



# Property Tax Review

October 2006

Volume 6, Issue 3

## *What Will Next Year Bring*

By Brad Flaherty, Assistant Director

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When I was appointed as the new Assistant Director of the Property Tax Division in July, I looked at the various sections and responsibilities and tried to anticipate what the next year would bring. I have to admit that being responsible for drafting the cover article on our Property Tax newsletter was not something that I contemplated. You can imagine my surprise when, during a discussion of topics for the publication, I was told that the first page was all mine. So here we are in October and as I think back on the accomplishments of the last three months and what the future will bring, there are many thoughts that come to mind.

After three months on the job, I have barely gotten through a third of the issues on the list that my predecessor, Peri Maxey, briefed me on before she retired. I cannot express enough appreciation for Peri and the time she took to make my transition easier, especially the list of ideas that she thoughtfully suggested for me

to consider for a “to do” list. Peri’s advice and insights have proven invaluable and exactly on point. Her wisdom and experience are some things that we can all only hope to aspire. Additionally, I want to recognize and acknowledge the professionalism and expertise of all the employees in the Division. Their unwavering support and “can do” attitudes have been tremendously helpful, providing guidance and advice (and demonstrating patience) while enduring my seemingly never-ending questions. I always had the utmost respect for the Property Tax staff prior to my appointment, but everyone has exceeded my highest expectations.

We have been very busy over the past 90 days — completing the utility valuation hearings, setting up our training classes, conducting levy training classes, gearing up for the ratio study, soliciting requests for industrial advisories, etc. Soon we will be deciding which of those advisory appraisals we can assist the county assessors

in completing. In addition, we have been preparing for the upcoming Legislative Session in anticipation of an increased focus on property tax legislation as a result of the recent court decision on I-747.

Our short-term focus is on recruitment of new members to join the Property Tax team. As a result of retirements and others leaving to pursue different career paths, we have a number of vacancies in the Division that need to be filled. Our goal is to fill these positions with quality candidates, while maintaining and eventually increasing our level of service to counties and



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### Special points of interest:

- **Quarterly Reminders** (see pages 3-4)
- **Upcoming Training** (see page 7)

## What Will Next Year Bring (cont.)



*“My belief is that only by working together can we reach the best possible solutions to issues that inevitably arise.” —Brad Flaberty*

taxpayers. It will be a challenge, but it is a challenge that I am confident we will be able to meet.

Upon completion of our hiring goals, our focus will be on increasing our collaborative working relationships with external stakeholders. For example, over the past several months, I have enjoyed the opportunity to meet with many of the county assessors and found that these occasions are perfect opportunities to

discuss the many common issues that we share.

However, I also recognize that it is equally important to meet with taxpayers and their representatives to research and address property tax issues from an external perspective. My belief is that only by working together can we reach the best possible solutions to issues that inevitably arise.

I hope that you find the remaining articles in the Property Tax newsletter both

interesting and informative as we strive to make this publication as useful as possible. To ensure we provide you the information that is of most use to you, we welcome any suggestions for articles or areas of improvement that you may have. So drop us a line or give us a call, we would enjoy hearing from you. —Brad ♦

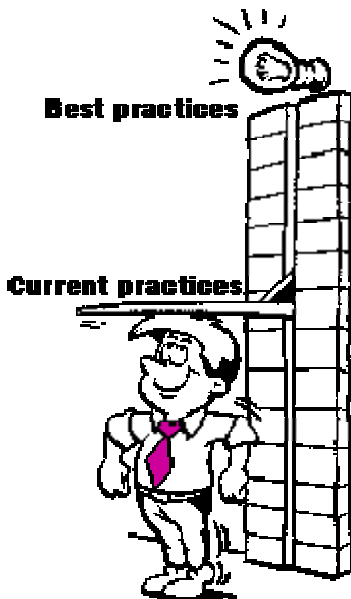
## Challenge to I-747

The court's ruling invalidated the one percent limit on the growth of property tax levies since I-747 was approved in 2001.

As reported in our last newsletter, the King County Superior Court found Initiative 747 unconstitutional this past June. The Court's ruling invalidated the 1 percent limit on the growth of property tax levies that had been in place since I-747 was approved in 2001. The Attorney General has filed a direct appeal of the ruling with the Washington State Supreme Court.

On August 18, the parties to the appeal submitted a Motion for Stipulated Order Staying Judgment Pending Appeal. The Supreme Court Commissioner signed the Stipulated Order, staying the effect of the lower Court's ruling while the appeal is pending. With the stay in place, property tax levies continue to be limited to one percent growth, plus additional amounts resulting from new construction and increased state-assessed property.

The Supreme Court has also scheduled dates for briefing. The appellant's brief is due in mid-October; the respondent's brief is due November 20<sup>th</sup>; and the reply brief is due on December 22<sup>nd</sup>. While no date has been set for oral argument, the appeal likely will be heard during the Supreme Court's Winter term which begins in January and ends in March. ♦



### “Best Practices” Participants Sought

In an effort to provide stakeholders with innovative solutions and provide tools for county assessors to add to their tool chest, the Department is once again soliciting participants for a “Best Practice” project. The focus for this year's project is in the sales analysis segment of the appraisal process. We want to invite all counties that make use of the sales analysis process in model development, benchmarking, and appeals to participate. As part of the best practice project, we will be researching the sales validation process in an effort to identify a best practice procedure that, in turn, can be shared with all counties. If you know of a county or work for a county that should be highlighted for their excellence with the sales validation process, we would appreciate it if you notify us by calling R. C. Cavazos at (425) 356-4848 or sending him an mail at [RC@dor.wa.gov](mailto:RC@dor.wa.gov).”

# Tax Sales — Follow Due Process Clause

By Jim Winterstein, Policy Counsel

In a U.S. Supreme Court case decided earlier this year, the Court clarified the notice requirements necessary to comply with constitutional due process when property is sold for non-payment of taxes. The case is *Jones v. Flowers*, 126 S.Ct. 1708, and arose in the state of Arkansas.

Washington law, if carefully followed, would have prevented such a situation from arising; so the case indirectly sanctions Washington's existing statute with respect to giving notice in tax foreclosure cases.

Mr. Jones, the appellant, bought his house in 1967 and lived there with his wife until 1993. They separated in that year, and his wife continued to live in the house. Mr. Jones continued to make the mortgage payments, which included the property taxes, until 1997, when the mortgage was paid off. However, after the mortgage was paid off, the property taxes were not paid.

With the taxes delinquent, the state authorities mailed a certified letter to Mr. Jones at the house's street address, notifying him of the tax delinquency and that the house would be sold in two years if the taxes were not paid. The letter was returned unclaimed to the state. Two years later, a few weeks before the public sale, the authorities published a notice in the local newspaper. A purchase offer was eventually made and the authorities mailed another certified letter to Mr. Jones at the street address of the house. This letter was also returned unclaimed.

The purchase offer was accepted, and the purchaser of the property then tried to evict the occupant of the house, who was Mr. Jones' daughter. At that point, he was notified by his daughter of the tax sale. Mr. Jones sued to get his house back.

The issue was whether the Due Process Clause requires the government to take additional reasonable steps to notify a property owner when notice of a tax sale is returned undeliverable; in other words, when the government knew that the notification was ineffective.

The Court decided that when mailed notice of a tax sale is returned unclaimed, the state must take additional reasonable steps to attempt to provide notice to the property owner before selling his property, if it is practicable to do so. In reaching this holding, the Court noted that the facts in the case were distinguishable from prior Supreme Court precedent because in the prior cases the government attempted to provide notice and heard nothing back indicating that anything had gone awry. When notice is due, then the means employed to give notice must be "such as one desirous of actually informing the [person] might reasonably adopt to accomplish it." The Court noted that there were reasonable options for the government to provide notice, such as resending the notice by regular mail, or posting the notice at the property addressed to the occupant.

However, the Court also concluded that the government is not required to search for a new address for the property owner. "An open-ended search for a new address—especially when the State obligates the taxpayer to keep his address updated with the tax collector—imposes burdens on the State significantly greater than the several relatively easy options outlined above."

The Washington statute pertaining to notice to owners when selling property for non-payment of property taxes, RCW 84.64.050, states as follows, relative to the notification requirement:

Notice and summons must be served or notice given in a manner reasonably calculated to inform the owner or owners, and any person having a recorded interest in or lien of record upon the property, of the foreclosure action to appear within thirty days after service of such notice and defend such action or pay the amount due. Either (a) personal service upon the owner or owners and any person having a recorded interest in or lien of record upon the property, or (b) publication once in a newspaper of general circulation, which is circulated in the area of the property and mailing of notice by certified mail to the owner or

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## This Quarter's Reminders

### October 1

Last day to file application for special valuation on historic property on 2006 assessment roll. (RCW 84.26.040)

### October 3 (First Monday)

Boards of County Commissioners begin hearings on county budgets, commissioners adopt budgets and fix necessary levies. (RCW 36.40.070, 080, and 090) However, budget hearings may be held on first Monday in December. (RCW 36.40.071)

### October 31

Last day for payment of second half of taxes. (RCW 84.56.020)

### November 30

Last day for city and other taxing district budgets to be filed with clerks of Board of County Commissioners. (RCW 84.52.020)

### November 30

Last day for Boards of Commissioners to certify to county assessors amount of taxes levied upon property in county for county purposes, and the respective amount of taxes levied by the board of each taxing district. (RCW 84.52.070) Also, the governing body of each taxing district authorized to levy taxes directly shall certify to county assessor amount of taxes levied for district purposes. (RCW 84.52.070)

### December 1

An additional penalty of eight percent will be assessed on the

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**This Quarter's Reminders***(Continued from page 3)*

current year's taxes delinquent on December 1. (RCW 84.56.020)

**December 5 (First Monday)**

Board of County Commissioners may meet to hold budget hearings provided for in RCW 36.40.070. (RCW 36.40.071)

**December 31**

Last day to file application for designation of forest land on 2006 assessment roll. (RCW 84.33.130) Also, last day to apply for January 1, 2006 open space land, farm and agricultural land, or timberland assessment. (RCW 84.34.030)

**December 31 (On or before)**

DOR sets stumpage values for January through June 2007. (RCW 84.33.091) Senior citizen and disabled persons property tax exemption claims filed with assessor. (RCW 84.36.385) Interest rate applicable to open space values shall have been set by the DOR. (RCW 84.34.065) DOR determines true and fair value of each grade of forest land and certifies values to county assessor. (RCW 84.33.140) ♦

## Tax Sales — Follow Due Process Clause

*(Continued from page 3)*

owners and any person having a recorded interest in or lien of record upon the property, or, if a mailing address is unavailable, personal service upon the occupant of the property, if

any, is sufficient. **If such notice is returned as unclaimed, the treasurer shall send notice by regular first class mail.** The notice shall include the legal description on the tax rolls, the year or years for

which assessed, the amount of tax and interest due, and the name of owner, or reputed owner, if known, and the notice must include the local street address, if any, for informational purposes only. *[Emphasis supplied.]*

## Levy Training Update

By Leslie Mullin, Levy Auditor

Another levy season is underway and the Department is confident that the levy training provided in September will assist assessors, their staff, taxing district officials, and others during this hectic time of year. This year, the Department offered a 2-day Basic Levy class on September 12 & 13 in Ellensburg along with a 1-day Senior Levy class on September 14 in Ellensburg and September 19 in Tacoma.

Attendance was high this year with 40 participants in the Basic Levy class and 73 participants total in both of the Senior Levy classes. During the Basic Levy class, the focus was on providing a general understanding of terminology, property tax limitations, prorating, and various other levy issues that occur throughout the year. Topics discussed at both of the Senior Levy classes included the 2006 legislative updates, levying for court-ordered refunds, and the potential effects of the Initiative 747 ruling on future levy limit calculations.

These classes offer a great opportunity to meet other "levy folks" and find out what systems and procedures work best in their county. According to Brad Flaherty, Assistant Director of the Property Tax Division, "The levy training provided by Harold (Smith) and Leslie (Mullin) was exceptional. Between the two of them, they provided a wonderful overview along with real life examples that furthered the understanding of everyone who attended." Because the level of levy expertise varies in each class, there are always helpful ideas and suggestions that arise. These suggestions are taken into consideration each year when planning for the next training.

Every year, the Department provides each attendee with either a new levy manual or an update. To bring ourselves more in-line with the 21<sup>st</sup> century, an online version of our levy manual will be available later this year. The online version of the manual will be the most current version because all updates will be posted immediately. We believe this method will help answer many of the questions that occur between the time legislation is passed and when levy training is held.

The locations for levy training next year will slightly change. The 2-day Basic Levy class will be held in the Olympia area along with a 1-day Senior Levy class. Another 1-day Senior Levy class will be held in Moses Lake. We hope alternating the 2-day Basic Levy class will accommodate those who have to travel long distances. See you next year! ♦

"It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change."

—Charles Darwin

# Special Tax Valuation of Historic Property

By Megan Duvall, Department of Archaeology and Historic Preservation

## Background

During its 1985 session, the Washington State Legislature determined that as the state approached its centennial year, the preservation of a lasting legacy of our historic resources was an important goal. In order to reach this goal, the legislature passed a law which allows a “special valuation” for certain historic properties within the state. The primary benefit of the law is that during the ten year special valuation period, property taxes can be reduced by the amount spent on a qualified rehabilitation.

Prior to the passage of this law, owners restoring historic buildings were subject to increased property taxes once the improvements were made. The property’s market value increased and therefore those improvements directly influenced the assessed value of the property. This had the effect of discouraging some owners from rehabilitating their historically significant structures. The Legislature decided that the restoration of these properties would be encouraged if tax relief were available. Property tax relief was selected as a tool which could provide the financial incentives necessary to promote rehabilitation of eligible historic properties. Since passage of this law, over forty local governments have implemented programs which allow their constituents to take advantage of this tax relief.

## The Certified Local Government Program

Special Tax Valuation is oftentimes passed as part of a more comprehensive historic preservation ordinance. Local historic preservation ordinances generally set up a Historic Preservation Commission, a local register of historic places, and procedures for listing properties on that local register as well as design review and other regulatory components of the ordinance. After a local government has set up a historic preservation program, the next step is to apply to the Department of Archaeology and Historic Preservation (DAHP) to become a “Certified Local Government” (CLG). This program was set up through the National Historic Preservation Act of 1966 (as amended) to give local governments a formal partnership with the National Park Service and the state’s Historic Preservation Office. CLGs are offered training, technical assistance, and the ability to compete for grants from DAHP. There are currently 38 CLGs in Washington state ranging in size from Pomeroy to Seattle. Keep in mind that local historic preservation programs are not just about regulations – they also afford local governments the ability to offer incentives like Special Valuation to historic property owners.

## How the Program Works

Only local governments which implement the law through ordinance are eligible to pass on the tax relief to the public. The local government identifies the types of properties that are eligible for special valuation, and designates a local review board that will review applications. Eligible properties can be a variety of different property types. If a local government is not a CLG, it can offer the special tax valuation only to properties that are listed on the National Register; however, once a jurisdiction becomes a CLG, only properties that have been listed on the local historic register are eligible for special valuation. The tax incentive can be used on both residential and commercial properties. In addition to special valuation, various local governments in Washington offer a number of *additional incentives* for property owners of historic buildings, from code relaxation to rehabilitation grants.

Once a local government has passed Special Valuation through ordinance and has a qualified review board, then they can start



Davenport Hotel, Spokane

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## *Special Tax Valuation of Historic Property (cont.)*

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accepting applications for the program. Owners of eligible historic properties apply directly to the county assessor. Qualified rehabilitation work done during the 24 months prior to application is eligible for the tax reduction as long as it meets the minimum expenditure of 25% of the building's value prior to beginning work.

After receiving the application for Special Valuation, the assessor's office has 10 days to forward it to the review board of the local government. The review board, many times the Historic Preservation Commission, then must make certain that the work done meets the federal standards for the rehabilitation of historic properties, also known as the "Secretary of the Interior's Standards for Rehabilitation" (<http://www.cr.nps.gov/hps/tps/tax/rehabstandards.htm>). Applications received by the assessor by October 1 must be heard by the local review board before December 31 in order to start the Special Valuation for the following year.

### **The Benefit**

Once the work has been reviewed and approved by the local review board, the property owner will then have the amount they spent on the rehabilitation reduced from their the assessed value of the property for a period of ten years. Properties do continue to be assessed on the regular assessment schedule, but the dollar amount spent on the rehab is reduced from that assessed amount.

The benefit to the local government is that they then have an improved property and an agreement with the property owner to maintain that property in the condition it was when it received Special Valuation for the entire 10 year period. At the end of the 10 years, the property owner will be paying taxes on the fully assessed value of the property. Many times, rehabilitation work on one property inspires other owners in the area to make improvements to their properties as well.

If a property is sold during the Special Valuation period, the new owners can continue the agreement for the remaining time period or, they can decide not to take advantage of Special Valuation and begin paying taxes on the fully assessed amount. No penalties are assessed to the original or subsequent owner in this case.

For more information on the Special Valuation program, please visit the Department of Archaeology & Historic Preservation's website at <http://www.oahp.wa.gov/pages/HistoricSites/TaxBreaks2.htm> or contact Megan Duvall, at [megan.duvall@dahp.wa.gov](mailto:megan.duvall@dahp.wa.gov). ♦



**Corona Building, Pioneer Square, Seattle**

### **An Example . . .**

A building is assessed at \$100,000 (building value only, not including land value)

Qualified rehabilitation expenditures during a 24-month period equals \$50,000 (more than meets the required 25%)

\$50,000 is subtracted from the assessed value of the property for a period of 10 years following the application

Building continues to be assessed on the regular schedule

At the end of 10 year Special Valuation period, property owner pays taxes on the fully assessed value of the property.

## Staff Changes at Property Tax

**Neal Cook** is the interim Valuation Advisory Team Manager, following the departure of, first, Mark Maxwell, and then, Shawn Kyes. Neal manages the three appraisers that comprise the team; Howard Hubler, Brent Wilde, and Carl Klingeman. Neal is in the process of hiring a fourth member of the team to directly supervise and direct the day-to-day activities of the team.

The team is in the process of evaluating advisory appraisal and consulting requests from counties and planning the 2007 assessment year schedule. Counties should expect to be informed by early December about which request for appraisals and assistance can be honored in the coming year. Counties can also expect to be offered the opportunity to participate in the appraisal process. In the mean time, team members may be contacting counties to clarify their requests. Neal can be contacted at [NealC@dor.wa.gov](mailto:NealC@dor.wa.gov) or at (360) 570-5877.

In addition to her other responsibilities, **Kathy Beith** has taken on the role of County Review Program Manager until a replacement for Shawn Kyes is appointed. In this capacity, Kathy will be overseeing the county reviews currently under way, the publication of the latest issue of the County Comparison Statistical Report, and county revaluation plan reviews. A search for a permanent manager to fill this position will begin in the near future. In the meantime, questions on the County Review Program can be directed to Kathy via e-mail at [KathyB@dor.wa.gov](mailto:KathyB@dor.wa.gov) or by phone at (360) 570-5868.

Next time you visit the Olympia office you'll have a chance to meet **Charleen Patten**, the newest member to the Property Tax Support Staff Team! Charleen is our front desk receptionist who meets the public, and if you call our office, it's quite likely that you will be speaking with her too.

We are excited to have Charleen on board at Property Tax. She comes to us with extensive customer service skills, a strong work ethic, and exceptional organizational skills gained from being an office manager for the last four years. Charleen can be reached at [CharleenP@dor.wa.gov](mailto:CharleenP@dor.wa.gov) or at (360) 570-5900. ♦

**2006**  
**Upcoming Training**  
(State/County Personnel ONLY)

**October 16-20**  
IAAO Course 101  
Tumwater — \$200

IAAO Course 312  
Tumwater — \$275

Residential Modeling Using SPSS  
Tumwater — \$200

**October 25**  
Mobile Home Appraisal  
Ellensburg — \$50

**November**  
No classes scheduled

**December**  
No classes scheduled

For further information, contact Patty Concepcion, Education Coordinator, by phone at (360) 570-5866 or by e-mail at [PattyC@dor.wa.gov](mailto:PattyC@dor.wa.gov). ♦

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*The Property Tax Review is published quarterly by the Department of Revenue's Property Tax Division. Comments and suggestions for featured topics should be forwarded to our newsletter editor.*



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