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Taxing Times

★ ★ ★ ★ ★
★ "Eternal vigilance is the price of liberty."
★ Often quoted by
★ Howard Jarvis ★
★

The Official Newsletter of the Howard Jarvis Taxpayers Association ★ Howard Jarvis, Founder ★ Vol. 42, Issue 2 ★ Spring 2016

PROP. 13 IN DANGER!

Will anti-Prop. 13 measure make November ballot?

As this issue of *Taxing Times* goes to press, signature-gathering is well under way to place an initiative measure on the ballot that would impose a massive \$6 billion property tax increase on both homeowners and business properties. *(To stay up-to-date on this issue, please visit the HJTA website, www.hjta.org, and sign up for free taxpayer alerts.)*

The initiative, with the innocent-sounding title of "Lifting Children and Families Out of Poverty Act," would impose a surcharge on more valuable properties.

This would reinstate a system where increases in home value would be penalized with much higher taxes, such as those that occurred prior to Proposition 13. Once the door has been opened, increasing taxes on less valuable properties would be relatively easy. Ironically, higher property taxes could become another cause

of poverty. Before the passage of Proposition 13, escalating taxes were forcing many retirees and those on fixed incomes from their homes.

For now, the tax increase would impact only properties with a current assessed value in excess of \$3 million, but owners of average homes are fully aware that any breach in Proposition 13 could open the floodgates to more attacks that weaken their own protections.

Taxpayers know from hard experience that, for tax-raisers, more is never enough. If those demanding more tax dollars succeed in breaking Proposition 13's one percent tax rate cap on property, lower-valued properties will be the next target.

That there is yet another attack on Proposition 13 is less of a surprise than the fact that this one is not being financed by the usual anti-Proposition 13 coalition



Debating the future of Prop. 13 before the Alliance of Taxpayer Advocates: On the left, Conway Collis, backing an initiative that would increase property taxes, and, on the right, HJTA President Jon Coupal.

of public-sector unions and local government interests. Instead, the money is coming from anti-poverty groups aligned with the Catholic Church, including the Daughters of Charity. Its primary backer is Conway Collis, a former member of the California Board of Equalization, who is president and CEO of GRACE, a ministry of the

Ministry Service of the Daughters of Charity of St. Vincent de Paul.

It may seem odd that tax-exempt organizations are working to increase taxes on others, but one thing is certain, with the recent infusion of nearly a million dollars from the Daughters of Charity for the signature-gathering effort,

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Taxing Times



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PRESIDENT'S MESSAGE

NEW TAXES ARE NOT NECESSARY

By Jon Coupal

There is an old expression, “carrying coals to Newcastle,” to describe a useless activity or fool’s errand. Sort of like shipping pineapples to Hawaii or, bringing it closer to home, sending more tax dollars to Sacramento.

The truth is, Sacramento is awash in cash. The Legislature’s budget analyst estimates that this fiscal year will end with \$3 billion more than anticipated, and by 2017 state reserves may even top \$11 billion.

For the political ruling class, this is an embarrassment. Last summer, the governor called a special session of the Legislature in an attempt to secure legislative approval of a new health-care tax on managed care organizations (MCOs) because the current tax is about to expire. He also called another special session to deal with transportation funding. In both cases, Republicans in the Legislature made trouble for those backing new taxes by pointing to the obvious: the state already has plenty of money.

This embarrassment of riches

is also bad for the morale of special interests looking to increase taxes via ballot measures. Public-sector unions are pushing for an extension of the “temporary” tax increase approved by voters in 2012.

But they have yet to show a united front and are fighting over who will get the money. Whether the proceeds go to education, as favored by the state’s most powerful special interest, the California Teachers Association, or to the health-care industry, as supported by other union and hospital interests, has yet to be decided.

Health-care interests may also pursue a new tobacco tax of \$2 a pack. Since smokers and tobacco companies are only slightly more popular than ISIS, pundits believe — perhaps naively — that this initiative will pass. (They’ve been wrong before, as tobacco taxes are highly regressive.) Or perhaps the “evil” oil companies will be the target in a state where motorists already pay 75 cents a gallon more than the national



Thousands of Californians had the opportunity to participate in a telephone town hall on Proposition 13 and how proposed changes could increase rents and property taxes. Clockwise around the table: Assembly Member Ling Ling Chang, Board of Equalization Member Diane Harkey, Assembly Member Young Kim, HJTA President Jon Coupal and California Tax Foundation Director Robert Gutierrez.

average. Good luck with that.

Campaigns for initiatives to impose new or higher taxes tend to use happy talk to focus on the benefits to the needy or the general population and ignore the actual goal. For example, Proposition 30, the sales and

income tax increase, was sold as a boon to education when, in reality, much of the revenue is needed to keep the teachers’ pension system solvent.

For any tax increases being pushed by special interests,
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Howard Jarvis
XIII Taxpayers Association

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PRESERVE THE BENEFITS OF PROPOSITION 13

At the Howard Jarvis Taxpayers Association, we have received a number of inquiries from those wishing to help us preserve the benefits of Proposition 13 for their children, grandchildren and heirs. If you would like more information about making an endowment to the Howard Jarvis Taxpayers Association or the Howard Jarvis Taxpayers Foundation, visit www.hjta.org and click on Heritage Society, write to us at 621 S. Westmoreland Ave., Suite 202, Los Angeles, CA 90005, e-mail us at info@hjta.org, or call us at 213-384-9656.

Howard Jarvis
XIII Taxpayers Association

Heritage Society

We thank and appreciate the following for their generous donations:

- The Selck Family, *in the name of Lester John Selck and Jane Selck*
- The Gardner Grout Foundation
- The Benson Foundation
- The Allan W. and Elizabeth A. Meredith Trust
- Baker Family Donor Advised Fund
at the Rancho Santa Fe Foundation

A big “Thank You” to the Members of the *Heritage Society* who help make our work on behalf of taxpayers possible!

NEW TAXPAYER TOOL COULD SAVE YOUR FAMILY MONEY



Jon Coupal is interviewed on the TOD deed, which can reduce costs for homeowners who leave property to their heirs.

Howard Jarvis used to say, “Death and taxes may be a certainty, but being taxed to death shouldn’t be.”

None of us is in a hurry to pass along our property, but thanks to changes in state law that were advocated by HJTA, it can be a whole lot cheaper to leave property to an heir.

A “Revocable Transfer on Death” (TOD) deed allows an owner of real property to deed it to a named beneficiary without the risk of a lengthy and costly probate. A TOD will save both the homeowner and beneficiary

time and money and ensures that the homeowner’s final wishes will be carried out without excessive legal costs.

You will find this new *taxpayer tool* by going to *Resources* in the *hjta.org* menu at the top of the home page.

At *hjta.org* you will find a storehouse of useful information. It is your source for tools you can use to fight back against those who think the taxpayer’s sole purpose is to provide ever-increasing amounts of money to the politicians and bureaucrats. □

the MAIL Bag

At HJTA we appreciate Member letters. All are read. Many ask questions to which we try to promptly respond. Others have ideas and suggestions on how to defend Proposition 13. And some are complimentary. For these we are very grateful because they tell us that we are on the right track and our work is appreciated. Here is a sample of a few recent comments we received.

“I am grateful that I have been a supporter of HJTA for many years as I have just read of the pending lawsuit against the City of Pasadena for overcharging nonresidents for water.

“Your actions on behalf of the victims of PWP reinforce my commitment to HJTA.”

—Bill H., Pasadena

“I want to thank you for the information in the article which appeared in the most recent issue of *Taxing Times* regarding the new fire tax. I have used and shared this data with many of my neighbors. We have followed the directions given to pay and protest the fire tax.”

—Richard B.
Big Bear City

“First of all, thank you for taking up this issue and defending our Proposition 13. Many years ago, I voted for the passage of Proposition 13. Why? Because many of my schoolmates had grandparents that were losing their homes in San Francisco — not because they couldn’t make mortgage payments, their homes were largely paid for — but because they couldn’t afford to keep up with the rising property taxes on their homes! That is just NOT RIGHT!!!”

—Lynda M., Pleasant Hill

“Thank you for all you do! Your work is greatly appreciated. I hope to stay in my house and not have to leave it because of taxation.”

—Liselotte L.
Castro Valley

“Thanks for your efforts to support and protect Proposition 13! Your organization plays a very important role and I’m grateful you guys are around and advocate for tax-paying citizens and particularly for tax-paying homeowners.”

—Winston L.
Arcadia

“Thank you for your continued fight for California’s homeowners. I thoroughly enjoyed reading the recent *Taxing Times*.”

—Cecilia T.
Grover Beach

THE LEGAL FRONT

LEGAL VICTORIES CAN BE TRANSITORY

By Tim Bittle, HJTA Director of Legal Affairs



The photos above are from a project I did at home for my daughter Jorri. Her one-year-old is just learning to walk and Jorri wants to start recording her height, so she asked me to make her a six-foot ruler to hang on the wall.

I like making home improvements and art projects because at the end of the day you can stand back and admire something tangible that you accomplished. And if you do a good job, people will appreciate it for a long time. The practice of law is not so gratifying.

In the practice of law you never accomplish something by the end of a day. It often takes years to obtain a final decision vindicating (or rejecting) a position you staked out when you filed your original complaint years earlier. At each stage it may take weeks to research, write and file a brief, after which you feel a sense of dread instead of accomplishment because you know that in 30 days you'll receive opposing counsel's response, criticizing and rebutting your work. And even if you win a victory in the trial court, a year later the court of appeal may take it away.

This brings me to today's story about *HJTA v. Padilla*, a case in which we had a lot invested, both financially and emotionally. In 2014, the California Legislature ordered the Secretary of State

(Alex Padilla) to place on the general election ballot a nonbinding advisory question, Proposition 49. The measure would have asked the California electorate whether the United States Congress should propose an amendment to the federal constitution limiting constitutional rights to "natural persons only," thereby overturning the United States Supreme Court decision *Citizens United v. Federal Election Comm'n* (2010) 558 U.S. 310. (*Citizens United* held that corporations and labor unions are simply people who have incorporated or assembled together and therefore have a right to engage in political speech just like anyone else.)

HJTA brought suit seeking a writ from the court directing Mr. Padilla to remove Proposition 49 from the ballot before ballots went to print. We argued that the Legislature's access to the ballot is enumerated in the state constitution, being limited to bond proposals, state constitutional amendments, and proposals to amend or repeal a statute adopted by voter initiative. An advisory measure, we argued, is not a lawful use of the ballot.

We noted too that the federal amendment sought by Proposition 49 would undermine rights guaranteed in our own state constitution. If constitutional rights were limited to "natural persons only," then churches would have no right to practice religion,

newspapers would have no freedom of the press, labor unions would have no right to assemble, police could enter and search the offices of civil rights organizations without a warrant, and taxpayer associations would have no right to petition government for redress.

As an election writ, our case sped rapidly through the lower courts, which ruled against us. But the California Supreme Court granted review and issued the writ we were seeking, ordering

the Secretary of State to remove Proposition 49 from the ballot before it went to print. Justice Liu, writing for the majority, summed it up: "To allow the Legislature to leverage the formality of the electoral process (as opposed to the informality of a Gallup Poll) to pose advisory questions to the voters would alter [the] delicate balance between legislative and citizen lawmaking."

I reported that victory in

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BRITTANY SITZER JOINS HJTA



Prior to joining the HJTA legal team, Brittany practiced at Sitzer Law Group, a boutique firm specializing in real-estate transactions and business litigation. Brittany earned her J.D. from Pepperdine University School of Law, where she served as chapter president of The Federalist Society, and spent her summers clerking for

Pacific Legal Foundation and Institute for Justice. She is from Newport Beach and moved to Sacramento with her long-haired Chihuahua, Cheetah. Brittany has had a lifelong passion and involvement in public interest law and is excited to be continuing that passion by joining HJTA in its fight to protect taxpayers' rights.

This column appeared in a number of California newspapers.

ATTORNEY GENERAL REINS IN SHADY BOND PRACTICES

California Commentary from the Howard Jarvis Taxpayers Association – week of January 31

It's not often that taxpayers get good news, especially in tax-happy California. Even more surprising is when the good news is an official opinion from the state's Attorney General, someone not normally associated with friendly treatment to taxpayers.

Last November, this column noted that local governments, especially school districts, were prone to engage in questionable campaign activity to secure an unfair advantage in bond elections. Although it is illegal for officials to use public resources (including public funds) to urge a vote for or against a political issue, consultants frequently advise tax proponents to wage one-sided "informational" campaigns. This includes sending out material stating all the good things a bond or tax measure will do, but which usually stops just short of violating the law by telling people how to vote. (Howard Jarvis Taxpayers Association has had multiple successes in obtaining court injunctions against school districts that cross the line into advocacy, but by the time the court rules, the political damage has already been

done.) And to top it all off, the "consultants" compensated with taxpayer dollars are frequently given financial incentives if they win.

Fortunately, the incestuous behavior of school districts with political consultants and bond salesmen received a long overdue slap-down last week. The opinion, in response to several questions proffered by California's Controller John Chiang, covers many activities taxpayers have been complaining about for years. As noted in the opinion, "Bond elections typically involve a range of pre-election activities, which can include: conducting opinion surveys to evaluate voters' attitudes toward a bond issue; developing a financial plan; determining appropriate bond issuance size and tax rates; drafting documents needed to place a bond measure on the ballot; conducting a public-information program; training staff to inform the community about funding needs and bond financing; preparing a tax-rate statement for the voter pamphlet; providing information to the election campaign; conducting informational workshops; and preparing the ballot question itself. Although district staff may be able to provide some or all of these functions, *it is common for districts to contract with private vendors to perform or support them [and a] practice has developed within the municipal financing industry whereby investment bankers, financial consultants, and bond attorneys (collectively referred to here as "municipal finance firms" or "firms") offer to contract with a school district to provide the pre-election services that the district seeks. Under such an arrangement, the firm agrees to provide the pre-election services at no, or reduced, charge to the district in exchange for the*

district's promise to select the firm as its contractor to provide post-election bond services, if the bonds are approved by the voters."

The Attorney General first concluded what should already be obvious: "A school or community college district violates California constitutional and statutory prohibitions against using public funds to advocate passage of a bond measure by contracting with a person or entity for services related to a bond election campaign if the pre-election services may be fairly characterized as campaign activity."

But the A.G. went on to conclude more specifically that "a school or community college district violates prohibitions against using public funds to advocate passage of a bond measure if the district enters into an agreement with a municipal finance firm under which the district obtains pre-election services (of any sort) in return for guaranteeing the firm an exclusive contract to provide bond-sale services if the election is successful, under circumstances where (a) the district enters into the agreement for the purpose (sole or partial) of inducing the firm to support the contemplated bond-election campaign or (b) the firm's fee for the bond-sale services is inflated to account for the firm's campaign contributions and the district fails to take reasonable steps to ensure the fee was not inflated."

Admittedly, there's a lot to unwrap here. But the upshot is that taxpayers should not be forced to finance a political campaign to raise taxes.

Obviously, there are times when the legitimate capital needs of a school district justify a request to voters to assume debt in the form of a school bond. But the process should be driven by actual educational needs, not the desire of consultants and the bond industry to make a fast buck. □

**FIRE TAX UPDATE:
GOOD NEWS!**

**THE JUDGE
GRANTED
OUR MOTION
REGARDING
CLASS NOTICE**

As most rural homeowners know, HJTA filed suit against the state for imposing what it calls a "fire prevention fee" that, as defined by Proposition 13, is actually a tax, which should have received a two-thirds vote of the Legislature to be valid.

The state had been delaying the case by repeatedly challenging HJTA's right to represent taxpayers as a class. Our goal is not only to halt the collection of the tax but to require refunds to those who filed an official protest when paying.

The judge has upheld the class action component of the suit and, in January, we received approval of the Class Notice's contents and the ways it must be publicized. This was an important step in the class action because the law requires that public notice be given so that people who do not wish to be part of the suit can opt out. Everyone who has not opted out will be a plaintiff in our lawsuit and therefore entitled to a refund, if they filed a protest when paying the tax, and if HJTA prevails in court. We have now completed the official notification process so the case can move forward.

For more information, go to hjta.org and click on the FireTaxProtest.org banner. □



FireTaxProtest.org

**A PROJECT OF
THE HOWARD JARVIS
TAXPAYERS ASSOCIATION**

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the next issue
of Taxing Times?**

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REPORT FROM THE CAPITOL

A TIME FOR CHOOSING: WILL YOU HELP?

By David Wolfe, HJTA Legislative Director

For nearly ten years I have represented your interests as HJTA's lead taxfighter in the State Capitol. Every year I find most of my time is spent countering the tax-increase arguments of special interests that wallow at the public revenue trough.

In Sacramento, serious choices are about to be made on tax proposals that could swipe billions of dollars from the pockets of Californians. But good choices can only be made if the right questions are asked and answered.

The first, most fundamental question is one related to intellectual honesty. Will politicians take the heat and spend the time to ask the serious questions, or will they, in a rush of politically motivated election-year expediency, bow down to the special interests' self-serving and fictitious narrative about taxes leading to "more jobs and a stronger economy"?

This question applies not just to proposed changes to Proposition 13 but to other taxes as well. An excellent example is a proposed \$5 billion annual gas and vehicle license fee tax that will impact every single California motorist. Governor Brown and most legislative Democrats would have you swallow, hook, line and sinker, their specious arguments for higher taxes by raising two points. One, we have a road maintenance backlog of over \$50 billion over the next ten years, and two, gas taxes haven't been increased in several decades.

These tax increases will only cost motorists 50 cents a day, they say, and by fixing all those potholes, taxpayers will save hundreds of dollars on auto repair and maintenance. And \$50 billion represents 40% of the General Fund, so legislators can't be expected to fund this out of existing revenues. And they ask us to think of the thousands of new paving and construction jobs for the people! So, according to the political class, their only choice is to raise taxes.

Surrounded by scores of

supporters ranging from local governments to builders, contractors and engineers, most politicians simply end the debate right there. Even many conservative Republican legislators, who hate gas taxes, remain on the debate sidelines so as not to be labeled as being part of the "Party of No." They fail to challenge the pro-tax juggernaut by asking the right questions and showing voters another path.

First, it is important to define the existing gas tax burden. Last year, California began implementing

"NO NEW TAXES!"

taxes on oil refiners and other carbon-producing industries that inevitably are passed on to consumers in a process known as cap-and-trade. When this is factored into current gas taxes, California will easily have the highest taxes in the nation, at more than 70 cents per gallon.

Taxes are already too high and there are realistic alternatives to even further increases. Did you know that California spends at least \$10 billion every year on General Fund transportation programs, but only \$2 billion of that goes to road repair and maintenance? Another billion of your gas taxes is diverted to pay off existing transportation bonds approved by California voters, which when passed were to be repaid from the General Fund, not the tax on fuel. While it's desirable to pay off debt, if gas taxes are used as intended — and confirmed by several voter-approved initiatives — billions more would be available to repair the roads we drive on.

An additional major source of revenue is right under the noses of the Sacramento politicians. If lawmakers would allow another vote on their pet high-speed rail project — which polls show is

very unpopular with the public — repeal and repurposing of high-speed rail bond dollars could result in another \$8 billion going to repair roads.

Then there is Governor Brown's budget, which directs 15 percent of cap-and-trade revenue to road repair. A boost to 50 percent could result in another billion annually going to transportation. And finally, replacing Caltrans engineers with those from the private sector, even for a handful of projects, could save tens of millions annually.

Now, to be fair, some of these ideas (like getting rid of high-speed rail) would have to go before to the ballot for approval, but there is little doubt that voters would welcome the opportunity to force the political class to make better use of existing tax dollars. Done properly, billions of dollars of existing revenue can quickly be dedicated to fixing the roads *without raising gas taxes one penny!*

This is not a narrative you will hear in the media, or indeed from many of the legislators who

represent you. But it is one I have been trumpeting for months in the hallways of the Capitol, and will continue to do so because we must change the debate if the correct choices are to be made.

In addition to signing and returning the petitions that Jon Coupal and I deliver to legislators, HJTA Members and supporters can help block new taxes by writing or calling their state representatives and telling them "NO NEW TAXES!" It's an election year, so the politicians are very sensitive to public opinion. Your voice will be heard.

As this issue of Taxing Times goes to print, the process of introducing new legislation for 2016 is not complete. We are aware that many new anti-taxpayer bills are in the works along with those left over from last year. For the latest news, please go to our website, www.hjta.org, and click on "Major Threats to Prop. 13 and Homeowners." While you are there, please sign up in the upper right-hand corner for the free taxpayer alerts so we can keep you informed. □

ATRM Report

The Debt Crisis

The former head of the United States Government Accountability Office (GAO) has estimated that the national debt is a staggering three times as much as usually publicized. Dave Walker, who headed the agency under Presidents Bill Clinton and George W. Bush, says that when the nation's unfunded liabilities are added up, rather than \$18 trillion, the actual debt number is closer to \$65 trillion.

News reports about government debt at all levels are now more frequent and increasingly alarming. There is little doubt that this is due to the fact that the debt crisis is actually getting worse.

But it might also be a reflection of a greater awareness on the part of citizens and the news media that debt is a real danger. For those of us who have been warning about government debt for decades, this greater awareness is long overdue.

The debt crisis is real, and it is vital that taxpayers carefully vet candidates for Congress and president and make it clear that running up bills that will have to be repaid by generations to come is not acceptable. □

The American Tax Reduction Movement was founded by Howard Jarvis. Members of ATRM and HJTA enjoy dual membership.

FOLLOW THE MONEY REVEALS BILLIONS IN GOVERNMENT WASTE

By Eric Eisenhammer, HJTA Director of Grassroots Operations

This November, California taxpayers are likely to be confronted with billions of dollars' worth of tax-increase proposals on their ballot. Special interests will claim taxpayers need to pay more, but what happened to all the money we continually pay?

California is among America's highest-taxed states, and our government appears to be awash in revenue. Californians are burdened with the nation's highest sales taxes, the highest income tax rate and the highest corporate income taxes in the West. This year, the governor has proposed a state budget of over \$120 billion, and officials report they will receive nearly \$6 billion in unanticipated revenues. So, how is this not enough?

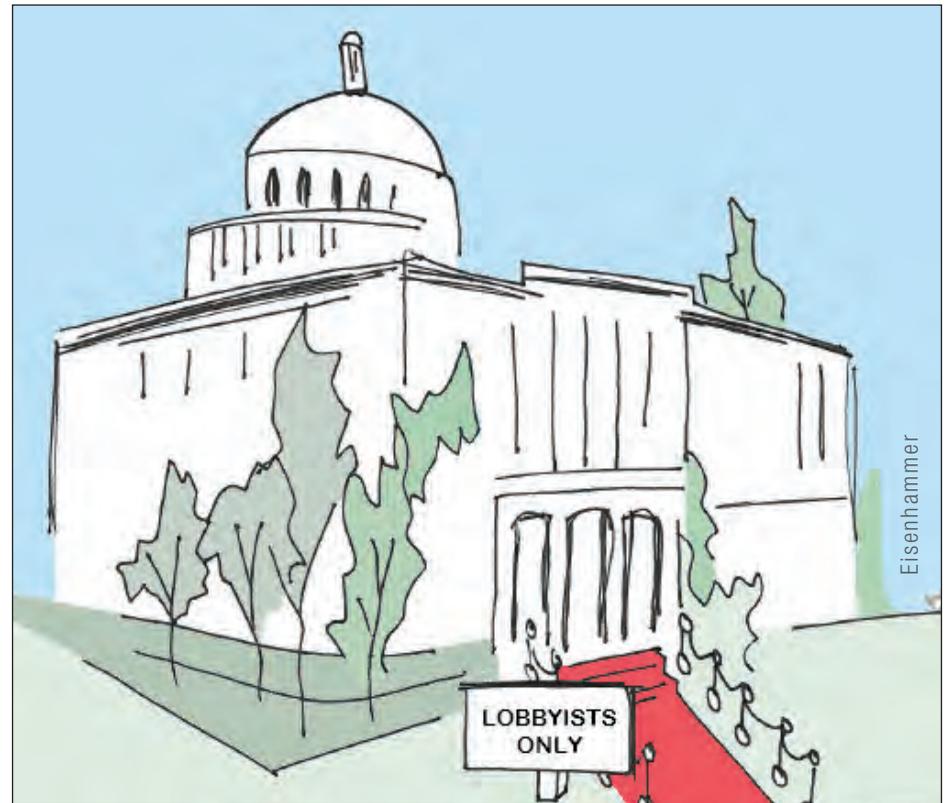
Many taxpayers suspect that our tax dollars may not be used effectively by our government. People ask themselves: "How is it that we pay so much yet get so little in return? How do states with much lower taxes still manage to provide decent roads and good schools?"

That's why the Howard Jarvis Taxpayers Association puts out the *Follow the Money* report on an annual basis. *Follow the Money* documents the waste, fraud and abuse that occur in our state government. This report is a great

resource for you to share with your pro-tax-increase friends and neighbors the next time they try to tell you we "need" to pay higher taxes.

Here is a sample of the instances of waste documented in the report:

- Did you know that the government lobbies itself? Local governments spent \$110 million lobbying Sacramento, making them the state's biggest-spending special interest.
- \$10 million that California taxpayers designated to charity on their taxes never actually reached their intended recipients, according to a recent investigation by the Associated Press.
- A Rialto school accountant was sentenced to five years in jail for embezzling \$1.8 million to pay for a lavish lifestyle. Altogether, the school district suspected that the accountant embezzled \$3 million.
- An audit revealed that an EPA official who lived in Orange County but worked in San Francisco commuted home most weekends and improperly billed the agency \$69,000 for the expense. Since he worked for the EPA, it's also worth



The Legislature has designated the east door to the Capitol as a speedy entrance for lobbyists. The public will now stand in longer lines at the other entrance.

mentioning that commuting so far is bad for the environment.

The report contains many additional examples of waste across a wide spectrum of areas of our government. And while together the examples listed in the report amount to billions of taxpayer dollars, these are only those instances that have

been publicly uncovered and exposed by the media and official investigations. How much more waste there is remains anyone's guess.

You can download a copy of *Follow the Money* at www.hjta.org from the "Resources" tab under "Studies and Reports." □

THE LEGAL FRONT *Continued from page 4*

the Fall 2014 edition of this column, as we all stood back and admired what we thought was an accomplishment. Unfortunately, that was not the end of the matter. The Supreme Court explained that it was removing Proposition 49 from the ballot because we made a prima facie case that it was unconstitutional, but the Court would retain jurisdiction of the case and schedule an additional briefing and a hearing to consider "whether the Legislature ever has power to place advisory questions on a statewide ballot."

The Court's final decision came out last month, and it was disappointing. First, the

Court changed its mind about Proposition 49. It concluded that the Legislature has power to investigate the need for legislation and, at least for "questions pertaining to amendments to the federal Constitution," may exercise that power by placing an advisory measure on the ballot.

Second, the Court did not reach the larger question of whether the Legislature may use the ballot to seek advisory votes in other situations. Footnote 6 states, "Because we conclude the investigative power permits advisory questions in connection with potential federal constitutional amendments, we

express no opinion about other potential sources of authority for advisory questions."

Third, although the Court purported to limit its decision to just "potential federal constitutional amendments," it added that the only question to be decided in other situations is whether the Legislature's chosen method of investigation (i.e., an advisory ballot measure as opposed to a committee hearing) is "reasonable." On that question, the Court addressed and rejected our four arguments for why advisory ballot measures are constitutionally impermissible. As far as we know, there are no other

arguments that could be raised.

Finally, this opinion is sure to have a negative impact on local taxpayers attempting to exercise their initiative power. For the Court approved its own action in this case of withholding a measure from the ballot when "[its] validity is uncertain" because "the balance of hardships from permitting [a potentially] invalid measure to remain on the ballot" weighed against the expense of holding the election.

Sometimes the practice of law can be emotionally rewarding; other times it can be disheartening. This is one of those latter times. □

This column appeared in a number of California newspapers.

IT'S OPEN SEASON ON TAXPAYERS

California Commentary from the Howard Jarvis Taxpayers Association – week of February 7

Even if one lives in a cave, it's hard to avoid the publicity surrounding the high-profile presidential debates that are a reminder that this is an election year. And California taxpayers know, from hard experience, it also means that it is open season on taxpayers as local politicians rush to put tax increases on the ballot.

Emboldened by success in little-publicized 2015 off-year elections in which 29 out of 40 local tax-increase measures passed, scores of communities and special districts are seeing this year as an ideal opportunity to raise your taxes.

Presidential election years tend to bring out more voters, including many who do not pay close attention to what's on the ballot until the last minute. These "low-information voters" are a

prime target of tax-raisers because they are more easily convinced by simplistic arguments. These duplicitous arguments often tout the benefits of a measure to a community without ever mentioning that it is a new tax. Or they minimize the actual cost by expressing it in pennies per day: "It will only cost about 50 cents a day!"

Of course those promoting new or higher taxes do not want taxpayers to notice that they are often being attacked on several fronts simultaneously, as cities, counties and special districts reach for taxpayers' wallets.

One of the most popular taxes from the standpoint of public officials is the parcel tax, usually a uniform property tax on all "parcels" of property within a community or district. The politicians like these taxes

because, unlike bonds, which must be used for brick-and-mortar projects, the revenue from parcel taxes can be used for any purpose, including raises in pay and pensions for public employees.

These taxes are insidious because they exceed Proposition 13 limits and there is no relationship between what is being charged and the property owner's ability to pay. A young couple in a starter home, an elderly couple in a bungalow and a multimillionaire in a mansion all pay the same amount. Additionally, parcel taxes bear no direct connection to any service actually provided to the property owner.

Already there is a parcel tax slated for nine Bay Area counties, while cities and school districts throughout the state are preparing their own new taxes for the ballot.

So, if you are a property

owner, especially one on a limited budget, it is important to familiarize yourself with what is on your local ballot. There is a good chance that you will find a parcel property tax. Fortunately, because of Proposition 13, these require a two-thirds vote, so if a tax is not justified, there is a realistic opportunity for voters to reject it.

To paraphrase a series of commercials promoting a satellite television service currently urging viewers "don't be a settler" — "don't be a low-information voter." When your sample ballot arrives in a few short months, study it carefully. Keep in mind that the official title and summary for tax measures are often manipulated by the political class to encourage a Yes vote. If you have any doubts about the information provided, do further research. □

ATTENTION VOTERS: Be Alert to Tax Increases on Your Ballot

Scores of parcel property taxes will appear on the ballot this June.

As *Taxing Times* goes to print, we have been made aware by helpful HJTA Members of tax increase threats in these communities:

Morongo Valley

Oakley

Alameda Co.

Contra Costa Co.

Marin Co.

Napa Co.

San Mateo Co.

Santa Clara Co.

Solano Co.

Sonoma Co.

San Francisco Co.

There will be many more tax measures placed on the ballot in coming weeks. For updates as the election approaches, go to hjta.org.

At our website hjta.org we provide guidance on how to defeat these measures. Under *Resources* in the homepage menu, click on *Taxpayer Tools*, where you will find a wealth of information on making local taxpayers a more powerful force.

HJTA is the Taxpayers' Resource.

TENACITY IS THE SECRET TO TAXPAYER SUCCESS

As we celebrate the 38th anniversary of the passage of Proposition 13, it is important to examine and learn from the philosophy of the man who guided the successful California Tax Revolt.

After the passage of Proposition 13, Howard Jarvis became even more popular with average citizens. He would joke that overnight he went from being regarded as a “nut” by the political elites to being seen as a “savior” to millions of California homeowners.

Visitors to Howard’s office would praise him for coming up with Proposition 13 just when it was so desperately needed. But Howard would just smile and point out that he had been working on property tax reform for 16 years.

Howard was tenacious and a big believer in the power of people when they worked together to make change. When speaking to groups, he would hold up his hand with his fingers extended and say that while separately they were weak, united they were strong, and he would form his hand into a fist. Some will remember seeing the photo of Howard holding up his fist on the cover of

Time magazine.

However, Howard understood that it was necessary to start small. His first taxpayer group meeting was attended by only twenty ordinary citizens — no celebrities, no politicians — just regular folks concerned that if the trend of ever-escalating property taxes continued, they would lose their homes.

Howard would say that people who want to reform government don’t have to wait for somebody else to lead them. “You don’t need a campaign manager to lead you; you can be your own campaign manager and lead yourself,” he wrote. “The brains and capacities of the citizens of the United States are invariably greater than the brains and the capacities of bureaucracy — now misnamed government.”

For taxpayers, the key to success, Howard believed, could be summed up in the words of James F. Byrnes, Secretary of State in the Truman Administration, who said, “I discovered at an early age that most of the difference between average people and great people can be explained in three words: ‘And then some.’” Howard



In 1978 Howard Jarvis and Jerry Brown clashed over Proposition 13.

attributed the eventual success of the Tax Revolt to the fact that his fellow taxpayer activists did what was expected, “and then some.”

Although Howard passed in 1986, his spirit lives on in thousands of Californians who give of their time and energy to push for more economical and efficient government. To remind the public of these unsung heroes, the Howard Jarvis Taxpayers Association annually presents the Taxfighter of the Year Award.

This year’s recipient is Ourania Riddle, a 30-year member of

the Solano County Taxpayers Association, who witnessed the unelected State Water Resources Control Board running roughshod over the rights of taxpayers in her hometown of Dixon, and decided to take action. Her lobbying helped to ensure passage of a state law that would allow Dixon to comply with water regulations and avoid penalties of \$10,000 a day. Howard Jarvis would be proud. □

Please read more about taxfighter Ourania on page 11.

PROPOSITION 13 IN DANGER!

Continued from page 1

property owners need to take this threat very seriously. And while there is no guarantee that it will qualify for the 2016 ballot, anyone who values the protections afforded by Proposition 13 must be prepared for a tough fight in November. HJTA will spare no effort to defeat this or any other effort to destroy Proposition 13 taxpayer protections.

Please be alert: HJTA asks taxpayers to be alert and not inadvertently help the tax-raisers. Proposition 13 supporters should be extremely cautious when asked to sign a petition to place a measure on the ballot. Signature-gatherers are unlikely to volunteer that the Collis poverty measure

will raise taxes, so you should ask before signing in support of any initiative measure.

HJTA will continue to keep Members informed on how they can fight this and other attacks on homeowners’ Proposition 13 protections, but the best way to guarantee that you have the latest information is to go to the HJTA website, www.hjta.org, and sign up for the free taxpayer alerts. □

Can’t wait for the next issue of *Taxing Times*?

Get daily tax news and updates at our website.

www.hjta.org

PRESIDENT’S MESSAGE

Continued from page 2

voters should keep in mind that the actual beneficiaries tend to be the providers of services — think pay and benefits — not the recipients.

This brings us to another potential initiative with the sympathetic-sounding title of “Lifting Children and Families Out of Poverty Act.” The measure would place a property tax surcharge on higher-value homes and property. (Please read the cover story in this issue of *Taxing Times* for more information about this initiative which puts Proposition 13 in danger.)

If this proposal actually reaches the ballot, it will no doubt be marketed as a tax on

the well-off so they can pay their “fair share” to help needy children. Backers of this tax will not mention that, as usual, those receiving the majority of benefits are likely to be the providers of services, not those in poverty. And don’t expect voters to be told about California’s already generous entitlement programs or, even with record spending, the hefty state surplus. The fact that this measure would be the first step in destroying Proposition 13 protections for all property owners, including those of modest means, will be glossed over as initiative promoters use the less fortunate as human shields to justify themselves.

HJTA’s top priority is defeating this effort to destroy Proposition 13. With your help, we will succeed in preserving Proposition 13’s taxpayer protections. □

This column appeared in a number of California newspapers.

DON'T BLAME PROPOSITION 13 FOR THE HOUSING CRISIS

California Commentary from the Howard Jarvis Taxpayers Association – week of January 24

Notwithstanding California's leftward drift, Prop. 13 remains remarkably popular. Indeed, polling suggests that if Prop. 13 were on the ballot today, it would pass by about the same two-thirds margin that it did in 1978. But the enduring embrace of this landmark measure by California homeowners is a huge irritant to those who want ever more taxpayer dollars.

For 37 years, detractors have made a parlor game of criticizing Prop. 13. Our favorite is blaming Prop. 13 for the acquittal of O.J. Simpson. The latest salvo is that Prop. 13 is to blame, at least in part, for California's housing crisis.

A recent study by Chris Thornberg, head of Beacon Economics, reviews the depth of the crisis and attempts to identify its causes. There is a lot of compelling data in the study that amply demonstrates how severe the crisis is. He points out that 53 percent of California households earning between \$35,000 and \$75,000 per year spend more than 30 percent of their income on rent, while nationally only 31 percent find themselves in this predicament. For homeowners, the figure is even worse, with more than two-thirds spending more

than 30 percent of their income on mortgage payments, compared to 40 percent nationwide.

While few dispute the severity of the crisis, there is disagreement about the causes. To explain the high cost of housing, Thornberg goes to the basic economic principles of supply and demand and attributes lack of supply to two major factors. The first is the high cost of construction due to stiff regulations, high labor costs, high land costs and high fees charged by local governments.

On this score, Thornberg is spot on.

Getting permits to build anything in California (except perhaps sports stadiums) is a nightmare. Even a frustrated Governor Brown said that efforts to reform the California Environmental Quality Act (CEA) was doing "the Lord's work."

However, according to Thornberg, the byzantine laws and regulations imposed by government are only half of the story. According to his analysis, the other major factor limiting housing supply is Proposition 13, because local governments are less likely to approve new housing construction because it produces less tax revenue than commercial development. There is scant

evidence to support this view other than the whining of government and labor interests who desire more money.

Indeed, the entire argument that Prop. 13 is at all related to the housing crisis doesn't even survive the first level of scrutiny. It presupposes that insufficient property tax revenue is generated for local services. But this cannot be squared with widely available and indisputable economic data. First, California is not a low property tax state, as it ranks 17th in the nation in per capita property tax collections. (It probably ranks even higher now because this ranking was based on 2014 data, and California's real estate market has recovered more robustly than almost all other states'.)

And it's not as if the state relies only on property taxes. We have the highest income tax rate in America as well as the highest state sales tax rate. Our overall tax burden was just ranked by the Tax Foundation as the sixth-highest. To suggest that Prop. 13 somehow impedes the pursuit of rational housing policy simply doesn't make sense. Our elected leaders do not address this crisis because they are motivated (or restrained) by political influences, not because they don't have the money.

In any event, the development of residential properties has a significant and positive impact on a local economy, which translates into tax dollars. According to data provided by the California Building Industry Association, new housing construction in California contributed more than \$38.6 billion to the economy in 2013 and supported more than 209,000 jobs per year. And as it relates specifically to the tax revenues generated, a study published several years ago by the California Housing Foundation, *The Housing Bottom Line: Fiscal Impact of New Home Construction on California Governments*, shows that after subtracting for costs to government, new housing more than pays its way. Despite claims by some Proposition 13 detractors that new home construction "costs" government, the study showed otherwise.

So, while burdensome government regulations — especially those associated with CEQA — are the reason we don't build more housing stock, Proposition 13 doesn't even appear in the picture. But the study's authors shouldn't feel bad. If they were playing baseball, a batting average of .500 is pretty darn good. □

HJTA MEMBERS: HELP HJTA HELP YOU

The Howard Jarvis Taxpayers Association is California's number-one taxpayer advocacy organization. By recruiting new Members, we strengthen the taxpayers' cause in Sacramento and throughout the state.

Help protect Proposition 13! Every HJTA Member knows at least one person who should join HJTA. Please pass along this coupon or just send us their names and addresses. HJTA will send them information on our ongoing work and a membership application. Thank you!

Mail to: HJTA, 621 South Westmoreland Avenue, Suite 202, Los Angeles, CA 90005-3971

Please send information on the tax-fighting work of the Howard Jarvis Taxpayers Association and a membership application to:

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

TAXPAYER ADVOCATE OURANIA RIDDLE IS HJTA TAXFIGHTER OF THE YEAR

The Howard Jarvis Taxpayers Association is proud to name Ourania Riddle as HJTA Taxfighter of the Year.

Greek-born Ourania Riddle is a naturalized U.S. citizen who fell in love with the America she learned about in civics class as she prepared to take her citizenship test. She learned that American government is “by the people” because the people elect their lawmakers and that, regardless of who holds office, the people have rights guaranteed by the Constitution, the supreme law of the land.

Naturally, then, when Ourania, a 30-year member of the Solano County Taxpayers Association, witnessed the unelected State Water Resources Control Board running roughshod over the rights of taxpayers in her hometown of Dixon, she decided to get involved. The state board had ordered Dixon to spend millions upgrading its sewer treatment plant, or else face penalties of \$10,000 per day. The mandate made no sense because the supposed “pollutant” in the city’s effluent — salt from water softeners — was not harmful to human health, and decades of test data proved that Dixon’s drinking water did not contain salt anyway.

After consulting with experts, Ourania was convinced the state’s science was faulty. She then testified before the Little Hoover Commission about the state board’s bullying tactics and met with state legislators to introduce a bill that would authorize cities to ban salt-based water softeners. In 2009, Governor Schwarzenegger signed AB 1366 (Feuer) into law.

Armed with the new state law, the Dixon City Council adopted an ordinance requiring all new water softeners to be salt-free and all existing salt-discharging softeners be removed and surrendered to the city.



HJTA Director of Legal Affairs Tim Bittle, Taxfighter of the Year Ourania Riddle and HJTA President Jon Coupal.

The ordinance included a buy-back program.

Notwithstanding the progress the city had made with Ourania’s leadership, it still wasn’t enough to satisfy the state water board. Under renewed threat of daily fines, the city council approved the expensive treatment plant upgrade, and a hefty rate increase to fund it. Ourania wanted the city to fight for more time so that the remaining illegal water softeners, estimated at over 500, could be removed. She and her friends circulated an initiative petition to repeal the rate increase. They collected signatures totaling more than 15% of the city’s registered voters, enough to force a special election. Instead of placing the initiative on the ballot, however, the city sued to invalidate it. Ourania’s group, represented by the Howard Jarvis Taxpayers Foundation, defended the initiative in court.

While the court subsequently ruled that the taxpayers’ effort to use the power of initiative was invalid, Ourania and her crew succeeded in changing state law and put the City of Dixon on notice that its taxpayers are organized and carefully

watching costs.

Ourania has served as the president, secretary and treasurer of the Solano County Taxpayers Association. She is on the board of advisors for the California League of Bond Oversight Committees, which provides training and help to the local oversight committees that police the expenditure of school bond funds. Ourania has served on the Solano County Grand Jury and on the board of directors of the California Grand Jurors Association. She is also an active member of Californians Aware, an organization that helps journalists and others enforce California’s open meeting laws. And of course, she is a longtime Member of the Howard Jarvis Taxpayers Association.

HJTA President Jon Coupal praised Ourania for her contributions to her state and community: “We want to recognize Ourania and all those unsung taxpayer heroes who improve our lives by volunteering their time and energy to act as watchdogs over government spending and who prod officials to make better and more efficient use of taxpayers’ dollars.” □

TAX BYTES

WANT TO WORK FOR GOVERNMENT?

State Controller Betty Yee has released a new searchable database of local government salaries. Highest average county wages of \$78,808 can be found in Santa Clara County. The leader in city pay is Vernon, where the average is \$103,601.

LOOKING FOR BLACK GOLD AT TAXPAYER EXPENSE

Shortly after Governor Jerry Brown directed the Division of Oil, Gas and Geothermal Resources to evaluate his ranch for its oil, gas and mining potential, several hundred California property owners requested the same “free” custom service.

\$125,000 PAID TO SCHOOLS CHIEF AFTER SECOND DUI ARREST

El Dorado County schools chief, Jeremy Meyers, received a \$125,000 buyout package this month for resigning after being arrested twice on suspicion of drunk driving, reports the *Sacramento Bee*.

PAID PATRIOTISM

Turns out that those displays of patriotism at National Football League games were paid for by the Pentagon, which shelled out over \$10 million over the last four years.

EXTRA PAY FOR LAWMAKERS

The *per diem* rate — living expenses paid to members of the Legislature — rose slightly in October to \$176, up from \$168 in the 2014–15 fiscal year, topping a previous peak of \$173 in 2008–09. During the 2015 legislative year, lawmakers taking per diem averaged about \$34,000 in payments, according to the *Sacramento Bee*.

A BIG THANK YOU



Dear HJTA Members
and Proposition 13 Supporters,

On behalf of myself and our Board of Directors, thank you for your ongoing support for Proposition 13 and your Howard Jarvis Taxpayers Association. We never lose sight of the fact that your generosity makes our work for taxpayers possible.

With gratitude,

Jon Coupal
President



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Your Contributions Make the Work of the Howard Jarvis Taxpayers Association Possible

The Howard Jarvis Taxpayers Association is the statewide organization that looks out for the interests of average taxpayers.

We have been on the job fighting to protect your interests since 1978. That was the year retired businessman Howard Jarvis led the California Tax Revolt that overwhelmingly passed Proposition 13, which replaced an out of control property tax system that was forcing many from their homes. Proposition 13 made taxes reasonable and future increases predictable for new and longtime property owners alike. It also required voter approval of new local taxes and a two-thirds vote

of the Legislature to approve new state taxes.

But Howard Jarvis knew that taxpayers' gains would be temporary without a permanent citizens' organization to protect Proposition 13 and to continue the movement against higher taxes. To meet this need, he founded the Howard Jarvis Taxpayers Association, known to many as HJTA.

Working through the Legislature, courts and ballot initiatives, the tax-fighting work of HJTA has saved Californians billions of dollars. Estimates show that Proposition 13 has saved taxpayers at least \$528 billion dollars. And when you add in all

of the other HJTA victories...the average California family of four has saved well over \$60,000.

While Proposition 13 provides average taxpayers with security against unreasonable taxation, it is not popular with everyone. The politicians, bureaucrats and special interests work every day to increase the tax burden on honest citizens — right now they are proposing new taxes on homes, services and gasoline. We work even harder to stop them.

We maintain a full-time presence in Sacramento. Our legislative advocate testifies before legislative hearings and lobbies elected officials on behalf of you,

the taxpayer. Our grassroots lobbying campaigns deliver millions of petitions opposing higher taxes to your elected representatives.

We prepare and publicize an annual report card on legislators. We make sure the folks back home know how their representatives are voting on issues important to taxpayers.

HJTA monitors, publicizes and fights against threats to taxpayers from all quarters, including efforts to use the ballot to impose new property taxes.

HJTA attorneys are active in the courts protecting your rights as a taxpayer — HJTA's legal work has saved taxpayers billions of dollars. □

**The Howard Jarvis Taxpayers Association is a nonprofit organization.
Our sole source of support is voluntary contributions from loyal Members.**

THANK YOU AGAIN FOR MAKING POSSIBLE OUR WORK ON BEHALF OF TAXPAYERS!