

KEEPERS OF THE FAITH

by Scott Noble

This article is adapted from Mr. Noble's luncheon remarks at the April 25–26, 2007, IAAO Councils and Sections Seminar in Seattle, Washington.



The viability and fairness of the property tax system are crucial, as it is the best and, some say, the only tax system that can fund local governance structure and enhance local control. The property tax system is the only tax system existing in each of the United States.

When I attended the 1997 IAAO International Conference in Toronto, Ontario, I was looking for an anchor—an anchor of faith of what was fair. I had just been through a difficult legislative session where unfair proposals came out of the woodwork and were soon to be on the ballot for public approval. I found that anchor of faith in Toronto. It's called the IAAO Standard on Property Tax Policy. The association adopted it there in Toronto in August 1997.

As assessing officers, we must be keepers of that faith and fight to be fair, to be taxpayer advocates (fighting what is unfair), and to be as transparent and open as possible with information. In this article, I highlight quotes of the IAAO Standard on Property Tax Policy and also describe my experience and perspective in Washington state. Washington is fairly unique in that its property tax system is budget-driven; all real property is a single class and is market-value-based; and there is a uniformity-of-taxation requirement in the Washington State Constitution.

Assessing Officer's Role in Policy Formation and Analysis

According to the IAAO standard, an assessing officer

- "Is knowledgeable about the strengths and weaknesses of a particular property tax system."
- "Can use this knowledge to improve the system."
- "Can serve as an information clearinghouse, help shape the debate, and define the administrative requirement of a policy proposal."
- "Can call attention to problems that might be created by a

policy, propose legislative remedies, and participate in the development of statutes, rules, and regulations."

- "Can explain the inequities that could result from proposals – which may be well intentioned, but poorly designed with loads of unintended consequences – and can propose alternatives that may be less inequitable, such as budget or revenue caps or selective exemptions."
- "Is often in the best position to understand and, therefore, take positions for or against proposed policies. Assessing officers should provide detailed rationales for taking such positions and provide highly objective analysis to maintain credibility."

Experience and Perspective in Washington State

In Washington, the property tax system is budget-driven, and as a result, proposals on property tax relief or reform tend to shift taxes, not reduce them. The biggest issues over the years have been valuation limits, exemption proliferation, and tax transparency (or, I should say, the lack thereof). In other words, tax shift happens.

I was the Legislative Committee Chair of the State Assessors Association for eight years and currently serve as President. I can sum up my experience with legislative sessions as follows, "It feels like you are on fire." This year, this feeling lasted for four months; in the even-numbered years, it lasts for two months. Some years the back and forth to the state capitol seemdc like a yo-yo; I remember one session during which I drove to Olympia about three times a week. The term yo-yo also describes how it feels when testifying on a hot topic: You're On Your Own.

On average, more than 120 legislative proposals concerning property taxes or property tax administration are introduced each year. Many of these bills have fiscal notes on their financial (or tax shift) impacts; unfortunately the information is needed in a couple of hours at best. This last year more than 140 bills were considered, and I often felt like a cat on a hot tin roof,

scrambling to answer fiscal notes, e-mail testimony, and respond to press, legislator, and other inquiries.

Valuation Limits

Two ballot measures, Referendum 47 in 1997 and Initiative 722 in 2000, proposed valuation increase limitations to the public and passed. Of valuation limits, the IAAO standard states,

“Valuation increase limits may appear to provide control, but actually distort the distribution of the property tax, destroying property tax equity and increasing public confusion”

and

“Valuation increase limits result in lower effective property tax rates for owners of desirable property and higher effective property tax rates for owners of less desirable property. Any other control is preferable.”

Referendum 47 (1997) had three parts: (1) Make permanent a reduction in the state property tax levy (a good thing). (2). Lower districts’ maximum levies with more tax transparency (another good thing). (3). Enact a complex two-part valuation limitation formula (not a good thing). A group of ten assessors took the valuation limit provision to the State Supreme Court. After a nearly two-year battle from start to finish, the State Supreme Court unanimously ruled the limit unfair and unconstitutional.

The other initiative was from Tim Eyman, a well-known tax crusader in Washington. His Initiative 722 valuations would have been limited to 2 percent increases. Statewide, the tax shifts would have been enormous, and nearly 1 million properties would not have been eligible.

This measure also ended up at the Washington State Supreme Court after another nearly two-year battle. Again, assessors led the opposition, and I was wearing the bull’s eye quite often. The Washington State Supreme Court ruled unanimously that the valuation limits were unconstitutional, with Justice Sanders’ concurring opinion strongly speaking out against them.

The year after adoption of the IAAO

Standard on Property Tax Policy, it was cited seven times by the Washington State Supreme Court in its unanimous ruling that Referendum 47 was unfair and unconstitutional, thus preserving the uniformity requirement of the Washington State Constitution.

Tax Transparency

The IAAO standard says, “Truth-in-taxation systems should be promoted whenever possible.” In 1995, I was fortunate in helping initiate and pass a bill requiring taxing districts to hold a public hearing each year on their property tax levy increases.

As assessing officers, we must be keepers of that faith and fight to be fair, to be taxpayer advocates (fighting what is unfair), and to be as transparent and open as possible with information.

Assessors in Washington have initiated tax transparency bills each year since 2002. Unfortunately, these bills have not been successful, and this year the assessors association could not find a single sponsor in the legislature to step up and introduce it. The power of some local taxing districts is such that these bills do not move forward. Amazingly, some districts submitted a motion in the Initiative 722 Supreme Court case asking the court to rule a tax increase occurred only when the property tax levy rate went up. King County and the State Attorney General submitted counter motions stating this was incorrect. The Attorney General added, “The average informed voter certainly would be surprised to learn that a levy increase (that is, an increase in the amount of taxes collected by a taxing district) is not a monetary increase in

an existing tax. The plaintiff’s argument that only a rate increase constitutes a ‘tax increase’ is flawed.” The State Supreme Court declined to rule on this issue, and many taxing districts continue to say novel things regarding property tax levies.

Exemption Proliferation

With more than a hundred property tax exemptions, Washington is similar to many other jurisdictions. Assessors have submitted many exemption review bills to the legislature, and fortunately a related bill passed last year. It set up a Tax Preference Performance Audit process, headed by a public commission. The subject first appeared in legislative recommendations by the 2002 Gates Commission on Washington State’s Tax Structure. The bill’s sponsor, Representative Jim McIntire, was a member of the Gates Commission. I was the assessor representative.

Ironically, this year the legislature proposed a record number of new property tax exemptions (49). Few passed.

Storm on the Horizon—Prospects for the Property Tax System of Washington State

Real estate prices and sales have skyrocketed around the state in recent years. The generally unaffordable real estate market has spread out from King County to just about every other county in the state. This situation has sparked concern and protest, with legislators wanting to “do something.” The proposals introduced this year ran the gamut from valuation limitations to multiple exemptions to budget and revenue caps. Regarding homeowner-related proposals, not a single bill passed. Achieving substantive relief or reform in a uniform and equitable manner proved very elusive. To this all-too-common ingredient in revolts, Washington adds a historical issue that may tip the scales.

In 2001, Initiative 747 passed, limiting taxing districts to 1 percent increases for property tax levies or the rate of inflation, whichever is less. For districts taking less than their maximum dollars in past years or less than 1 percent in current years, they can *bank* this property tax

dollar levy capacity for potential use in future years.

In June 2006, the King County Superior Court found Initiative 747 unconstitutional. It has been appealed to the Washington State Supreme Court, with a stay on the ruling by the King County Superior Court. The stay on the ruling was granted by the State Supreme Court in August 2006 and postponed the potential for large property tax increases due to banked capacity (basically the difference between 1 percent and inflation for six tax years plus any unused capacity from years prior to 2002). This possibility for large property tax increases was the reason the Assessors Association unanimously passed a resolution in June 2006 and forwarded it to the Attorney General of Washington, asking for a stay on this ruling by the King County Superior Court.

In the worst (and unlikely) case that the State Supreme Court agrees with the King County Superior Court and rules Initiative 747 unconstitutional, the senior taxing districts in King County *could* [my emphasis] raise their property tax levies an average of 20 percent in a single year. Needless to say, if anything like this happens, there will be an uproar.

These variables point to 2008 as a year that may determine the fate of the current property tax system in Washington. Hearings on the property tax will be conducted by the Washington State House of Representatives Finance Committee throughout the state later this year. The committee will consider homestead exemptions, a Proposition 13-type system, circuit breakers, and other approaches. It is expected these considerations will be a major part of the 2008 gubernatorial campaign next year.

Keeping the Faith

As proposals increase, assessing officers will be inundated with requests for information and analysis, usually on very short notice. Through all this, we must keep the faith, even though it is hard work.

Carefully tailoring and targeting property tax relief and reform is the only true prospect for success. Removing myth, misconception, and unintended consequence is vital over the long run, because as fewer and fewer people trust the system, the citizenry becomes ever more susceptible to untested, quick-fix remedies that limit public choice and cost more money.

In any technical analysis of the property tax system, the highly fragmented

condition of the governance structure and tax base must be taken into consideration. One reason for spiraling increases in property taxes is the state's rapid growth—the greater cost of public services to a fragmented, ever-expanding sprawl. The six-county Seattle metropolitan area has one unit of government for every 6,300 people, very similar to the six-county Chicago metro area. The Seattle ratio, however, is five times that of greater Los Angeles and almost seven times that of New York City.

In the end, I believe an objective, professional effort can move these discussions away from rhetoric and toward the examination of real reform, the preservation of local control options, and the avoidance of unfair or ill-advised proposals.

So, to assessing officers who keep the faith: Keep up the great work and thank you for your service to your respective citizens. Keep fighting for what is fair, against that which is not, and let everybody, at all times, know what is really going on. ■

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Member Benefit—IAAO Glossary Now on Web!

The first IAAO glossary of technical terms, *Assessment Terminology*, was published in 1937. It was revised and reissued in 1956.

Forty-one years later, in 1997, the IAAO *Glossary for Property Appraisal and Assessment* has been adapted from the previous glossary and again published. This comprehensive update reflected many changes in technology and standards related to assessment.

As of April 2006, the *Glossary for Property Appraisal and Assessment* is available as an on-line glossary on the IAAO Web site. It is a members-only benefit so you will need to log in using your member ID to access this resource.

The glossary has been revised and updated to include many new terms and reflect changes in the industry since the previous edition. It also includes a utility for members to submit new terms for consideration. This will allow the glossary to remain up to date without having to wait for a printed edition.

Visit <http://www.iaao.org/sitePages.cfm?Page=42> and explore. Be sure to log in using your member ID first.

The glossary is an invaluable tool for new members and veterans alike. Be sure to add it to your "Favorites" menu on your next visit.

