

### Substantive Public Values: Two Kinds

- **Personhood values:**
  - Stem from Sanctity of Personhood
  - The thing that is valuable in itself here is a **Person**
    - Evaluates an action by looking at the nature of the act itself:
      - Is the act some kind of violation of personhood and personal rights?
- You can usually tell if someone is invoking these kinds of values because they are most often formulated in terms of rights.

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### Substantive Public Values: Two Kinds

- **Outcome values:**
  - Stem from looking at the consequences of an act.
  - The thing that is valuable in itself here is **human flourishing, or human well-being, or human happiness**
    - Evaluates an action by looking at the consequences:
      - Does the action maximize human well-being and minimize human suffering?
      - Are people better off because of the act?
- You can usually spot if someone is invoking these kinds of values because they are often in the form of a "cost/benefit" analysis.

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### Substantive Public Values: Two Kinds

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|---------------------|--|
| • Personhood Values | • Outcome Values   |
| • Liberties         | • Well-Being (security, economy, health, environment etc...) |
| • Fairness          | • Effectiveness  |
| • Equality          | • Efficiency   |
| • Personal Rights   |  |

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### Procedural Values

- Based on rational rules for making decisions fairly.
- Allow an objective balance of considerations in the decision making process.
- Relatively uncontroversial, in that they do not tip the scales toward either side in the substantive values debates.
- The basis of most of the constitution and our democracy: the vote, the three branches of government, legislative debates, executive administration and judicial review are all based on procedural values of fair process.

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### Procedural Values

- Procedural Values
- Participation
- Objectivity
- Accountability
- Transparency
- Trust

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### Full List of Public Values

- **Personhood Values:**
  - Liberty
  - Equality
  - Fairness
  - Rights
- **Process Values**
  - Participation
  - Objectivity
  - Accountability
  - Transparency
  - Trust
- **Outcome Values**
  - Public Well-Being (security, economy, health, environment etc...)
  - Effectiveness
  - Efficiency

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## **“The Illegal Tax”**

Summarized from: William Thompson & James Leidlein, *Ethics in City Hall*, 2009, Jones & Bartlett Learning, Sudbury MA.

The township of Lunapark is a growing township on the edge of a larger urban area. The general township property tax levy is subject to strict state limitations and can only be changed by the voters. This tax is applied to all property except personal property within private residences. It is applied at a 15 mill (1.5% of assessed value) rate. In the 1950s, as townships like Lunapark were growing to the point where they needed independent fire and police protection, the state passed a law allowing such urbanized townships to impose an independent millage in order to support these services. According to the law, such taxes were only to be imposed on “real property,” and not on what was called “business personal property.” Business personal property includes mostly equipment, things like typewriters, business machines, etc...

In Lunapark the board of supervisors proposed a 10 mil (1% of assessed value) special tax levy pursuant to this law. After the board voted to approve the tax the township treasurer was instructed to add it to subsequent outgoing tax bills.

27 years later an especially vigilant county supervisor named Tad notices that for the entirety of its life the extra 10 mill levy has been imposed on all property, not just real property. The first treasurer to apply the new tax the method simply applied the new 25 mill rate on all assessed property, failing to distinguish real property from business personal property, and this practice has been followed ever since.

Tad, realizing he might have a huge problem on his hands, consults the township attorney. Sure enough, the tax has been illegal all these years. The good news is that according to court-tested law any citizen paying taxes over and above those required by law is only entitled to a refund if those taxes were paid under protest, or if the provision of services to be totally rendered in the future. The last tax bill cycle was 6 months ago, and no businesses had protested the levy in the past, so the township was off the hook on 27 years of back-tax repayments.

It was in this light that Tad presented the issue to the rest of the board of supervisors. Ceasing to collect the 10 mill tax on business personal property would impose a small, but manageable, cut in the police and fire budget. The preferred fix seemed to be to quietly change the formula for next year’s tax levy. One supervisor,

Carl, however, had a very different reaction. Outraged at what he saw as either incompetence or maliciousness in over-taxing the businesses in the township Carl demanded that full disclosure regarding the over-taxation be publicized and that the county offer businesses a certain period to present an estimate of the amounts they have been over-taxed. The idea being that the township should work to at least reimburse some feasibly small percentage of that amount as a token of good will.

Tad responds that neither the police, nor the fire department, nor the current treasurer were responsible for the problem. Even if the current treasurer had noticed the problem the first year of his tenure this would only have saved 2 out of the 27 years of over-taxation. Why should these people, and the people that the fire and police department serves (from whose budget the re-imbusement would presumably have to come), suffer for mistakes they did not make? Why should the current administration, the one that has actually done due diligence in discovering the mistake, be punished with the inevitable budgetary strain that will come along with any level of re-imbusement for having done the right thing and discovered and corrected the mistake?

Carl responds that in becoming public officers the supervisors and the Treasurer took on the responsibility for the actions of the township government as a trust. If current administrations are not held accountable for past mistakes then that essentially puts a very short de facto statute of limitations on governmental wrongdoing. Further, especially the kinds of over-reach represented by over-taxation should be vehemently guarded against, and punished, given the power the government has over the lives, and property, of citizens. If the board does not agree to go public and offer some level of token re-imbusement, Carl threatens to leak the issue to the local press who will surely treat it as an expose of incompetence and lack of caring on behalf of township officials generally, including those who brought this problem to light.

Tad responds by pointing out the valuable police and fire services that might have to be cut in order to fund even a minimal re-imbusement.

Carl responds that the most likely citizen response will be: "they should have thought of that before they started levying an illegal tax."

What should the board of supervisors do?

## **“Taxing The Titan”**

Summarized from: William Thompson & James Leidlein, *Ethics in City Hall*, 2009, Jones & Bartlett Learning, Sudbury MA.

In the small city of Cambridge Titan Autoworks has been a mainstay of industry, and a crucial tax source, for over 50 years. However, the company has been in a steady decline along with other independent automobile manufacturers. Their doors remain open, but they can't say much more.

George Harris is Cambridge's Mayor as well as its assessor. Harris is fully certified as an assessor for both residential and commercial properties. This year it was decided, due to economic growth and a range of other factors, that the value of businesses and industrial properties in Cambridge would be assessed 10% higher than they had last year. Notice of the assessments was sent to all taxpayers. Titan Autoworks is assessed at \$2.2 million. In response to the new assessment Titan's Director of Operations Peter Hill has sent a letter of protest. Harris and Hill (who have had a good working relationship in the past) have agreed to meet to discuss the assessment.

The meeting between Hill and Mayor Harris is cordial, but strained. At the meeting Harris offers to work with Hill as best he can. He says that he might be able to get a reduction in the increased value for the year, making the assessment \$2.1 million instead of \$2.2 million. However, Hill responds that the percentage increase is not the issue. Hill asserts "The assessment is just plain too much. We want it lowered by a half to one million."

Harris replies that, given that Titan had paid on the \$2 million assessment without protest last year, and that the assessment process had followed the letter of the law, this was not an argument he thinks Titan can win. Hill indicates that nevertheless his corporate counsel and the president of Titan insist that the assessment be adjusted or they will take the city to court to fight it. Hill gives the impression that Titan is prepared to take it all the way to the State Supreme Court.

After the meeting Harris consults with the city attorney, Bill Stout. Stout indicates that he believes that the assessment will withstand any legal scrutiny, but that there were other considerations. By demanding a reduction of \$1 million Titan is essentially trying to avoid paying about \$60,000 in taxes. Not all of that tax income would go to the city: 60% (\$36,000) goes to the

school district; county and special districts get another 25% (\$15,000); and the city gets about 15% (\$9,000). Taking a case to court would cost at least \$10,000, and possibly much more.

Given their financial interest Harris inquires as to whether the school or special districts would absorb some of the cost of such a court case. But using these dedicated funds to fulfill a function legally relegated to the city (tax collection) is illegal, even if they had been willing.

At the next meeting the Hill makes clear why the company is protesting the assessment. He reveals that the company has failed to make any profit this year. If the company can't cut taxes drastically and immediately he claims that their doors will be closed by the end of the year. In response Harris points out that there is a procedure for "hardship" cases that can be brought before a state board. Hill responds that a public hardship case would similarly result in a shut-down as Titan's reputation with suppliers and contract customers would be severely damaged, likely leading to a loss in business. the company could not afford. Therefore the company will go to court before it goes to the state board.

With respect to a possible court case Hill makes two points. First, he thinks that a local judge and even the State Supreme Court might be sympathetic to the idea of keeping over 600 local jobs. Second, and perhaps more importantly, there is an argument to be made for an adjustment given only some flexibility in the assessment procedure. If instead of the replacement value of the property Harris will agree to take the re-sale value of the manufacturing plant into account things would look differently. Hill points out that the company has recently had the value of its property appraised by a respected national appraiser of manufacturing properties. Given the lack of interest in used automobile manufacturing plants the property has been assessed at approximately the value of the building and the land, or about \$1.8 million. On that resale value basis an assessment of \$1 million is still tipped in favor of the city. He makes the point that the law does not mandate that specific assessment approaches be used in each case, so there is room in the law to make a claim for another assessment approach. Harris then adjourns the meeting, promising to take everything Hill had said into consideration.

What should Harris do?

**WORKSHOP PROGRAM EVALUATION**

Name of Program: *Political Ethics and Public Values*

Dates: *Sept/Oct 2015*

10. What did you like most about this workshop? \_\_\_\_\_

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11. What did you like least? \_\_\_\_\_

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12. What could we do to make this workshop better? \_\_\_\_\_

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Additional comments (Please take the time to give us any feedback! Positive or Negative):

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