

OPINION

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VIEWPOINT

City's appraisal lawsuit misses the mark

Austin Mayor Steve Adler's Sept. 15 "TribTalk" piece was titled "Appraisal lawsuit about fairness, not revenue." But while his sound bites claim that the city sued to help homeowners, the lawsuit seeks removal of a cornerstone of the landmark 1997 "Taxpayer Bill of Rights" enacted to protect the constitutional rights of all Texans – homeowners included.

The mayor claims his lawsuit seeks to ensure that comparable properties are valued consistently. Texas law already guarantees that. The city's lawsuit would remove the ability of taxpayers, especially homeowners, to seek relief when the appraisal district errs and values their property inconsistently.

Let's do a little simple fact checking of those Mayor Adler sound bites. The mayor claims that the Texas Constitution requires taxation based on a property's "true market value." But the mayor's claim isn't "true." The Constitution requires only that property be taxed "in proportion to its value." This can mean many things. The specifics were wisely left for determination by the Texas Legislature, as the elected representatives of the citizens being taxed. The Constitution does afford Texans one fundamental right in the area of taxation, that "Taxation shall be equal and uniform."

These six words open Article VII, and that's the right the mayor wants to take away.

Next, Mayor Adler resorts to the familiar innuendo of the "soak businesses and the rich" crowd, that "[o]ur current property tax system ... allow(s) some properties to be valued at something other than market value," as if big business has some kind of secret decoder ring in the form of an alternate set of laws and rules that the rest of us



Joseph Harrison

don't have.

Mayor Adler calls this "fundamentally unfair." Once again though, it is his sound bite that is fundamentally untrue.

Far from big business having extra rights and remedies, the exact opposite is true. All taxpayers have both the same fundamental constitutional right to equal and uniform taxation, and the same statutory remedies including those added to the Tax Code in the 1997 Taxpayer Bill of Rights.

There's no separate code for the rich, or for business. Every ground of protest available to a business is also available to a homeowner – and then some because the Legislature went a step further some years ago and created an arbitration system as an alternative to the expense of paying lawyers to litigate tax disputes in court.

Instead, under Code Chapter 41A arbitration, homeowners and small businesses can assemble and present their own evidence and seek reduction in their tax values upon payment of a single flat fee. Better yet, in 2013, the Legislature finally added equal and uniform appraisal disputes to the types of tax issues that can be taken to this low-cost forum.

Now, at last, a homeowner who finds his or her residence appraised at significantly more per square foot than neighbors with homes of similar age and quality has an alternative they can afford. So can a small business who confronts an unequal and disproportionate tax burden making

it difficult to compete with nearby businesses.

But the city's lawsuit would take away all those rights. And that's the cruel irony of the situation; that the same unequal appraisal remedies the city wants to take away are more important and readily available to homeowners now than ever before. Remove these potent safeguards and taxpayers will be unable to effectively protest values, meaning values will rise and tax assessments and collections will rise with them. Still think the city's lawsuit is "about fairness, not revenue?"

Texas has the finest property tax system in the nation because of its robust system of remedies designed to ensure due process and equal and uniform treatment. Our tax code even has a specific section – 41.41(a)(9) – just to make clear that taxpayers can protest any adverse action by tax appraisal authorities.

We aren't California, where there's no constitutional guarantee of tax equality and the last, high-dollar home purchaser gets clobbered while other owners of even much nicer homes pay less. Equal treatment is embedded in our constitution. Taxing units will always want more revenue. But neither that reality, nor the city's relentless invocations of "fairness," justify wrecking a system that – whatever its flaws – works.

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Read more about Austin's property tax lawsuit, which city officials said may result in more accurate, likely higher commercial property valuations, <http://bizj.us/1iy2ie>

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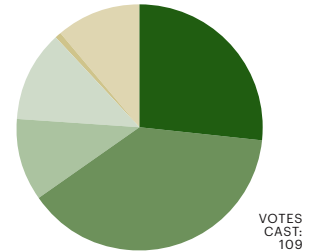
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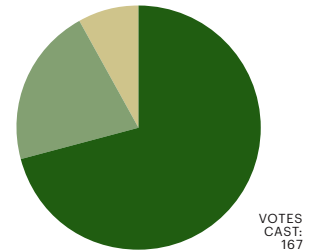
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