

IN THE SUPREME COURT OF THE STATE OF NEVADA

VILLAGE LEAGUE TO SAVE INCLINE)
ASSETS, INC. A NEVADA NON-PROFIT)
CORPORATION, ON BEHALF OF THEIR)
MEMBERS AND OTHER SIMILARLY)
SITUATED; MARYANNE INGEMANSON)
TRUSTEE OF THE LARRY D. &)
MARYANNE B. INGEMANSON)
TRUST; DEAN R. INGEMANSON.)
INDIVIDUALLY AND AS TRUSTEE OF)
THE DEAN R. INGEMANSON TRUST;)
J. ROBERT ANDERSON; LES BARTA;)
KATHY NELSON, AND AS TRUSTEE)
OF THE KATHY NELSON TRUST; AND)
ANDREW WHYMAN; ELLEN BAKST;)
JANE BARNHART; CAROL BUCK;)
DANIEL SCHWARTZ; LARRY WATKINS;))
DON & PATRICIA WILSON; AND)
AGNIESKA WINKLER,)

Appellants,)

THE STATE OF NEVADA, BOARD OF)
EQUALIZATION; WASHOE COUNTY;)
WASHOE COUNTY TREASURER;)
WASHOE COUNTY ASSESSOR,)
NORMA GREEN, CHURCHILL COUNTY)
ASSESSOR; AND CELESTE HAMILTON,)
PERSHING COUNTY ASSESSOR)

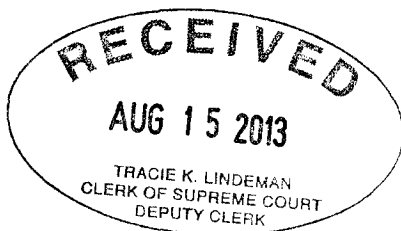
Respondents.)

FILED
AUG 15 2013
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
DEPUTY CLERK

Supreme Court Case No. 63581

District Court Case No. CV03-06922

**DOCKETING STATEMENT
CIVIL APPEALS**



13-24122

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

No. 63581

DOCKETING STATEMENT CIVIL APPEALS

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Second Department 7

County Washoe Judge Hon. Patrick J. Flanagan

District Ct. Case No. CV03-06922

2. Attorney filing this docketing statement:

Attorney Norman J. Azevedo Telephone (775) 883.7000

Firm Norman J. Azevedo, Esq.

Address 405 North Nevada Street, Carson City, Nevada 89703

Ellen Bakst, Jane Barnhart, Carol Buck, Daniel Schwartz, Larry Watkins,

Client(s) Don & Patricia Wilson, Agnieszka Winker

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney David Creekman Telephone (775) 337.5700

Firm 1 South Sierra Street, 4th Floor, Reno, Nevada 89501

Address

Client(s) Washoe County, Washoe County Treasurer, Washoe County Assessor

Attorney Dawn Buoncristiani Telephone (775) 684.1129

Firm State of Nevada, Attorney General's Office

Address 100 North Carson Street, Carson City, Nevada 89701

Client(s) State of Nevada, Board of Equalization

(List additional counsel on separate sheet if necessary)

Attorney Arthur E. Mallory Telephone: 775 423.6561

Firm Churchill County District Attorney

Address 165 N. Ada Street
Fallon
Nevada 89406

Clients(s) Norma Green, Churchill County Assessor

Attorney Jim C. Shirley Telephone: 775 273.2613

Firm Pershing County District Attorney

Address 400 Main Street
P.O. Box 934
Lovelock, Nevada 89419

Clients(s) Celeste Hamilton, Pershing County Assessor

4. Nature of disposition below (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input checked="" type="checkbox"/> Other (specify): <u>Lack of ripeness</u> |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>See Attached</u> |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Village League to Save Incline Assets, Inc., et al, v. The State of Nevada on relation of its Department of Taxation, et al., Case No. 43441 (unpublished order of remand)

Village League to Save Incline Assets, Inc., et al. v. The State of Nevada on relation of the State Board of Equalization, et al., Case No. 56030 (unpublished order of remand)

State of Nevada ex rel. State Board of Equalization, et al. v. Bakst, Case No. 46752, 122 Nev. 1403, 148 P.3d 717 (2006)

Please see attached.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Village League to Save Incline Assets, Inc. v. State of Nevada et al., Case No. CV03-06922, consolidated with Village League to Save Incline Assets, Inc. v. State of Nevada et. al., Case No. CV13-00522, both in the Second Judicial District Court, Washoe Valley, Nevada.

8. Nature of the action. Briefly describe the nature of the action and the result below:

Case No. CV03-06922 was an action in mandamus seeking to compel the State Board of Equalization to perform its duty of statewide equalization for the tax years 2003/2004 through 2010/2011. After a second remand from the Supreme Court, the writ of mandamus was issued on August 21, 2013. The Writ of mandamus directed the State Board of Equalization to hold equalization hearings and to report to the Court on the results of those hearings. The State Board of Equalization held hearings on September 18, 2012, November 5, 2012, and December 3, 2012. The State Board of Equalization decision was issued on February 8, 2013, ordering a mass reappraisals of residential properties at Incline Village for the 2003/2004, 2004/2005 and 2005/2006 tax years. As required by the writ of mandamus, the State Board of Equalization filed its report to the Court in Case No. CV03-06922 on February 8, 2013. Taxpayers filed Objections to the report challenging the State Board of Equalization decision on jurisdictional and constitutional grounds. Those objections were heard by the Court on June 14, 2013. Please see attached.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

We join the issues on appeal filed in the Docketing Statement by the Village League to Save Incline Assets, Inc., with the following additional issues:

Please see attached.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☐ No

If not, explain:

The State ex rel the State Board of Equalization is a party to this appeal.

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: The order for mass reappraisals raises the constitutional of the due process rights to Taxpayers to challenge such reappraisals. The order for mass reappraisals also raises the issue as to whether the SBOE can revalue property that has received a final decision from the Supreme Court.

13. Trial. If this action proceeded to trial, how many days did the trial last? 0 _____

Was it a bench or jury trial? N/A _____

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from July 1, 2013

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order was served July 1, 2013

Was service by:

☐ Delivery

☒ Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

18. Date notice of appeal filed July 21, 2013

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|--|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input checked="" type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

In this consolidated case, the Court's decision concluded both cases. The decision in the judicial review case, Case No. CV13-00522, is reviewable under NRS 233B.150. The decision in the mandamus case is reviewable as a final judgment under NRAP 3A(b)(1).

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Please see attached.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

These respondents either filed a notice of non-intent to participate or failed to file a notice of intent to participate.

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Please see attached.

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Ellen Bakst. et al.

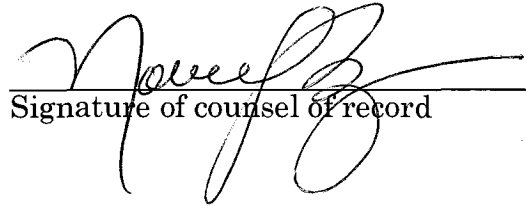
Name of appellant

Norman J. Azevedo, Esq.

Name of counsel of record

August 15, 2013

Date



Signature of counsel of record

Carson City, Nevada

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 15th day of August, 2013, I served a copy of this completed docketing statement upon all counsel of record:

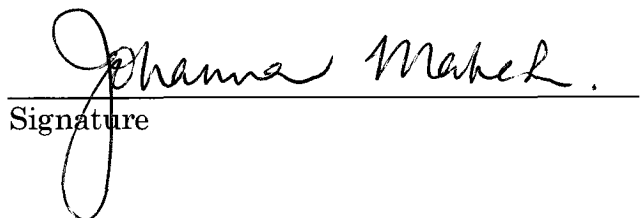
☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Dawn Buoncristiani
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

David Creekman
Washoe County District Attorney's Office
1 South Sierra Street, 4th Floor
Reno, Nevada 89501

Dated this 15th day of August, 2013



Signature

Certificate of Service

Suellen Fulstone
Snell & Wilmer, LLP
50 West Liberty Street, Suite 510
Reno, Nevada 89501

Arthur E. Mallory
Churchill County District Attorney
165 N. Ada Street
Fallon, Nevada 89406

Jim C. Shirley
Pershing County District Attorney
400 Main Street,
P.O. Box 934
Lovelock, Nevada 89419

**SUPPLEMENT TO THE DOCKETING STATEMENT CIVIL APPEALS FILED BY
THE BAKST INTERVENORS**

Supreme Court Case No. 63581

The responses contained in this supplement in the enumerated paragraphs correlate to the enumerated paragraphs in the Docketing Statement.

4. Nature of disposition below (check all that apply):

- ☒ Other disposition (specify): Dismissal of mandamus case after report of compliance with write of mandate.

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal.

State of Nevada ex rel. State Board of Equalization, et al. v. Barta, Case No. 47387/47398/47399/47401, 124 Nev. 58, 188 P.3d 1092 (2008)

Village Leave to Save Incline Assets, Inc., et al. v. State of Nevada ex rel. Board of Equalization, et al., Case No. 49358, 124 Nev. 1079, 194 P.3d 1254 (2008)

Marvin, et al. v. Fitch, et al., Cse No. 52447, 126 Nev. ___, 232 P.3d 425 (2010)

Berrum v. Otto, et al., Case No. 54947, 127 Nev. ___, P.3d 1269 (2011).

8. Nature of the Action. Briefly describe the nature of the action and the result below:

Case No. CV13-00522 was a petition for judicial review of the State Board of Equalization's February 7, 2013 decision. The State Board of Equalization and the County brought motions to dismiss the petition for judicial review on various grounds including the lack of ripeness. Case No. CV03-06922 and CV13-00522 were consolidated on May 17, 2013.

On July 1, 2013, the District Court entered its order denying the objections filed in Case No. CV03-06922 and granting the County's motion to dismiss the petition for judicial review in Case No. CV13-00522.

9. **Issues on Appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the judicial doctrine of res judicata and collateral estoppel [CIR Sunnen 331, U.S. 591, 685 S. Ct. 715, 92 L. Ed 898 (1948)] preclude the SBOE from ordering the Washoe County Assessor to reappraise residential properties in Incline Village and Crystal Bay that had previously received a favorable final decision from the Nevada Supreme Court in either *State Board of Equalization v. Bakst* 122 Nev. 1403, 148 P.3d 717, 719-720 (2006), or *State Board of Equalization v. Barta*, 124 Nev. 58 188 P.3d 1092 (2008), determining their taxable value and ordering a refund of taxes paid?

Whether the SBOE can order the Washoe County Assessor to reappraise the residential properties in Incline Village and Crystal Bay when there is no statutory authority permitting the State or County to issue retroactive bills to property owners?

21. **List all parties involved in the action in the district court:**

(a) Parties:

Petitioners in Case No. CV03-06922:

Village League to Save Incline Assets. Inc.

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

Les Barta

Petitioners-Intervenors in Case No. CV0306922:

Ellen Bakst

Jane Barnhart

Carol Buck

Daniel Schwartz

Lillian Watkins

Don & Patricia Wilson

Agnieszka Winkler

Respondents in Case No. CV03-06922:

State of Nevada, on relation of the State Board of Equalization

Washoe County

Washoe County Treasurer

Petitioners in Case No. CV13-00522:

Village League to Save Incline Assets, Inc.

Maryanne Ingemanson, Trustee of the Larry D. and Maryanne B. Ingemanson Trust

Kathy Nelson, Trustee of the Kathy Nelson Trust

Andrew Whyman

Respondents in Case No. CV13-00522:

State of Nevada on relation of the State Board of Equalization

Washoe County

Tammi Davis, Washoe County Treasurer

Josh Wilson, Washoe County Assessor

Louise H. Modarelli*

William Brooks*

City Hall, LLC*

Paul Rupp*

Dave Dawley, Carson City Assessor*

Norma Green, Churchill County Assessor

Michele Shafe, Clark County Assessor*

Douglas Sonnemann, Douglas County Assessor*

Katrinka Russell, Elko County Assessor*

Ruth Lee, Esmeralda County Assessor*

Mike Mears, Eureka County Assessor*

Jeff Johnson, Humboldt County Assessor

Lura Duvall, Lander County Assessor

Melanie McBride, Lincoln County Assessor*

Linda Whalin, Lyon County Assessor*

Dorothy Fowler, Mineral County Assessor*

Shirley Hamilton, Nye County Assessor*

Jana Sneddon, Storey County Assessor

Robert Bishop, White Pine County Assessor*

* These respondents either filed a notice of non-intent to participate or failed to file a notice of intent to participate.

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the date of formal dispositions of each claims:

In Case No. CV03-06922, petitioners successfully obtained the issuance of a writ of mandate to the State Board of Equalization (SBOE). The writ of mandate was not final because it required a report of compliance. Petitioners filed objections to the report of compliance. The County and State respondents supported the SBOE decision as in compliance with the writ of mandate. The objections were denied on July 1, 2013.

Case No. CV13-00522 was a petition for judicial review of the SBOE decision raising the issues identified in the objections and additional issues. Washoe County moved to dismiss the petition on grounds that it was not final and not ripe for determination. The SBOE moved to dismiss on the grounds that the matter before the SBOE was not a contested case subject to judicial review. The Assessors of Churchill County and Pershing County appeared to dismiss that action as stating no claims against them. The petition was dismissed in its entirety as to all parties on July 1, 2013.

TAB 1

TAB 1

FILED

Electronically

07-01-2013:10:45:25 AM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3825250

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

VILLAGE LEAGUE TO SAVE
INCLINE ASSETS, INC., a Nevada
non-profit corporation, on behalf of
their members and other similarly
situated; MARYANNE
INGEMANSON, Trustee of the Larry
D. and Maryanne B. Ingemanson
Trust, DEAN R. INGEMANSON,
individually and as Trustee of the
Dear R. Ingemanson; J. ROBERT
ANDERSON; and LES BARTA; on
behalf of themselves and others
similarly situated,

Case No.: CV03-06922 (and
consolidated case
CV13-00522)

Dept. No.: 7

Petitioners,

vs.

STATE OF NEVADA on relation of
the State Board of Equalization;
WASHOE COUNTY; BILL BERRUM,
Washoe County Treasurer,

Respondents.

ORDER

Petitioner Village League to Save Incline Assets, Inc. (hereinafter "Village League"), a group of residents from Incline Village and Crystal Bay, Nevada, seeks to set aside a recent determination by the State Board of Equalization ("the Board") ordering certain properties in the Incline Village and Crystal Bay communities to be appraised to determine their taxable value.

1 This *Petition for Judicial Review and Objections to State Board of*
2 *Equalization Report and Order* stem from lengthy litigation in which the members
3 of Village League believed their residential properties were improperly assessed by
4 Washoe County resulting in an increased tax burden. Specifically, Village League
5 contended the county used impermissible factors, such as views of and proximity to
6 Lake Tahoe, in determining the taxable value of its members' property. That issue
7 went to the Nevada Supreme Court, which ultimately decided the County's use of
8 such factors was unconstitutional. *See State Board of Equalization v. Bakst*, 122
9 Nev. 1403, 148 P.3d 717 (2006). In light of that decision, this court entered a Writ of
10 Mandamus ordering the Board to hold public hearings to determine the grievances
11 of Village League and its members. The Writ also envisioned the possibility that
12 new valuations of the property would be made and that the County may have to
13 "issue such additional tax statement(s) or tax refund(s) as the changed valuation
14 may require."

15 In response to the Writ, the Board held several meetings in 2012 addressing
16 Village League, and other taxpayers', grievances. After the public hearings, the
17 Board issued Equalization Order 12-001. In that Order, the Board found many
18 parcels of residential property in the Incline Village and Crystal Bay communities
19 had been assessed based upon unconstitutional factors. The Board therefore ordered
20 the Washoe County Assessor to "reappraise all residential properties located in
21 Incline Village and Crystal Bay to which an unconstitutional methodology was
22 applied to derive taxable value" using constitutional methodologies. In response to
23 the Board' Equalization Order, Village league filed *Objections to State Board of*
24 *Equalization Report and Order* in the original case (CV03-06922) and a *Petition for*
25 *Judicial Review* (CV13-00522). Those cases have now been consolidated by order of
26 this court. In both documents Village League argues, *inter alia*, that the Board is
27 not properly constituted and that it lacks the authority to order reappraisals. The
28 Board and the County have moved to dismiss the petition.

1 Among the arguments in support of the motions to dismiss is that the Board's
2 Equalization order is not final and, therefore, not reviewable. All parties agree that
3 the Board's order is not a final determination of Village League's grievances, though
4 Petitioner invokes the provisions of NRS 233B.130(1)(b) in support of its petition.
5 That section provides that "[a]ny preliminary, procedural or intermediate act or
6 ruling by an agency in a contested case is reviewable if review of the final decision
7 of the agency would not provide an adequate remedy." Petitioner asserts that
8 permitting the Board to go forward, allegedly in excess of its jurisdiction and
9 without authority, would cause irreparable harm and leave the members of Village
10 League without an adequate remedy. The court disagrees.

11 Pursuant to the Board's order, the Washoe County Assessor will appraise the
12 residential properties in Incline Village and Crystal Bay that were previously
13 assessed in an unconstitutional manner. While the Board and the parties classify
14 this as a "reassessment," the use of that term is not necessarily clear. Yes, an
15 assessment has previously been done on these properties. However, those
16 assessments were based upon constitutionally infirm factors and are thus null and
17 void. There is no current valid assessment of any of the properties in question. Once
18 the assessments are completed, the Board may then seek additional taxes or refund
19 taxes to the homeowners based upon the new valuation of their property for the
20 years in question. At that point, any homeowners who disagree with the valuations
21 of their property have an adequate remedy at law by challenging those valuations
22 through the normal and standard process for challenging tax assessments.
23 Declining to rule on the petition at this time does not preclude the members of
24 Village League from obtaining necessary relief, if any is required, in the future.
25 Accordingly, Defendants' *Motions to Dismiss Petitioner's Petition for Judicial*
26 *Review* are **GRANTED**.

27 ///

28 ///

1 For the same reasons, Petitioner's *Objections to State Board of Equalization*
2 *Report and Order* are **DENIED** for lack of ripeness. The court also notes that the
3 method of filing objections to the Board's order as opposed to seeking a second writ
4 of mandamus appear to be procedurally dubious. Finally, it is **HEREBY**
5 **ORDERED** that the stay issued by this court on April 1, 2013 prohibiting the
6 Board from implementing the Equalization Order is **LIFTED**.

7 **IT IS SO ORDERED.**

8 DATED this 16th day of ^{July}~~June~~, 2013.

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11 PATRICK FLANAGAN
12 District Judge
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David Creekman, Esq. for Washoe County et al.

Dawn Buoncristiani, Esq. for State Board of Equalization

Suellen Fulstone, Esq. for Village League to Save Incline Assets, Inc. et al.

Norman J. Azevedo
405 N. Nevada Street
Carson City, NV 89703

5

TAB 2

TAB 2

2540
CATHERINE CORTEZ MASTO
Attorney General
DAWN M. BUONCRISTIANI
Deputy Attorney General
Nevada Bar No. 7771
100 N. Carson Street
Carson City, Nevada 89701-4717
Phone: (775) 684-1129
Fax: (775) 684-1156
Attorneys for the State Board of Equalization

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

VILLAGE LEAGUE TO SAVE INCLINE ASSETS,
INC., et al.,

Case No. CV03-06922

Dept. No. 7

Petitioners,

vs.

THE STATE OF NEVADA, on relation of the
STATE BOARD OF EQUALIZATION, et al.

Respondents.

Consolidated with:

VILLAGE LEAGUE TO SAVE INCLINE ASSETS,
INC., et al.,

Case No. CV13-00522

formerly assigned to Dept. No. 3

Petitioners,

vs.

STATE OF NEVADA, on relation of the STATE
BOARD OF EQUALIZATION, et al.,

Respondents.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Court entered its Order in the above-entitled action on July 1, 2013, granting Respondents' Motions to Dismiss, Denying Petitioner's Objections to State Board of Equalization's Report and Order, and lifting the stay issued by this Court on April 1, 2013. A copy of said Order is attached hereto as Exhibit 1 and incorporated herein by reference.

///

///

///

Nevada Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned hereby affirms this **Notice of Entry of Order** does not contain the social security number of any person.

DATED: July 1, 2013.

CATHERINE CORTEZ MASTO
Attorney General

By: *Dawn Buoncrisiani*
DAWN BUONCRISTIANI
Deputy Attorney General
Nevada Bar No. 7771
Attorneys for the State Board of Equalization

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on July 1, 2013, I electronically filed the foregoing **NOTICE OF ENTRY OF ORDER** with the Clerk of the Court using the electronic filing system (CM/ECF), which served the following parties electronically:

SUELLEN FULSTONE for Petitioners


DAVID CREEKMAN for Washoe County

The parties below will be served by depositing a true and correct copy in a sealed, postage prepaid envelope for delivery by the United States Post Office fully addressed as follows:

Attorney/Address	Phone/Fax/E-Mail	Party Represented
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Arthur E. Mallory, District Atto Churchill County 165 North Ada Street Fallon, NV 89406	Phone: 775-423-6561 Fax: 775-423-6528	Norma Green, Churchill County Assessor
Michele Shafe, Assessor Clark County - Main Office 500 South Grand Central Parkway, Second Floor Las Vegas, Nevada 89155	Phone: 702-455-3882 Fax: E-Mail:	Michele Shafe, Clark County Assessor
Douglas Sonnemann, Assess Douglas County 1616 8th St. Minden, NV 89423	Phone: 775-782-9830 Fax: 775-782-9884	Douglas Sonnemann, Douglas County Assessor
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Shirley Matson, Assessor Nye County 101 Radar Rd. P.O. Box 271 Tonopah, NV 89049	Phone: 775-482-8174 Fax: 775-482-8178 E-Mail:	Shirley Matson, Nye County Assessor
Jana Sneddon, Assessor Storey County Courthouse 26 S. B Street Post Office Box 494 Virginia City, NV 89440	Phone: 775-847-0961 Fax: 775-847-0904	Jana Sneddon, Storey County Assessor

Dated: July 1, 2013.


An Employee of the State of Nevada
Office of the Attorney General

INDEX OF EXHIBIT TO NOTICE OF ENTRY OF ORDER

Exhibit No.	Description of Exhibit	Pages
1	Order	5

Nevada Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

EXHIBIT 1

EXHIBIT 1

FILED

Electronically

07-01-2013:10:45:25 AM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3825250

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

VILLAGE LEAGUE TO SAVE
INCLINE ASSETS, INC., a Nevada
non-profit corporation, on behalf of
their members and other similarly
situated; MARYANNE
INGEMANSON, Trustee of the Larry
D. and Maryanne B. Ingemanson
Trust, DEAN R. INGEMANSON,
individually and as Trustee of the
Dear R. Ingemanson; J. ROBERT
ANDERSON; and LES BARTA; on
behalf of themselves and others
similarly situated,

Case No.: CV03-06922 (and
consolidated case
CV13-00522)

Dept. No.: 7

Petitioners,

vs.

STATE OF NEVADA on relation of
the State Board of Equalization;
WASHOE COUNTY; BILL BERRUM,
Washoe County Treasurer,

Respondents.

ORDER

Petitioner Village League to Save Incline Assets, Inc. (hereinafter "Village League"), a group of residents from Incline Village and Crystal Bay, Nevada, seeks to set aside a recent determination by the State Board of Equalization ("the Board") ordering certain properties in the Incline Village and Crystal Bay communities to be appraised to determine their taxable value.

1 This *Petition for Judicial Review* and *Objections to State Board of*
2 *Equalization Report and Order* stem from lengthy litigation in which the members
3 of Village League believed their residential properties were improperly assessed by
4 Washoe County resulting in an increased tax burden. Specifically, Village League
5 contended the county used impermissible factors, such as views of and proximity to
6 Lake Tahoe, in determining the taxable value of its members' property. That issue
7 went to the Nevada Supreme Court, which ultimately decided the County's use of
8 such factors was unconstitutional. See *State Board of Equalization v. Bakst*, 122
9 Nev. 1403, 148 P.3d 717 (2006). In light of that decision, this court entered a Writ of
10 Mandamus ordering the Board to hold public hearings to determine the grievances
11 of Village League and its members. The Writ also envisioned the possibility that
12 new valuations of the property would be made and that the County may have to
13 "issue such additional tax statement(s) or tax refund(s) as the changed valuation
14 may require."

15 In response to the Writ, the Board held several meetings in 2012 addressing
16 Village League, and other taxpayers', grievances. After the public hearings, the
17 Board issued Equalization Order 12-001. In that Order, the Board found many
18 parcels of residential property in the Incline Village and Crystal Bay communities
19 had been assessed based upon unconstitutional factors. The Board therefore ordered
20 the Washoe County Assessor to "reappraise all residential properties located in
21 Incline Village and Crystal Bay to which an unconstitutional methodology was
22 applied to derive taxable value" using constitutional methodologies. In response to
23 the Board' Equalization Order, Village league filed *Objections to State Board of*
24 *Equalization Report and Order* in the original case (CV03-06922) and a *Petition for*
25 *Judicial Review* (CV13-00522). Those cases have now been consolidated by order of
26 this court. In both documents Village League argues, *inter alia*, that the Board is
27 not properly constituted and that it lacks the authority to order reappraisals. The
28 Board and the County have moved to dismiss the petition.

1 Among the arguments in support of the motions to dismiss is that the Board's
2 Equalization order is not final and, therefore, not reviewable. All parties agree that
3 the Board's order is not a final determination of Village League's grievances, though
4 Petitioner invokes the provisions of NRS 233B.130(1)(b) in support of its petition.
5 That section provides that "[a]ny preliminary, procedural or intermediate act or
6 ruling by an agency in a contested case is reviewable if review of the final decision
7 of the agency would not provide an adequate remedy." Petitioner asserts that
8 permitting the Board to go forward, allegedly in excess of its jurisdiction and
9 without authority, would cause irreparable harm and leave the members of Village
10 League without an adequate remedy. The court disagrees.

11 Pursuant to the Board's order, the Washoe County Assessor will appraise the
12 residential properties in Incline Village and Crystal Bay that were previously
13 assessed in an unconstitutional manner. While the Board and the parties classify
14 this as a "reassessment," the use of that term is not necessarily clear. Yes, an
15 assessment has previously been done on these properties. However, those
16 assessments were based upon constitutionally infirm factors and are thus null and
17 void. There is no current valid assessment of any of the properties in question. Once
18 the assessments are completed, the Board may then seek additional taxes or refund
19 taxes to the homeowners based upon the new valuation of their property for the
20 years in question. At that point, any homeowners who disagree with the valuations
21 of their property have an adequate remedy at law by challenging those valuations
22 through the normal and standard process for challenging tax assessments.
23 Declining to rule on the petition at this time does not preclude the members of
24 Village League from obtaining necessary relief, if any is required, in the future.
25 Accordingly, Defendants' *Motions to Dismiss Petitioner's Petition for Judicial*
26 *Review* are **GRANTED**.

27 ///

28 ///

1 For the same reasons, Petitioner's *Objections to State Board of Equalization*
2 *Report and Order* are **DENIED** for lack of ripeness. The court also notes that the
3 method of filing objections to the Board's order as opposed to seeking a second writ
4 of mandamus appear to be procedurally dubious. Finally, it is **HEREBY**
5 **ORDERED** that the stay issued by this court on April 1, 2013 prohibiting the
6 Board from implementing the Equalization Order is **LIFTED**.

7 **IT IS SO ORDERED.**

8 **DATED** this 16th day of ~~June~~^{JULY} 2013.

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11 PATRICK FLANAGAN
12 District Judge
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 1st day of ~~June~~ ^{JULY}, 2013, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

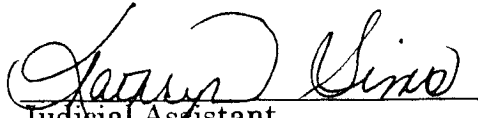
David Creekman, Esq. for Washoe County et al.

Dawn Buoncristiani, Esq. for State Board of Equalization

Suellen Fulstone, Esq. for Village League to Save Incline Assets, Inc. et al.

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Norman J. Azevedo
405 N. Nevada Street
Carson City, NV 89703


Judicial Assistant