

Lake Berryessa Resort Improvement District

Responses to Questions Submitted on
JULY 11, 2016 (email from Tamara Torosian)

1. **QUESTION:** To my understanding, the governments may make appropriations in EXCESS of their limits only on Emergency or Voter Approvals basis. Otherwise the appropriation limit will be returned to the level it would of otherwise have been. (If we don't vote the increase in, I am assuming it will just not be increased and just returned to the 2012 voted limit. Please Verify?
 - a. **RESPONSE:** No, the appropriation limit would go back to the District's base tax appropriation limit that preceded the T-1 election, as adjusted for annual price index and county population growth factors, approximately \$45K. The 2012 voter approved limit was \$380k and the forthcoming ballot measure will ask for a \$350K limit.

2. **QUESTION:** Since the limit applies to appropriations from proceeds of taxes from both the general fund (property tax?) and special funds (T-1, exc.) of government entities (Lake Berryessa Estates). Proceeds of taxes include tax revenues, interest earnings on invested tax revenues (interest off our bonds and/or invested funds, right?), and any revenues collected by the regulatory license fee or user charge in EXCESS of the amount needed to cover the cost of providing the regulation, product, or service Therefore, not having this money go into our reserve fund, which we so desperately need?
 - a. **RESPONSE:** A couple of things:
 - i. Reserve funds for capital replacement are considered part of allowable user charges as long as there is a capital maintenance/replacement plan in place and the fund isn't just a savings account. The District also can substantiate a reserve fund to help offset cash flow issues. While you have identified the correct guidance for user rates and the nexus for appropriation limit, the definition of allowable components include justifiable reserves.
 - ii. The bond assessment is not a tax so all bond related activity falls outside the scope of appropriation limit law. Also, activity related to the bonds has no impact on user rates. Likewise, the interest earned on bond invested funds must be used to liquidate bonds or, with certain action, be used as additional project funds to complete bond defined projects or expand bond defined projects.

3. **QUESTION:** So as the Appropriation Limit gets higher and higher, won't this seem that we are in need of a tax increase?
 - a. **RESPONSE:** No, as long as the appropriation limit is higher than the amount of tax collected, there is no impact on tax rates. The limit is what the District has to stay **under** so as long as tax revenues are below the limit, the District will not have to go through the process described in the next question.

4. **QUESTION:** Doesn't the appropriation Limit stop the excess revenues from going into the local schools and/or 50% of the excess revenues remaining after the transfer to the education must be returned to taxpayers through a reduction in the tax rate or as a fee reduction.
 - a. **RESPONSE:** As long as the District does not exceed their appropriation limit, all collected tax funds must remain in the District. The 50% haircut provision is only considered at the State of California level and has no impact on the District. If the ballot measure fails, the appropriation limit would fall back to around \$45k and the amount of tax collected above that amount would have to go back to the parcel owners within a two year period.

5. **QUESTION:** Doesn't the county feel we need this to possibly happen?
 - a. **RESPONSE:** Speaking only from my own perspective, failure to approve the increased appropriation limit would have serious consequences on the District in a few ways. First, if the appropriation limit ballot measure fails, the District will not be able to spend the estimated \$265,000 of T-1 tax revenues in fiscal year 2016-17. A large portion of the T-1 tax would be returned to parcel owners who are not currently hooked up to the system. The only vehicle the District would have to replace the lost T-1 tax would be through increased user rates, which would be subject to 218 protest proceedings. Shifting the revenue source from T-1 tax to user rates would require rate payers to pay approximately double the annual T-1 tax in increased rates (the burden currently carried by parcels not hooked up to the system would have to be covered by user rates). Playing the eternal pessimist, should a successful Prop 218 protest occur on the associated rate increase, the District would not have sufficient revenue to support operations. In addition to the obvious impact of running out of cash, the District is required to operate on a balanced budget basis in order to maintain its disadvantaged community status. By losing the T-1 funds the District would also risk losing a significant segment of future grant opportunities. Ultimately the District will be unable to provide service consistent with SWRCB requirements and will most likely face closure.

6. **QUESTION:** Isn't this giving the governments more power to spend more than they need too?
 - a. **RESPONSE:** No, local agencies such as LB must seek voter approval and voters reasonably expect the agencies to justify the appropriation limit based on their operational needs. I believe the law provided voters an extremely powerful tool in managing taxing agencies.

7. **QUESTION:** Do we really need an increase every four years?
 - a. **RESPONSE:** Yes, unfortunately it is the law. But in true terms, the law requires the agency vote on a new limit every four years when the agency is seeking to spend tax revenues in excess of the base calculation. So while the District parcel owners will be voting on increasing the limit as it compares to the base limit (around \$45k), the proposed limit will be reduced from the prior year limit.

8. **QUESTION:** You mentioned to Francis that there is a decrease this upcoming election; well, this is what the budget reads, am I missing something, doesn't look like a decrease to me;

The Budget 2014/2015 has Appropriations Limit @ \$404,774

The Budget 2016/2017 has Appropriations Limit @ \$406,020 with an Appropriations Subject to Limit @ \$288,461

- a. **RESPONSE:** The highlighted amount is the calculation as if the prior year cap simply went through the annual adjustment. The current proposal is to have voters approve a limit of \$350K which will then be subject to annual growth calculations.
9. **QUESTION:** My main point is, shouldn't we understand something before we vote for it? Just as importantly, before we vote against it?
- a. **RESPONSE:** Absolutely. We are planning another trip up to Pope Valley to discuss the pending election. I am planning to attend so please know that I will answer any additional questions to the best of my ability and I will let you know if I/we need to seek further guidance.
10. **QUESTION:** Can you please verify what an Appropriation Limit is and what it is used for exactly? Maybe with more understanding, we can "throw water on the fire", no one trusts the governments when they give round and about answers, so please help us have clarity on this subject.
- a. **RESPONSE:** The appropriation limit is not easily understood and, for most agencies, it really isn't an issue.

The laws regarding an agency's appropriation limit came into being in 1979 with the passage of Proposition 4, which added Article XIII B to the State Constitution. The appropriation limit (which is governed by Prop 4 and subsequently modified by Prop 111 in 1990) prohibits governments, without voter approval, from spending more tax revenues than their calculated limit, using the requirements of the two propositions. The way the appropriation limit impacts LBRID (and many other agencies) is when voters approve an additional tax (T-1) that generate revenues that exceed the appropriation limit calculated on the agency's base taxes (property taxes). Without the parcel owners' approval of a higher appropriation limit, the agency is not allowed to spend the tax revenues in excess of the base limit. In plain speak, the District won't be allowed to spend a significant amount of T-1 tax collected unless the parcel owners approve a higher limit. Any tax collected in excess of the limit would have to be returned to the parcel owners. In the past two election cycles, the limit has been raised to \$380,000. The upcoming election will seek voter approval at a somewhat lower limit of \$350,000.

As it relates to LB, if the appropriation limit ballot measure is not approved, almost all of the revenues collected via the T-1 tax would have to be returned to

the parcel owners within two years. The T-1 tax levied on parcels not hooked up to the system covers a significant portion of the District's operating costs. Because the District has no reserves, any decrease in T-1 tax will require increased user rates if the same level of service is to be maintained. In order to recoup the T-1 tax revenues, each user would end up paying slightly less than twice the T-1 tax amount in increased user rates and the lots not currently connected would be the beneficiaries. If the rate increase fails, the District would have insufficient funds to maintain operations, the District would lose the ability to apply for grants and the District will ultimately face closure.