

PRESS RELEASE

**CALIFORNIA SUPREME COURT UNANIMOUSLY
STRIKES DOWN OPEN SPACE ASSESSMENT**

The California Supreme Court has declared invalid a 2001 special assessment on real estate that collects more than \$8 million a year to fund the budget of the Santa Clara County Open Space Authority. Reversing a 2-1 decision of the Sixth District Court of Appeal in San Jose that had upheld the assessment, the Supreme Court unanimously held that the assessment violated Proposition 218, a provision of the state constitution enacted by voters to restrict local government's ability to evade the real estate tax limits imposed by Proposition 13 by labeling what are really property tax increases as assessments or fees.

Tony J. Tanke, the attorney who represented eight individual Santa Clara County taxpayers and two taxpayer groups – the Silicon Valley Taxpayers Association and the Howard Jarvis Taxpayers Association – commented on the decision as follows:

“The California Supreme Court’s decision recognizes the constitutional rights of taxpayers not to have their homes and businesses assessed for general public spending projects that do not directly benefit property. It will prevent the Santa Clara County Open Space Authority and other local government agencies from using assessments on real estate to avoid the 2/3-voter-approval requirement for special taxes.”

As Mr. Tanke further observed: “State and local governments and lower-court judges are often reluctant to enforce taxpayer propositions designed to limit government revenues and spending. It took seven years of lawsuits against the Open Space Authority to enforce the taxpayers’ rights to curb a flagrant abuse of power by a government agency. The Supreme Court’s decision should serve as a reminder that government is not above the law.”

The three lawsuits brought by taxpayers against the open space assessment will now be returned to lower court to determine what relief taxpayers are entitled to. The Open Space Authority has stated in the past that it has not spent the more than \$48 million it has so far collected from the illegal assessment.

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