

Nevada Office of the Attorney General
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SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jul 06 2010 02:00 p.m.
Tracie K. Lindeman

VILLAGE LEAGUE TO SAVE INCLINE
ASSETS, INC.; a Nevada non-profit corporation,
on behalf of their members, and others similarly
situated; Maryanne Ingemanson, Trustee of the
Larry D. and Maryanne B. Ingemanson Trust;
Dean R. Ingemanson, individually and as Trustee
of the Dean R. Ingemanson Trust; J. Robert
Anderson; and Les Barta, on behalf of
themselves and others similarly situated,

Appellants,

vs.

THE STATE OF NEVADA, on relation of THE
STATE BOARD OF EQUALIZATION; WASHOE
COUNTY; AND BILL BERRUM, WASHOE
COUNTY TREASURER,

Respondents.

Supreme Ct. No. 56030

Second Jud. Dist. Ct. Case No. CV03-6922

RESPONSE TO WASHOE COUNTY'S
MOTION TO CONSOLIDATE CASES
PENDING BEFORE THE SUPREME
COURT AND/OR FOR AN APPEAL
CONFERENCE

The State of Nevada, *ex. rel.* the State Board of Equalization (the "State Board"), by and through its counsel, CATHERINE CORTEZ MASTO, Attorney General, by Deputy Attorney General, DEONNE E. CONTINE, hereby submits, pursuant to Nevada Rules of Appellate Procedure ("NRAP") 27, its response to Washoe County's Motion to Consolidate Cases Pending Before The Supreme Court and/or For an Appeal Conference in Case Nos. 54947, 56030 and 56253.

1. Nevada Law Does Not Provide for the Consolidation Washoe County Requests

While there is authority for consolidation or joinder in NRAP, there is no authority for the type of consolidation that Washoe County seeks. NRAP 3 limits consolidation of cases on appeal as follows:

1 **(b) Joint or Consolidated Appeals.**

2 (1) When two or more parties are entitled to appeal from a
3 district court judgment or order, and their interests make joinder
4 practicable, they may file a joint notice of appeal. They may then
5 proceed on appeal as a single appellant.

6 (2) When the parties have filed separate timely notices of
7 appeal, the appeals may be joined or consolidated by the Supreme
8 Court upon its own motion or upon motion of a party.

9 It appears by use of the phrase "a district court judgment or order," that consolidation is
10 limited to appeals by separate parties to a single district court order.

11 Additionally, Nevada Rules of Civil Procedure ("NRCP") 42 provides for consolidation of
12 actions involving "common question of law or fact" which are pending before the District Court.
13 Similarly, Washoe County noted that a Tennessee court indicated that the issue of
14 consolidating tax matters rests on the identity of the property involved.

15 In this case, Case No. 56030 should not be consolidated with Case Nos. 54947 and
16 56253 because they are appeals from three separate District Court cases, not a district court
17 order as required by NRAP 3 and because Case No. 56030 does not involve the same law or
18 facts or property as Case Nos. 54947 and 56253.

19 2. **The Issues in Supreme Court Case No. 56030 Do Not Involve the Same**
20 **Property or Issues as Case Nos. 54947 and 56253**

21 In requesting consolidation of the three cases above, Washoe County states that the
22 Village League Case No. 56030 involves questions surrounding the propriety of a District
23 Court judge denying extraordinary writ relief to compel the performance by the State Board of
24 its equalization function under NRS 361.395, based in part on the adequacy of legal remedies.
25 However, the sole issue in Case No. 56030 is whether the District Court had authority to issue

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1 a writ of mandamus that mandated specific guidelines and directions to be followed by the
2 State Board in performing its statutory duty to equalize under NRS 361.395. Accordingly,
3 Case 56030 does not involve the assessment of property tax on the same properties at issue
4 in Case Nos. 54947 and 56253.

5 Additionally, unlike specific properties and taxpayers in Case Nos. 54947 and 56253,
6 no issue of refunds exists in this case except that the Village League sought a mandamus
7 order that the State Board equalize all of Incline Village and Crystal Bay for the 2003-2004 tax
8 year by returning the land values to their 2002-2003 levels. Indeed, the issue on appeal in
9 Case No. 56030 is a pure legal issue, i.e. whether Village League would be entitled to a
10 mandamus order for the specific relief it sought. There is no issue of property tax
11 assessments and, despite the fact that Washoe County contends that there are potentially
12 many thousands of parties in this case, there are no specific properties or parties (other than
13 Village League) involved in Case No. 56030.

14 Finally, the issues in Case No. 56030 do not involve fundamental aspects of Nevada's
15 real property assessment and taxation scheme nor do they involve evidentiary or due process
16 arguments or the law of voluntary payments as asserted by Washoe County. In short, the
17 issue in Case No. 56030 is simple and singular – whether the Village League is entitled to a
18 writ of mandamus mandating that it equalize all of Incline Village and Crystal Bay for the 2003-
19 2004 tax year by returning the land values to their 2002-2003 levels.

20 **3. Conclusion**

21 There are not common legal or factual issues to warrant consolidation of Case No.
22 56030 with Case Nos. 54947 and 56263. Additionally, while there may be common property,
23 taxpayers, tax assessor, tax collector and common lawyers in Case Nos. 54947 and 56253,
24 there are no common issues of law or fact or property with Case Nos. 54947 and 56253 and
25 Case No. 56030 because there is a sole legal issue on appeal in Case No. 56030.

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1 Accordingly, the State Board, respectfully requests that Case No. 56030 not be consolidated
2 with Case Nos. 54947 and 56253.

3 DATED this 6th day of July 2010.

4 CATHERINE CORTEZ MASTO
5 Attorney General

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7 By: /s/ DEONNE E. CONTINE
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CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 6th day of July 2010, I served a copy of the foregoing **RESPONSE TO WASHOE COUNTY'S MOTION TO CONSOLIDATE PENDING BEFORE THE SUPREME COURT AND/OR FOR AN APPEAL CONFERENCE**, electronically filed on the 6th day of July 2010, by mailing a true copy thereof, addressed to:

Suellen Fulstone, Esq.
Morris Peterson
6100 Neil Road Suite 555
Reno, Nevada 89511

David Creekman
Chief Deputy District Attorney
Washoe County District Attorney's Office
Civil Division
Post Office Box 30083
Reno, Nevada 89520

/s/ Sally Bullard
An Employee of the Office of the Attorney General