six years fought tirelessly to obtain fair and equal taxation on behalf of all property owners. A man of incredible energy, he was always willing to get petitions signed, make telephone calls, attend government hearings and help in any way to forward the goal. A superb skier, outdoorsman and a friend to many, too numerous to count. He gave often and willingly of his time and spirit. He will be sorely missed by all of us.

- The entire Village League Board was selected to be honored by the Bonanza as 2008 “locals” for the Incline Village and Crystal Bay area. “None of this would be possible without Maryanne Ingemanson. Her intelligence and dedication is unparalleled to anyone I’ve ever seen.”
- **Victory Is Ours!** Another unanimous Nevada Supreme Court Decision – October 30, 2008 - was won for the Village League by Attorney Suellen Fulstone. The Court ordered the State Board of Equalization to equalize property taxes for all 9000 residential properties in IV/CB for the 2006-2007 tax year. The bar for equalization has been set by the 300 individual petitioners for whom the Village League won, before the Washoe County Board of Equalization in 2006, a roll back to their 2002-2003 assessed valuations, plus refunds and 6% interest on over-paid taxes. The Court Opinion states, “In oral argument before this court, the State Board noted that the County Board’s equalization decision (2006) affected \$12 million in revenue (i.e. over taxation – that amount is specific to the 2006-2007 tax year).
- Part of an Editorial in the Bonanza:

“Thursday’s Nevada Supreme Court decision is the big one – it’s the one big decision that Maryanne Ingemanson and the Village League to Save Incline Assets have talked about for six years, the big one that should shed some light at the end of a very convoluted tunnel.”

- After Assessment Notices were received on December 18, 2008, Village League Directors Les Barta and Maryanne Ingemanson met with the Assessor and four appraisers to discuss the 10% land reduction that had been made. Was it sufficient, given the plummeting real estate market? Another meeting will be scheduled at which the League will present more data in this regard.
- On December 27, 2008 Judge McGee made the following ruling:
  1. The Court...directs the County Assessor to return the land valuation of the affected parcels to their 2002-03 levels and to refund with interest excess taxes paid;
  2. In doing so the Assessor shall apply forward an 8% factor (a 1.08 multiplier) to the land Values of the affected parcels FOR TAX YEAR 2005/06.

For the purposes, affected parcels shall mean any property owned by any of the named plaintiffs whose values were derived using any of the methods found constitutionally impermissible in Bakst I and Bakst II (Barta).

- 830 Plaintiffs received this award of refunds and a lower basis to their property taxes. The Judge did not include 300 Plaintiffs, most of whom represented condo properties that were included in the Complaint.

## **2009 YEAR**

- January 2, 2009 -The Bonanza declared that our tax revolt efforts will be the top story for 2009. Editorial:

“The dominoes are falling, folks, and with each powerful ruling from the district and state supreme courts, it seems they are tumbling with a bit more force. It’s only a matter of time before the State Board of Equalization reconvenes to hear the 8,700 cases that stem from the October 30 court order in regard to the 2006-2007 tax year.

If the state board rules that Washoe County must refund 8,700 parcels, the dominoes will begin falling like sledgehammers.”

- Taxpayers begin to file Petitions for Appeal for the 2009-2010 tax year.
- January 19, 2009 – Wonderful News - After meeting once again with Directors of the Village League, the Washoe County Assessor and staff agreed to recommend to the County Board of Equalization, at a hearing scheduled for January 26, 2009, an

increase in the reductions of assessed land values by another 15% for a total decrease in land value of at least 25% for the tax year 2009-2010. The Assessor later determined to include all of Washoe County in his recommendation. This is an historical occurrence – the first time in Nevada history.

- January 26, 2009 – Upon the recommendation of the Washoe County Assessor, the County Board of Equalization reduced the land values of every parcel in the entire county by a minimum of 25%. This was an unprecedented event
- The Washoe County Treasurer has stated that the refunds that are due to the 830 Plaintiff's in the 2005/2006 case will be forthcoming by the end of the month, including 6% interest.
- March 1 - The last refund checks were sent to 830 taxpayers who had filed Individual Petitions of Appeal before January 15, 2005 for single family residences in Incline Village and Crystal Bay. The reimbursements included the amount of over paid taxes for the 2005/2006 year, and adjustments for the following years plus 6% interest. To date, Washoe County has reimbursed approximately \$7,000,000 to nearly 900 residents of our area.
- March 21 - Another unanimous decision was issued by the Nevada Supreme Court yesterday in favor of the taxpayers. And, this victory was for the “sledgehammer” case, which is the one that we have all been praying for, as it affects every single property owner in the Incline Village, Crystal Bay area, going back to tax year 2002-2003!!

The main sentence of the Supreme Court Order is as follows:

“...we reverse the portion of the district court’s order dismissing the equalization claim...”.

Click to read the complete Nevada Supreme Court Advance Opinion.

<http://www.NevadaPropertyTaxRevolt.org/09/NV-SupremeCourt-090319.pdf>

- The Village League has won four out of four Nevada Supreme Court consecutive cases with unanimous decisions. Why is the County still litigating about matters that they have already lost? Justice is delayed, but at what an enormous expense to the County.
- While Washoe County dithers, the 6% interest, as awarded by the Court, on repayments as yet not issued, continues to compound at \$12,000 per day.

- April 27 - The State Board of Equalization (SBOE) appeal hearing for the 1384 taxpayers who filed individual Petitions for the 2008-2009 tax year with the Washoe County Board of Equalization in January 2007. The SBOE decision denied the appeal by the property owners for a roll-back to the 2002-2003 tax year assessed values.
- June 10 - An Equalization hearing was held before the State Board of Equalization. The Washoe County Board of Equalization ruled for the tax year in 2006-2007 that the values of ALL residential properties in the Incline Village and Crystal Bay area should be rolled-back to their 2002-2003 assessed property values, and that the owners should receive refunds for the over paid taxes plus interest.
- This decision was appealed by the Washoe County Assessor to the State Board of Equalization, which attempted to send the case back to a new Washoe County Board of Equalization in an attempt to get the prior decision changed. The Village League then filed a Writ of Mandamus in the Nevada Supreme Court to stop this blatant attempt to overturn our original County Board of Equalization victory.
- Last October the Nevada Supreme Court again ruled unanimously in favor of the taxpayers and ordered the State Board of Equalization to withdraw its decision to send the case back to the new Washoe County Board of Equalization and to proceed to hear the case, which we previously won on behalf of every single taxpayer before the Washoe County Board of Equalization in 2006.

## **What was wrong with the SBOE hearing?**

- In noticing the matter to be heard and preparing the record for the State Board to consider in making its decision, the Department of Taxation had replaced the 9,000 Incline Village and Crystal Bay taxpayers, as parties to our case, with the 2006-2007 Washoe County Board of Equalization, which had originally ruled in the taxpayers' favor. Of course, this would have meant that no one (including Attorney Fulstone or the taxpayers themselves) would have been able to represent property owners at the hearing.
- No attorney(s) represents the County Board of Equalization outside of their actual hearings since the Board itself ceases to exist after its two month term each year. Also, there are no members of the current County Board that were members of the combined 2006-2007 County Boards that issued the "mass rollback" decision being appealed by the Assessor. Therefore, there was no one who could appear for the Washoe County Board to defend its decision.

- As arranged by the Department of Taxation, the State Board was only going to hear the Assessor's presentation. When the State Board Chairman called the case, only the Assessor and his Attorney stood up. No one came forward on behalf of the County Board of Equalization.
- With no one being allowed to represent the taxpayers or the 2006 Washoe County Board, the Incline Village and Crystal Bay property owners would have lost if the case had proceeded. Since one must be a party to take a case to the Courts later, taxpayers would have been prevented from appealing any State Board decision and we would have lost our entire 2006-2007 victory.
- In addition to removing the 9,000 taxpayers as parties, the Department of Taxation omitted critical evidence in favor of the property owners that had been considered by the County Board.
- Only evidence which is in the record before the State Board can be considered by the Courts later. All documents pertaining to the County Board rulings in favor of the 300 individual properties, on which the mass rollback decision for all of Incline Village and Crystal Bay was based, were missing from the "record" prepared by the Department of Taxation.
- Also, Notices of the hearing were not sent to all of the affected 9,000 taxpayers as required by law.
- Attendance was standing room only and the State Board members and attending media did indeed take notice. The State Board unanimously postponed yesterday's proceedings after a two hour hearing.
- The powerful Nevada Policy Research Institute (NPRI) engaged the services of John Dougherty, a nationally known investigative reporter, to spend several months analyzing the Incline Village Tax Revolt. This is a wonderful and welcome unfolding event, about which we will keep you informed.
- July 20 – WE WON! The State Board of Equalization (SBOE) unanimously voted to reject the Washoe County Assessor's appeal that challenged our victory before the Washoe County Board of Equalization (CBOE) on March 8, 2006. The CBOE had previously voted to roll back ALL Incline Village and Crystal Bay residential land values for the 2006-07 tax year to the 2002-03 assessed values. Attorney Suellen Fulstone represented all of the taxpayers.

## **Guest column: Village League to Save Incline Assets**

Bonanza Guest Column, page 8,  
July 30, 2009, [www.TahoeBonanza.com](http://www.TahoeBonanza.com)

By Les Barta

We, the Village League to Save Incline Assets, are thrilled to be able to tell you that on Monday, July 20, 2009, we received a ruling from the State Board of Equalization that will at last provide the long sought and painfully overdue justice which we have long sought for all 9,000 Incline Village/Crystal Bay residential properties.

Since 2003 the Village League has been struggling with state and county tax officials to get justice for Incline Village/Crystal Bay property owners, who all have been forced to pay unequal and excessive property taxes.

In the course of this effort we have won several Supreme Court battles in which a number of taxpayers received refunds, and important principles were established by the court in support of our legal claims.

Most notably, the Supreme Court ruled that Nevada's Constitution guarantees all taxpayers the right to uniform and equal taxation. We have provided overwhelming proof that properties in Incline Village and Crystal Bay were not assessed uniformly and could not be taxed equally when only certain taxpayers received relief for the same conditions that affected all 9,000 residential properties in the area.

We were repeatedly ignored by state and county tax officials who went to great lengths to complicate our efforts and deny justice.

In 2006 the Village League won relief for some 300 local taxpayers whose property taxes were rolled back to 2002 levels by the County Board of Equalization.

The county board based its decision on clear evidence of unconstitutional assessment methods, and on the ruling of Judge William Maddox, that the use of such methods affected the entire area.

Knowing that it had to provide equal treatment for all 9,000 parcels in the Incline-Crystal Bay area, and having been specifically ordered by the Supreme Court to follow Judge Maddox's reasoning, the county board then held a special hearing, on March 8, 2006, at which it equalized the same relief for all 9,000 properties. This meant that the assessments for all Incline Village/Crystal Bay property owners were to be rolled back to their 2002 levels and refunds would be issued for the excess taxes paid.

Then the assessor appealed the county board's decisions to the State Board of Equalization. The state board ignored the clear evidence, the county board's ruling and the instructions of the courts, and dragged the taxpayers through three more years of hearings and legal maneuverings in an effort to thwart the just outcome prescribed by the county board and the courts.

On July 20 all of that changed. A new state board with new members had taken over the matter. After having diligently studied the complex issues, the state board heard the arguments from both sides and ruled unanimously that the county board's original rulings must be upheld.

This means that all 9,000 Incline Village/Crystal Bay residential property taxpayers must have their 2006 property taxes rolled back to the 2002 levels and must receive full refunds of overpaid taxes — not only for the 2006 year, but for all excess taxes paid beyond the 3 percent abatement limits in the following years as well.

After all these years we have finally achieved our goal — equal justice for all. We are grateful for the wisdom and discipline of a genuine State Board of Equalization. We are thankful especially to Maryanne Ingemanson and attorney, Suellen Fulstone, for their tireless and brilliant efforts in the face of overwhelming odds. We will now set ourselves to the task of ensuring that the refunds will be paid and justice is fulfilled.

An individual taxpayer would never have been able to accomplish this astounding result, nor could the Village League, without the support given to us by all of you. We will now finish the job — once again, with your continuing faith in our efforts.

*Les Barta is an Incline resident and member  
of the Village League to Save Incline Assets.*

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- August 7 – A Demand letter was hand delivered from Attorney Suellen Fulstone to Washoe County Treasurer Bill Berrum requesting confirmation as to the date when the taxpayers would start to receive their refunds.
- August 17 – Treasurer's response to August 7th Demand letter. “..it is my belief that the request contained in your letter is a bit premature”. He states that he will wait until after a Written Decision is forthcoming from the SBOE.

# The Tax Revolt

## SUMMARY OF PAST & PRESENT CASES

Tax Year: 2003/2004

**Plaintiffs/Parties:** Bakst Case - 17 taxpayers  
**Issues:** Illegal assessment methods

**Protest Process:**Appealed to Washoe County Board of Equalization, appealed to state Board of Equalization, District Court, Supreme Court  
**Disposition:** Won, (appealed by county) won again.  
**Remedy:** Rollback to 2002/2003; refund taxes plus interest.

Tax Year: 2005/2006

**Plaintiffs/Parties:** 1,200 taxpayers  
**Issues:** Illegal 8 percent increase

**Protest Process:**Appealed to Washoe County Board of Equalization, appealed to state Board of Equalization, District Court, Supreme Court  
**Disposition:** Won, (appealed by county), lost (appealed by league), remand to county Board of Equalization (appealed by league), pending  
**Remedy:** 8 percent refund

Tax Year: 2005/2006

**Plaintiffs/Parties:** Won, proposed settlement, pending  
**Disposition:** Rollback to 2002/2003; refund

**Tax Year:** 2007/2008

**Plaintiffs/Parties:** 900 taxpayers  
**Issues:** Illegal methods

**Protest Process:** Washoe County Board of Equalization, State Board of Equalization, District Court

**Disposition:** Won, (Appealed by county) lost, (Appealed by league) pending  
**Remedy:** Rollback to 2002/2003; refund

**Tax Year:** 2008/2009

**Plaintiffs/Parties:** All Incline Village and Crystal Bay  
**Issues:** Illegal methods

**Protest Process:** Washoe County Board of Equalization, appealed to state Board of Equalization, Supreme Court - Writ  
**Disposition:** Won, remand to county Board of Equalization, pending  
**Remedy:** Rollback to 2002/2003; refund

**Tax Year:** 2008/2008

**Plaintiffs/Parties:** All Incline Village Crystal Bay  
**Issues:** Federal court

**Protest Process:** Pending  
**Remedy:** Injunction to halt taxes

- On October 6, 2009 Judge Brent Adams ruled in response to our filing of a Writ of Mandamus action against the Washoe County Treasurer, Bill Berrum, that he MUST calculate and pay refunds to all residential property owners in the Incline Village/Crystal Bay area based on the March 2006 County Board of Equalization decision. Property taxes for the nearly 9000 parcels must be recalculated based on the rollback of assessed values to the 2002-2003 tax year and refunds will equal the amount of taxes paid in 2006 minus the 2002 taxes plus interest. As Judge Adams left the bench and exited to his office, spontaneous applause broke out from the observers, who filled every seat in the court room and the jury box as well.
- The written decision of the State Board's July 20 determination is required by law to be issued within 60 days after the hearing — which would have been no later than September 20. Yet the Nevada Attorney General's office has been playing games issuing that document, perhaps in the hope of further delaying the inevitable. This unethical tactic was foiled by the recent ruling of Judge Adams.

**October 23, 2009 the most pertinent part of Judge Adam's Order:**

ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED that the petition for writ of mandamus is granted, and the respondent, Bill Berrum, Washoe County Treasurer, is mandated and commanded to forthwith comply with the March 8, 2006 decision and order of the Washoe County Board of Equalization as memorialized in the Notice of Decision issued on January 23, 2007, and as reflected on the real property assessment roll for Washoe County as corrected by the Washoe County Assessor in January of 2007, by calculating the amount of excess taxes paid by the owners of all Incline Village and Crystal Bay residential property for the tax year 2006-2007 and subsequent years, and refunding to taxpayers the amount of those excess taxes with interest calculated pursuant to NRS 361.482 at the rate of 0.5 percent per month, or fraction thereof, from the last day of the calendar month in which the overpayment was made to the last day of the calendar month in which the refund is made.

DATED this 23rd day of October, 2009.

BRENT ADAMS  
DISTRICT JUDGE

- John Dougherty, a nationally known investigative reporter was engaged by the Nevada Policy Research Institute (NPRI) to write a series of in depth articles about Nevada's property tax system. Their interest was triggered by the seven year Village League tax revolt against Washoe County, the State of Nevada Department of Taxation and the Nevada Tax Commission.

Click on the links below for the entire series of articles:

<http://www.nevadapropertytaxrevolt.org/09/091005-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091005-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091105-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091117-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091120-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091127NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091130-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091203-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091215-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091217-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091221-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/09/091229-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/10/100107-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/10/100119-NPRI.pdf>

<http://www.nevadapropertytaxrevolt.org/10/100128-NPRI.pdf>

- November 6, 2009 saw the County District Attorney Richard Gammick file a Judicial Review lawsuit in an attempt to overturn the decision of the State Board of Equalization which granted refunds to the entire Incline Village and Crystal Bay area. Because all of the Village was included in the favorable decision, the County attempted to notice everyone that they were being sued by means of mailing an almost eligible three-fold mailer which did not specify why the taxpayers were included in this mass mailing and the text had been reduced to a size that was nearly impossible to read without a magnifying glass. Another attempt by the

Washoe District Attorney to delay and avoid having to return the excess taxes collected in 2006 for approximately 9000 residential property owners.

## 2010 YEAR

- On February 1, 2010 the county sent yet another of the mass mailers, still with no identification or explanation, in response to District Court Judge Wilson's admonishment regarding the inadequacy of the first communication.
- District Attorney Gammick argued that in order to be eligible to receive returns of their over collected tax dollars, the 9000 property owners who are owed tax refunds must have personally appeared before the State Board of Equalization (SBOE) to appeal their taxes (even if they were members of the armed forces serving in Afghanistan or Iraq); filed Paid Under Protest forms with every tax payment (even though their cases had previously been won before the County Board of Equalization); and have submitted individual appeal petitions to the County and State Boards of Equalization.
- In addition, the District Attorney is attempting to claim that the mass mailing to all 9000 taxpayers of an almost eligible copy of the Complaint that he filed in court against the SBOE's decision in our favor is legal notice that all of us are also parties to that lawsuit, and should be forced to individually defend ourselves.
- Carson City Judge Wilson dismissed the attempt by Washoe County District Attorney Richard Gammick to overturn the July 2009 State Board of Equalization ruling, in which the County Board of Equalization favorable decision for our 2006 tax year was affirmed.
- Washoe District Attorney Gammick filed yet another appeal to the Nevada Supreme Court. Attorney Suellen Fulstone represented us in oral arguments before Washoe County District Judge Patrick Flanagan on March 25, 2010. This was a hearing, ordered by the Nevada Supreme Court, for the district court to determine how taxes should be equalized for the 2003-2004 tax year between Douglas County and Incline Village/Crystal Bay properties at Lake Tahoe. This case was originally filed in 2003.
- The district court was unable to cope with the Supreme Court's requirement to order property tax equalization and punted. Having failed to specify how our assessments should be equalized, the court decided to do nothing. So the matter is on its way back to the Supreme Court once again.

Click to read an article written by Village League Board Member, Les Barta.

<http://www.npri.org/publications/blowin-in-the-wind>

- The office of Richard Gammick (Washoe County District Attorney) filed a reply to a pending Supreme Court case requesting that all three cases now pending before the Nevada Supreme Court be consolidated. If the Nevada Supreme Court were to agree to the consolidation, it would take at least six months to consolidate the cases, and then another year or more to receive rulings. Once again, District Attorney Gammick is trying to affect yet another delay in getting our justified refunds of over paid taxes.
- The United States Ninth Circuit Court of Appeals has accepted our case and scheduled Oral Arguments for October 8, 2010 in San Francisco. Just the fact that this Court recognized the importance of our struggle says volumes about our situation. Only about 15% of all of the cases that are presented to this Court are actually accepted for a hearing. The remaining decisions are made based solely on the documents that are filed by the attorneys.

## 2011 YEAR

- In a carefully worded Decision by Nevada Supreme Court Justice James Hardesty, the Order previously issued by Judge Adams, mandating the Washoe County Treasurer to pay refunds to every residential property owner in Incline Village and Crystal Bay for the 2006-2007 tax year, was unanimously upheld. This is the lynch-pin case for which we have been fighting the last 9 years. It requires the County to reduce 2006-2007 land assessments to their 2002-2003 values, establish the new lower basis for 2006-2007 on which taxes can only be increased by 3% per year for the subsequent years, calculate the amount of taxes overpaid in 2006 and each year thereafter and refund the overpayments plus 6% interest to the taxpayers.

Click the Link to access the entire Opinion:

<http://www.nevadapropertytaxrevolt.org/11/NV-SupremeCourt-110707.pdf>

Newspaper Articles following the Nevada Supreme Court decision:

**Special Report: Blame follows \$40M tax fiasco in Incline**

<http://www.rgj.com/article/20110802/NEWS/107310370/Special-Report-Blame-follows-40M-tax-fiasco-Incline>

**Both sides expect state's property tax system to fail**

<http://www.nevadapropertytaxrevolt.org/11/110731-RGJ5.pdf>

**Five pending cases could lead to even more Incline refunds**

<http://www.nevadapropertytaxrevolt.org/11/110731-RGJ4.pdf>

**Rule changes aim to prevent tax challenges**

<http://www.nevadapropertytaxrevolt.org/11/110731-RGJ3.pdf>

**Incline case timeline**

<http://www.nevadapropertytaxrevolt.org/11/110731-RGJ2.pdf>

**Incline residents grateful that a handful went to bat for them**

<http://www.nevadapropertytaxrevolt.org/11/110731-RGJ1.pdf>

**Dollars and Sense**

<http://www.nevadapropertytaxrevolt.org/11/111006-Bonanza.pdf>

- November 1, 2011. The entire Nevada Supreme Court heard oral arguments on two more of our pending cases. Attorney Suellen Fulstone, as always, did a superb job of representing us. In the morning we were defending our Appeal of the decision made by Washoe County District Court Judge Flanagan regarding the equalization of Incline Village and Douglas County, and in the afternoon the Appeal by Washoe County of the decision by Carson City District Court Judge Wilson denying the County the right to participate as parties in their proposed Judicial Review of the State Board of Equalization's ruling in our favor to refund the 2006 tax years illegal taxation.

Click to access the Wall Street Journal articles.

**Tax Win Inspires Copycats**

<http://www.nevadapropertytaxrevolt.org/11/111101-WSJ1.pdf>

**Incline Village: Blazing the Trail for Property Tax Revolts**

<http://www.nevadapropertytaxrevolt.org/11/111101-WSJ2.pdf>

## **List of cases filed from 2003 to November 16, 2011.**

### **A. Pending and prior proceedings in the Nevada Supreme Court.**

1. State of Nevada ex rel. State Board of Equalization v. Bakst, 122 Nev. 1403, 148 P.3d 717 (2006)
2. State of Nevada ex rel. State Board of Equalization v. Barta, 124 Nev. \_\_\_, 188 P.3d 1092 (2008)
3. Village League to Save Incline Assets, Inc., et. al. v. State of Nevada ex. rel. State Board of Equalization et. al., 124 Nev. \_\_\_, 194 P.3d 1254 (2008)
4. Village League to Save Incline Assets, Inc. v. State of Nevada ex. rel. Department of Taxation, et. al., Case No. 43441. Order Affirming in Part, Reversing in Part and Remanding, was entered March 19, 2009,
5. Marvin, et. al. v. Fitch, et. al., 126 Nev. Adv. Op. 18, entered May 27, 2010
6. Otto, et. al. v. 1st Judicial District Court, et. al., Case No. 55357. Unpublished Order Denying Petition for a Writ of Prohibition entered April 9, 2010.
7. . Berrum v. Otto, et. al., Case No. 54947.
8. Village League to Save Incline Assets, Inc. v. State of Nevada ex. rel. State Board of Equalization, et. al., Case No. 56030.
9. Washoe County v. State, State Board of Equalization, Certain Tax Payers, et. al., Case No. 56253

### **B. In the First Judicial District Court of the State of Nevada:**

1. Village League to Save Incline Assets, Inc., et. al. v. State of Nevada ex rel. State Board of Equalization, et. al., Case No. CV05-01451, no final disposition.
2. Village League to Save Incline Assets, Inc., et. al. v. State of Nevada ex rel. State Board of Equalization, et. al., Case No. 07-0C-01720-1B, no final disposition (consolidated with following case).
3. Harris, et. al. v. State of Nevada ex rel. State Board of Equalization, et. al., Case No. 08-0C-00032-1B, no final disposition.
4. Ingemanson, et. al. v. State of Nevada, ex rel. State Board of Equalization, et. al., Case No. 09-0C00332-1B, no final disposition (consolidated with following case).

5. Field, et. al. v. State of Nevada, ex rel. State Board of Equalization, et. al., Case No. 10-0C-00015-1B, no final disposition.

6. Washoe County v. State of Nevada, et. al., Case No. 09-0C-00494-1B, dismiss May 24, 2010 (this appeal).

**C. In the Second Judicial District Court of the State of Nevada:**

1. Village League to Save Incline Assets, Inc. et. al. v. State of Nevada ex rel. State Board of Equalization, et. al., Case No. CV03-06922 (on appeal to Supreme Court as Case No. 56030).

2. Village League to Save Incline Assets, Inc. et. al. v. State of Nevada ex rel. State Board of Equalization, et. al., Case No. CV08-02132, no final disposition.

3. Village League to Save Incline Assets, Inc. et. al. v. State of Nevada ex rel. Nevada Tax Commission and State Board of Equalization, et. al., Case No. CV08-01894, no final disposition.

4. Otto, et. al. V. Berrum, Case No. CV08-02534, mandamus granted October 23, 2009 (on appeal to Supreme Court as Case No. 54947).

5. Anderson, et. al. v. State of Nevada, et. al., Case No. CV10-00311, no final disposition.

**D. In the United States Court for the District of Nevada:**

1. Lowe, et. al. v. Washoe County, et. al., Case No. 3:08-CV-00217-KJD-RAM, dismissed March 24, 2009, appealed to Ninth Circuit.

**E. In the Ninth Circuit Court of Appeals:**

1. Lowe, et. al. v. Washoe County, et. al., Case No. 09-15759, no final disposition.

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