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NEW ORLEANS PROPERTY ASSESSMENTS: MORE THAN JUSTICE REQUIRED TO ACHIEVE FAIRNESS

**Edward J. O'Boyle, Ph.D.
Mayo Research Institute**

The latest round of property assessments in New Orleans which went public on August 1 has stirred a hornets' nest of protests and challenges from angry property owners who have seen their assessments climb by as much as 400 percent.¹ Assessors assert that assessed valuations have not been adjusted to current market values for a long time.² Property owners plead that the increases are excessive, especially when they become fully effective in one year rather than being spread over several years, and severely tax their financial resources.

These complaints re-affirm three of the four maxims regarding taxes in general asserted 225 years ago by Adam Smith in his classic *Wealth of Nations*³ precisely because those maxims are not reflected in the current round of assessments.

- Citizens should contribute to the support of local government,
as nearly as possible, according to their ability to pay •
- The tax to be paid ought to be certain, not arbitrary •
- The tax ought to be levied at a time, or in a manner, in which it is most likely
to be convenient for the taxpayer to pay it •

Predictably some will try to escape this burden by selling their property holdings and moving away from New Orleans. Others with little or no equity in their properties may simply walk away, abandoning their holdings. Those who stay will see the market value of their properties

¹ For a sampling of the immediate reaction go to http://blog.nola.com/updates/2007/07/increased_property_assessments.html.

² State law requires property assessment every four years. However, that requirement does not necessarily assure that residential properties, especially those that were purchased many years ago by the current owners, will be assessed as required by law at ten percent of their current fair market value.

³ Random House, 1937, pp. 777-778.

tumble but those lower market values will not be reflected in lower assessed values. Owners of rental properties will pass the increase on to their tenants some of whom may relocate outside the city. Prospective tenants and homeowners may think twice before (re-)locating to New Orleans. Such outcomes do not bode well for the city's re-development efforts. These concerns, corroborated in many of the postings on the *Times-Picayune* blog, point to a failure to abide by Smith's fourth maxim.

- Every tax ought to be so contrived as to minimize the administrative cost of collecting, the economic disincentives that follow from imposing it, the incentive to evade it by illegal means and any annoying intrusion into the privacy of the taxpayer •

If property owners find no relief from the assessor's office they can appeal to the New Orleans City Council which acts as a board of review for contested assessments. However, they are allowed just two weeks to file in person at New Orleans City Hall. Thereafter, assessments can be challenged before the Louisiana Tax Commission, and then in the court system. A review of the two principles of justice involved in assessing property and setting property taxes, along with three suggestions, might be instructive to the various parties involved and may lead to a more equitable outcome for all.

The two principles of economic justice that are involved in imposing and paying taxes on real-estate holdings are distributive justice and contributive justice. Distributive justice requires the local government authority to impose taxes in some equal fashion among property owners of approximately equal means. This requirement sometimes is referred to as horizontal equity and essentially demands that equals be treated equally, according to their ability to pay. This leads to the practice of imposing equal tax burdens on persons owning property of equal market value. Contributive justice demands that insofar as property owners receive benefits from local government, they have a duty to pay their property taxes.

Under contributive justice, paying taxes including real-estate taxes is an obligation only insofar as the local government services supported by taxes – police, fire, water and sewage, public transportation, trash removal, primary and secondary education, and the like – are available to every property owner. That obligation diminishes whenever those services are not as readily available to any given property owner as they are to the typical property owner as when for example local government authorities engage in discrimination or favoritism. In other words when the local government fails in its obligation under distributive justice, the property holder has a diminished obligation in contributive justice. This kind of action/reaction, however, spells trouble for anyone dependent on local government services.

An important problem arises as to the taxes to be imposed on property owners who are not equal in terms of ability to pay. This problem sometimes is referred to as vertical equity. Ability to pay is the justification for freezing assessed values for homeowners 65 years and older with household income below a specified amount (\$60,498 in 2007) which is adjusted from year to year according to changes in the *Consumer Price Index*. Ability to pay is at the heart of last year's constitutional amendment which was approved by Louisiana voters 2:1 and that in effect freezes the property assessments of persons with military service-connected

disability ratings of 50 percent or more, select military veterans, and others who are permanently and totally disabled at the assessment level in the year in which they file and qualify for this relief.

The homestead exemption in principle addresses this problem at least in part, though it achieves that end only clumsily because it applies to every homeowner regardless of ability to pay. With regard to vertical equity, the presumption is that some persons are not as able to pay as others of more substantial means even though the services provided by the local government are as readily available to them as to others with greater ability to pay.

Suggestion 1. To align the homestead exemption more closely to ability to pay, consideration could be given to allowing the exemption only for properties that fall below some predetermined assessed value (perhaps one-half of the median assessed value) or are located in census tracts where the rate of poverty is 50 percent higher than the rate for the entire city.⁴

The tough question is: ‘How much lower (higher) should the tax burdens be in order to accommodate properly to a property owner’s lesser (greater) ability to pay?’ This question is doubly troublesome in New Orleans where the housing market was so devastated by Hurricane Katrina that no one can say for sure what a given property is truly worth in the absence of the post-Katrina sale of that property or sales of comparable properties.

Even in the absence of Hurricane Katrina, the full answer to that question is not found in distributive or contributive justice because justice *per se* is a terrible, impersonal virtue in the sense that when it is completely applied no one owes anything to anyone else. By itself, justice in property assessments and taxes will not restore and maintain a sense of community among the people living and working in New Orleans. To accomplish that purpose gratitude, benevolence, forgiveness and charity are necessary and if not introduced in the appeals process will make re-energizing New Orleans and making it whole again even more difficult.

Suggestion 2. To make it more convenient to pay one’s property taxes, we suggest that new assessed values be implemented in four steps over the entire four-year period between assessments. In the event that a homeowner gets a lower assessment through the appeals process any excess taxes already paid are to be applied to the taxes due in the following year or paid in cash under the same scheme that is used to calculate interest and penalties owed by late filers.

Suggestion 3. To limit arbitrariness in setting assessed values more time should be allowed to challenge the assessment in person at City Hall or filing should be allowed electronically via the Council’s website. Further, except in the case of

⁴ If the median assessed value for the city is, for instance, \$385,000, the homestead exemption would apply only to those with assessed values below \$192,500. Alternatively, if the poverty rate for the entire city is, say, 22 percent, the homestead exemption would apply only to homeowners in census tracts where the rate of poverty is 33 percent or higher.

property for which there is current sale price information, four-year changes in assessment should be limited to 40 percent (10 percent in any given year) or the average increase in property values as determined by an agency with no special interests in New Orleans,⁵ whichever is smaller.

Finally, and most importantly, any system for determining, imposing, and collecting property taxes is in the end a matter of the quality of the persons who administer and enter the system. What matters most, in other words, are administrators and property owners who are just, grateful, benevolent, forgiving, and caring. Any serious deficiencies in those virtues produces a system that essentially does not work, that people chafe under, and that they are tempted to circumvent by finding ways to influence administrators into adjusting the assessed values on their property holdings.

Any system designed and operated by human beings will break down if it is not flexible enough to respond appropriately to the different needs and circumstances of those humans who are required to live with its requisites. Justice strictly speaking is not enough.

Edward J. O'Boyle is Senior Research Associate with Mayo Research Institute. Since completing his doctorate in economics from Saint Louis University more than 35 years ago, Dr. O'Boyle has specialized in economic research and analysis increasingly from the perspective of the human person engaged in everyday activities both as a unique individual and as a community member. In January 2004 the Association for Social Economics conferred on Dr. O'Boyle its prestigious Thomas Divine Award for lifetime contributions to social economics and the social economy. He taught economics at a state university in Louisiana for 30 years prior to his retirement in 2007.

*Mayo Research Institute 1217 Dean Chapel Road West Monroe, Louisiana 71291
318-396-5779 edoboyle@earthlink.net*

⁵ One possibility in this regard is the Center for Real Estate Studies at Louisiana Tech University.