

November 2003

To All Property Owners in the
City of Huntington Beach



In 1945, the City first contracted with the California Public Employees Retirement System ("PERS") in order to provide retirement benefits to the City employees.

As part of the City Charter elections of 1966 and 1978, Huntington Beach voters approved a property tax override to pay for City employee retirement benefits. Also in 1978, California voters approved Proposition 13. While Proposition 13 sets the maximum rate for property taxes at one percent (1%) of assessed value, it also permits additional taxes to be levied to pay debts approved by voters prior to July 1, 1978.

In several decisions, the courts have held that taxes to support retirement programs qualify as such debts. Consequently, the City has continued to levy the property tax override from 1978 to the present. Since 1981-82, the tax has remained constant at .0493% of assessed value.

On April 2, 2001, the Orange County Superior Court entered a judgment in the case entitled *Howard Jarvis Taxpayers Association v. County of Orange, and Real Party in Interest, City of Huntington Beach*, Case No. 818780. The Court declared that the City's property tax override violates Proposition 13 "to the extent that the tax exceeds the City's employer contribution for PERS retirement benefits that were in effect prior to July 1, 1978." Specifically at issue in the *Howard Jarvis* suit was the tax for the fiscal year 1999 through 2000.

In that year, the City levied a retirement tax as it has for the past 34 years. The proceeds of that tax were used to pay for employee retirement benefits.

However, the specific retirement benefits paid with the tax have changed over the years since 1978. In the *Howard Jarvis* lawsuit, the Plaintiffs claimed that the City could only pay for those specific retirement programs that the City provided in 1978. On April 2, 2001, the Court agreed, holding that such tax could only be used to pay for those benefits offered before July 1, 1978.

In July of 2003, the Court of Appeals upheld the trial court decision. The City has begun the refund process and is currently accepting claim forms. Claims for tax years July 1, 1997 to June 30, 2001 are eligible for refund for four years from the date the taxes were paid.

Sincerely,

Jennifer McGrath
City Attorney

Claim for Refund

Pursuant to Revenue and Taxation Code 5096, et seq., Claimant seeks the refund of Claimant's share of that portion of the property tax imposed by the City of Huntington Beach that exceeded the City's annual cost for city employee retirement benefits in existence prior to July 1, 1978.

Grounds

The claimed portion of the City's property tax was "illegally assessed or levied" and/or "illegally collected" as those terms are used in Revenue and Taxation Code 5096. Proposition 13 caps ad valorem property taxes at one percent of the property's assessed value. Cal Const., art. XIII A, sec. 1 (a). An exemption permits the one percent cap to be exceeded to repay an "indebtedness approved by the voters prior to July 1, 1978." Id., Sec. 1(b).

The Court ruled in *Howard Jarvis Taxpayers Assn. vs City of Huntington Beach*, Orange County Superior Court Case No. 818780, that the City's property tax, to the extent it exceeded the City's annual cost for city employee retirement benefits in existence prior to July 1, 1978, violated Proposition 13 and was therefore levied and collected illegally.

Payment of Taxes

I certify that I paid the property tax, or am the guardian, executor or administrator of the person who paid the tax on the above mentioned Assessor's Parcel during the years described above.

Prayer

For the foregoing reasons, Claimant requests the refund of the amount determined by the City to represent the difference between Claimant's payments and Claimant's lawful share of the City's annual cost for city employee retirement benefits in existence prior to July 1, 1978.

Please Note:

It may be necessary for you to provide evidence that you were the person who paid the tax. It is recommended that you retain any cancelled checks or other evidence you may have showing the payment of property taxes.

***Refund claims must be filed within four years of the date
the property tax was paid.***