

1 county is not reported on any of the documents that are  
2 generally sent out to the public.

3 And so now they will have a chance, the parcel  
4 owner, to know exactly how much they're charging, and  
5 every year they'll add, say, two percent, maybe three  
6 percent from the previous year, and that's the bill  
7 they'll pay.

8 But like in times of today, when we're having  
9 a depression, and the value of revenues coming in to the  
10 State of Nevada has fallen at least two-thirds, then the  
11 price of -- and the value of homes will fall and will  
12 reduce --

13 MS. MOORE: One minute.

14 MR. QUEEN: -- as paid by the parcel owner.  
15 And so the detailed report on how this all works can be  
16 acquired by just saying sending an envelope with their  
17 name, address, and e-mail address just to Paul Rupp,  
18 Esmeralda County. It will get there. It's a small town,  
19 in Silver Peak -- I'm sorry -- Silver Peak, Nevada.

20 And I think you'll be hearing more about our  
21 approach, and I can tell you, right now, that the system  
22 is 100 percent consistent with the proportion that set  
23 down by the constitution as well as the series of hearings  
24 conducted by the Supreme Court and their rulings.

25 MS. MOORE: Time.

1 MR. QUEEN: It will be consistent. Thank you  
2 very much for your time.

3 CHAIRMAN WREN: Thank you very much, sir.  
4 Terry?

5 MS. RUBALD: Is there anyone who has property  
6 in Lander County who wishes to speak and bring forth your  
7 grievance. Anyone from Lander County?

8 (Proceedings paused briefly)

9 MS. RUBALD: Seeing no one, we'll go on to  
10 Lincoln County.

11 Is there anyone who has property in Lincoln  
12 County who wishes to speak and bring forward their  
13 grievance?

14 (Proceedings paused briefly)

15 MS. RUBALD: Seeing no one, I'll go on to Lyon  
16 County.

17 Is there anyone from Lyon County, besides our  
18 court reporter, who wishes to come forward and bring a  
19 grievance?

20 (Proceedings paused briefly)

21 MS. RUBALD: Seeing none, I'll go on to  
22 Mineral County.

23 Is there anyone from Mineral County who wishes  
24 to come forward and bring evidence of their grievance?

25 (Proceedings paused briefly)

1 MS. RUBALD: Seeing none, I'll go on to Nye  
2 County.

3 Is there anyone from Nye County who wishes to  
4 come forward and bring evidence of their grievance?

5 (Proceedings paused briefly)

6 MS. RUBALD: Seeing none, I'll go on to  
7 Pershing County.

8 Is there anyone with property in Pershing  
9 County who wishes to come forward and bring evidence of  
10 their grievance?

11 (Proceedings paused briefly)

12 MS. RUBALD: Seeing none, I'll go on to Storey  
13 County.

14 Is there anyone from Storey County with  
15 property in Storey County who wishes to come forward with  
16 evidence of their grievance?

17 (Proceedings paused briefly)

18 MS. RUBALD: Seeing none, is there anyone from  
19 Washoe County who wishes to come forward?

20 Ms. Fullstone?

21 MS. FULLSTONE: Thank you.

22 Good afternoon. Before I sit down, I have  
23 some additional petitions that were -- some of these  
24 copies have been pdf'd to Anita, and these are the  
25 originals as well as some additional petitions just

1 received.

2 My name is Suellen Fullstone, as most of you  
3 already know, but for the record. I am the attorney for  
4 the Village League to save Incline assets, which has been  
5 authorized to represent some approximately 1350 to 1400  
6 petitioners with -- from Incline Village and Crystal Bay  
7 with grievances concerning equalization.

8 I filed a submission with the -- the Board  
9 last Thursday. I will supplement that position statement  
10 now.

11 The evidence in support of our grievance  
12 petitions consist of the record made before this Board in  
13 2003-'4, 2004-'5, 2005-'6, 2006-'7, 2007-'8, and ongoing,  
14 as well as the record on appeal in the Supreme Court in  
15 the cases that have been taken there, as well as the Tahoe  
16 study and other materials prepared by the department.

17 I know, Mr. Chairman, you said five minutes.  
18 I represent some -- at least 1300-and-some petitioners. I  
19 will not take five minutes a piece, I can assure you, but  
20 I would probably like a little more than five minutes if I  
21 might be allowed that leeway.

22 CHAIRMAN WREN: You know, I'm going to give  
23 you five minutes, and I respect your request, but your  
24 information should be the same for all 1300, so you only  
25 need to say it once.

1 MS. FULLSTONE: I will try to accommodate the  
2 five minutes.

3 Even though I represent, in this proceeding  
4 today, these 1300-and-some taxpayers who have filed  
5 petitions, the equalization must include all of the  
6 approximately 9,000 residential property owners at Incline  
7 Village and Crystal Bay because the lack of equalization  
8 affects all of them and because equalization, by its very  
9 name, requires the application to all similarly situated  
10 taxpayers.

11 I will begin with a little bit of history,  
12 just to make sure we're all on the same page. The issue  
13 with respect to Incline Village as it -- and Crystal Bay  
14 as it concerns residential property valuation begins with  
15 the Washoe County Assessor's reappraisal of 2002, for the  
16 2003-2004 tax year.

17 As the Board is aware, in 2002 the assessor  
18 was on a five-year cycle. So the assess -- the appraisal  
19 the reappraisal for 2002 affected not just the 2003-2004  
20 tax year, but the subsequent four years as well, going  
21 through 2007-2008.

22 The Supreme Court has determined that the 2002  
23 appraisal was unlawful and that the valuations reached in  
24 that appraisal were null, void, and unconstitutional.

25 As a result -- the Supreme Court actually

1 decided that not once, but twice, and as a result the  
2 Supreme Court established valuations for property at  
3 Incline Village/Crystal Bay for the 2003-2004 tax year,  
4 the 2004-'5 tax year, at their 2002-2003 levels, which  
5 would have been the last constitutional level of taxation.

6           Although the Supreme Court found the 2002  
7 reappraisal to be unlawful and the valuations  
8 unconstitutional, the Washoe County Assessor continued to  
9 use those valuations as the base valuations for the  
10 2005-'6, 2006-'7, and 2007-'8 tax years, further  
11 rendering, as the courts and this Board, itself, have  
12 determined, those base valuations unconstitutional.

13           In 2006-'7 and 2007-'8 this Board set aside  
14 those base valuations for the individual taxpayers who  
15 complained, you know, more than a thousand at least in one  
16 of those years.

17           So the -- the fact of the 2002 appraisal, and  
18 its unconstitutional effect on valuations at Incline  
19 Village/Crystal Bay residential properties for those five  
20 years is indisputable. We have been, as taxpayers and  
21 homeowners in Incline Village/Crystal Bay, seeking  
22 equalization for those same years.

23           Equalization under the constitution, which  
24 requires uniform and equal taxation, requires that all of  
25 the valuations of residential property at Incline Village

1 and Crystal Bay be set for those years at the 2002-2003  
2 constitutional levels.

3 MS. MOORE: One minute.

4 MS. FULLSTONE: That's what this Board did for  
5 the 2006-'7 tax year, which has been equalized and  
6 equalized throughout Incline Village and Crystal Bay.

7 That same equalization needs to be done for  
8 the 2003-'4, the 2004-'5, the 2005-'6, and the 2007-'8 tax  
9 years in order to effectuate the constitutional mandate of  
10 uniformity and to provide the equal and equitable and just  
11 valuations that taxpayers in Incline Village and Crystal  
12 Bay, like taxpayers throughout the State of Nevada, are  
13 entitled to.

14 MS. MOORE: Time.

15 MS. FULLSTONE: I'll answer any questions.

16 CHAIRMAN WREN: Questions?

17 MEMBER MARNELL: I have one, Mr. Chairman.

18 CHAIRMAN WREN: Uh-huh. Go ahead.

19 MEMBER MARNELL: How would something like that  
20 even come before us?

21 MS. FULLSTONE: Well, it comes before you  
22 here --

23 MEMBER MARNELL: It's here now, and I'm not  
24 paying attention or --

25 MS. FULLSTONE: It comes before you here,

1 obviously on Judge Flanagan's Writ of Mandate to the Board  
2 to hear these grievances.

3 Back in 2003, uh, Incline Village taxpayers  
4 asked the Board to equalize. They had no process for  
5 equalization, for state-wide equalization. They weren't  
6 even sure at that time, the Board. I think the statute  
7 was clear. I think the Supreme Court has said more than  
8 once that the statute -- the statutory duty under  
9 361.695 -- I think that's the statute -- is clear. The  
10 Board had not undertaken a state-wide equalization. And  
11 state-wide equalization means equalization between  
12 counties and within the county.

13 So, you know, the taxpayers acted then and  
14 filed a lawsuit in 2003, seeking state-wide equalization,  
15 you know, as it affected them, the Incline Village/Crystal  
16 Bay homeowners with their residential valuations that were  
17 unconstitutional.

18 Over the years we have repeatedly asked for  
19 equalization. Our case, that was filed in 2003, was  
20 dismissed by the District Court. We took an appeal. It  
21 was reversed. Returned to the District Court. Dismissed  
22 again by the District Court. And returned again to the  
23 District Court by the Supreme Court saying: The State  
24 Board of Equalization has an equalization obligation.

25 They need -- you know, these grievances, these



1 equalization grievances of Incline Village/Crystal Bay and  
2 possibly other taxpayers have not been heard. And Judge  
3 Flanagan issued his mandate directing this Board to hold  
4 public hearings on those equalization grievances going  
5 back to the '03-'04 tax year. So that's how he would got  
6 here.

7 MEMBER MARNELL: Okay. I might have a further  
8 question, but thank you.

9 MEMBER MESERVY: Well, my question might be:  
10 Are we doing better now? What's going on? Are we still  
11 having this problem even this year? I mean, the same  
12 level?

13 MS. FULLSTONE: The economy -- two things have  
14 impacted the equalization issues.

15 One is the economy, and Assessor Wilson of  
16 Washoe County, uh, has reduced valuations at Incline  
17 Village. In many cases Incline Village are now back where  
18 they were in 2002. I mean, it's been -- it's been hard  
19 hit by the economy.

20 You know, there's -- there isn't too much room  
21 to complain when the assessor reduces your valuations.

22 MEMBER MESERVY: True.

23 MS. FULLSTONE: And another thing that --  
24 that, you know, has occurred since that time is that, you  
25 know, this Board now has a process for equalization. I

1 think that process went into effect in the 2011 tax year,  
2 which is one reason the Writ of Mandate ends with the  
3 2010-2011 tax year.

4 MEMBER MESERVY: Good to know we're going in  
5 the right direction.

6 MEMBER MARNELL: I don't think Mrs. Fullstone  
7 wants the right direction. I think she wants perfection,  
8 Dennis. So ...

9 MS. FULLSTONE: Not really.

10 MEMBER MARNELL: I do have a question, for  
11 clarity.

12 Your issue summed up is: Post-the-2002 era,  
13 all the way to '07? So it's -- why don't you give meet  
14 years ago so I have them exactly?

15 MS. FULLSTONE: '03-'04.

16 MEMBER MARNELL: Okay.

17 MS. FULLSTONE: '04-'05, '05-'06, and '07-'08,  
18 because '06-'07 has already been equalized.

19 MEMBER MARTIN: Right.

20 MS. FULLSTONE: And what -- as the Board  
21 knows, but in order to prevent my testimony from being  
22 misleading in some way, in those intervening years, which  
23 are called "factor years," when the county applies a  
24 factor that the assessor develops and that the Tax  
25 Commission approved, what -- in the 2003- -- '04-'05 tax

1 year, the factor was 1, which means that there was no  
2 change.

3 That was the case that ended up in the Supreme  
4 Court. It's Barta is -- is the lead Plaintiff -- the lead  
5 Defendant there, the State Board of Equalization being the  
6 Appellant, but Barta being the Respondent.

7 And that's when the, uh, Supreme Court said  
8 that you couldn't factor an unconstitutional value into a  
9 constitutional one.

10 What both the courts, the District Court did  
11 in the 2005-'6 tax year and what this Board did in 2007-'8  
12 is to apply the factor to the 2002-2003 valuation. So  
13 when you say we're going to take -- go back to 2002,  
14 actually, for the later years it's 2002 levels which are  
15 the last constitutional level, and which what -- is the  
16 only level that the Supreme Court has approved, but -- and  
17 applied the factor to those levels.

18 And I know you said I want perfection, but one  
19 of the things Judge Flanagan said was that "the perfect is  
20 the enemy of the good."

21 If taxpayers at Incline Village get  
22 equalization at 2002, plus the factor, for '05-'06 and  
23 '07-'08, I think that they would -- they would view that  
24 as a just result.

25 MEMBER MARNELL: So to be clear, you don't --

1 the factor is the piece that's unconstitutional. When  
2 we -- when we made the decision to go back to 2002 and  
3 equalize from there, you felt -- you feel that -- I don't  
4 want to put words into your mouth, but that the -- that  
5 was the base and the building block of resetting the  
6 foundation, both for the last constitutional tax year and  
7 for properly equalizing. From there we should be building  
8 on a -- a statute, not a factor?

9 MS. FULLSTONE: No.

10 MEMBER MARNELL: Statute requirements.

11 MS. FULLSTONE: The -- the --

12 MEMBER MARNELL: I guess -- here's what --  
13 before we go back and forth, but to keep it simple.

14 If you were up here and you wanted these years  
15 equalized, can you give me, in your words, the motion?  
16 And I'm not indicating, whatsoever, that I'm going to make  
17 a motion. I would like to know how you would say it.  
18 That would make it really clear for me.

19 MS. FULLSTONE: All right. I would say  
20 something along the lines of:

21 I move that this Board establish the land  
22 value for residential properties, Incline Village and  
23 Crystal Bay, for the year 2003-'4, 2004-'5, 2005-'6, and  
24 2007-'8 at the 2002-2003 level, plus whatever factor the  
25 Tax Commission approved for said tax year.

1           It's the base year valuation that's  
2 unconstitutional, because the base year valuation is based  
3 on the 2002 reappraisal which was improperly done.

4           And I know the Supreme Court said it was the  
5 fault of the Tax Commission for not, you know, creating  
6 the kind of regulations that would allow the assessor to  
7 do his job, and it didn't really matter what -- you know,  
8 we're not here to place fault.

9           The point is: That reappraisal was unlawful  
10 and the valuations, all of them, unconstitutional. So in  
11 order to equalize you have to do away with that 2002  
12 reappraisal. The constitution mandates that. You go back  
13 to the previous 2002-'3 year.

14           Now, I have argued and I still believe that  
15 the factor is also unconstitutional, but in this  
16 particular circumstance we're saying -- you know, we have  
17 court cases that have challenged the factor, and those are  
18 still in the process of adjudication.

19           Just as soon stop this process, end this  
20 dispute, accept the 2002-2003 tax levels, land valuation  
21 levels plus the factor.

22           MEMBER MARNELL: Okay. Thank you very much.

23           MS. FULLSTONE: Am -- am I clear?

24           MEMBER MARNELL: Very. Very clear and  
25 thorough.

1 MS. BUONCRISTIANI: When you say, "plus  
2 factor," are you talking about the '07-'08 year, applying  
3 the factor to the '02-'03 year as a base and then using  
4 the factor for each year that goes up to '07-'08?

5 MS. FULLSTONE: I think that what I'm saying  
6 is -- is that the equalized valuations would be calculated  
7 in the same way that this Board calculated the adjusted  
8 valuations in its determination of the 2007-2008  
9 individual cases, which, as I recall, was 2002-'3, plus a  
10 factor of 8 for 2005-'6, a factor of 2 for 2006-'7, and a  
11 factor of -- it may have been 1, and it may have been more  
12 than that, for 2007-'8.

13 I think the factor in 2007-'8 differed in  
14 different areas of Incline Village/Crystal Bay.

15 MEMBER MESERVY: It would --

16 MS. FULLSTONE: It would be whatever this  
17 Court -- this Board did for that year.

18 MEMBER MESERVY: I -- I guess my comment about  
19 that: It sounded like a great motion except for you  
20 didn't give us all the factors. So we're going to work on  
21 that, I guess.

22 MS. FULLSTONE: Well, I think, you know, the  
23 factors are a matter of record, so I just said, "factors,"  
24 and then you can go from there.

25 CHAIRMAN WREN: Yeah, they are. I mean, and I

1 think one of the things we need to keep in mind as we go  
2 through and listen to this testimony is we need to look at  
3 our bifurcated system of our tax the State of Nevada.

4 Our bifurcated system is set up where land is  
5 assessed at market value. The improvement are assessed at  
6 cost, predicated on Marshall-Swift, plus straight line --  
7 or less straight-line depreciation. The two added  
8 together does not equal market value.

9 The Supreme Court ruling, from my  
10 understanding, was that back in '02-'03 the Washoe County  
11 Assessor at that time had used a unit of measurement that  
12 he didn't have within the regulation.

13 Now, I disagree with the -- I humbly disagree  
14 with the Supreme Court on their terminology, because the  
15 terminology said that the assessor used a methodology.

16 Well, there's difference between a methodology  
17 and a unit of measure, which we've debated for years now.  
18 But facts are facts. What the assessor did is the  
19 assessor at that time made adjustments to the properties  
20 in that portion of the county that the Supreme Court said  
21 was unconstitutional, because of whatever you want to call  
22 it, that didn't have the right to do it.

23 I can understand that. What I'm looking for  
24 in testimony -- because what I'm not hearing, and what I'm  
25 getting from you is that everybody in Incline Village was

1 treated the same way or had the same adjustment by the  
2 assessor, and I don't think that's true.

3 I think that, you know, the assessment that  
4 was involved back then was an assessment for views of the  
5 lake, and every parcel within Incline Village/Crystal Bay  
6 wasn't adjusted the same way. They don't have the -- the  
7 same views.

8 So as you go through and you look at  
9 equalization you try to figure out how to get everything  
10 equal, if you will, throughout the state. Equality starts  
11 with following the law, and what the law requires all 17  
12 assessors to do is to appraise the market value of the  
13 land predicated on the comparables.

14 Dennis is right. This Board and the Tax  
15 Commission has worked very diligently, the last few years,  
16 to make sure the assessor has the appropriate tools, so  
17 that it's not unconstitutional to be able to assess the  
18 properties.

19 There's never been any argument, I don't  
20 think, over the years, that any of the values that the  
21 assessor have come up with -- and keep in mind we're  
22 looking at the entire state -- that the assessors from the  
23 17 counties have come up with, that were greater than full  
24 cash value.

25 This entire argument that all of you are here



1 before today, is because of this unconstitutional thing.  
2 I understand that. We have worked diligently -- this  
3 Board's worked diligently to try to get over that. And,  
4 you know, from -- from your testimony, what -- one of the  
5 things I'm still looking for, and the other testimony  
6 that's going to come before us yet this afternoon, is  
7 specific evidence the assessor assessed properties  
8 unconstitutionally, back in '02-'03, that would agree with  
9 what the Supreme Court said at that time.

10 Now, having said that, there's several ways  
11 that we can go about this. Esmeralda has a great idea.  
12 I'd like to go to market value, but unfortunately, like  
13 Anthony likes to say, "This the right building, the wrong  
14 day."

15 Okay? The legislature has set the law, and  
16 we're here to relate to the law as best we can.

17 If, in fact, you have testimony and evidence  
18 that the assessor, in any of the 17 counties, has utilized  
19 an unconstitutional method that isn't provided in the  
20 regulations, we can deal with that.

21 But it also has to be -- you know, you just  
22 can't say everybody in the entire 9,000 -- 1300, 1,000,  
23 whatever numbers you're looking at, everybody was wrongly  
24 done. You need the actually prove that. Everybody is a  
25 little bit different. Each parcel in the State of Nevada

1 is a little bit different.

2 When we're looking at Washoe County, this is a  
3 very large county. The way the assessor assesses the land  
4 in Incline Village is exactly the same way he assesses it  
5 in Gerlach. Same county. Different comparables. Same  
6 units of measurement, if you will, same methodologies.

7 So what we need to get down to, if think about  
8 your testimony again, is give us evidence -- specific  
9 evidence of where the assessor has utilized adjustments,  
10 or methodologies, or units of measurement that are in  
11 opposition to the law he's having to adhere to.

12 MS. FULLSTONE: Mr. Chairman, I'm -- I must  
13 disagree with your characterization of the Bakst decision.

14 CHAIRMAN WREN: And I understand that is --  
15 that is -- I'm going give two minutes. I've given you  
16 ample time. So you can address what I just said if you'd  
17 like.

18 MS. FULLSTONE: Well, what the court said in  
19 Bakst, and what is binding on this Board is a party to --  
20 on this Board, not just as a party to Bakst, but as a  
21 board, subject to the law of the State of Nevada, is that  
22 this was a mass appraisal.

23 The court did not look at individual cases.  
24 It didn't say: This view or that view. It said was --  
25 the use of the view was improper. The use of a view

1 valuation was improper, wherever it occurred, and it  
2 occurred throughout Incline Village.

3 The -- the Supreme Court also said that the  
4 use of time adjustment was improper, unlawful, and  
5 resulted in void valuations. The use of time adjustments  
6 was used on every single residential single-family  
7 residence at Incline Village/Crystal Bay for the 2002  
8 reappraisal.

9 It also said that, you know, the beach  
10 classification was a violation. The use of teardowns was  
11 a violation.

12 What is, in fact, true and what is, in fact, a  
13 finding in the Bakst case is that this mass reappraisal  
14 affected all of the Incline Village --

15 MS. MOORE: One minute.

16 MS. FULLSTONE: -- Crystal Bay. And to go on,  
17 you say, well, there never was a problem with full cash  
18 value, but I would remind you of what the court said in  
19 Barta, which is that this Board's concern is not full cash  
20 value. This Board's concern is equalization, is equal and  
21 uniform taxation, which the taxpayers at Incline Village  
22 should be awarded.

23 And that requires what this Board has already  
24 done, in 2007-'8. You didn't look at this view or that  
25 view or parse appraisal methods. And it's simply not true

1 that the assessor used the same methods to value in  
2 Gerlach as it did at the lake.

3 What the court found was that these methods  
4 were used only in 2002 -- for that 2002 reappraisal at  
5 Incline Village and Crystal Bay, not elsewhere in Washoe  
6 County or elsewhere this the state.

7 I'm finished.

8 CHAIRMAN WREN: Okay. Thank you very much.

9 (Discussion off the record)

10 CHAIRMAN WREN: All right. Thank you very  
11 much.

12 MS. FULLSTONE: Thank you.

13 CHAIRMAN WREN: Next?

14 MS. RUBALD: Is there anyone else from Washoe  
15 County who has property in Washoe County who wishes to  
16 come forward?

17 (Proceedings paused briefly)

18 MS. RUBALD: Seeing no one, I'll go on to  
19 White Pine County.

20 Is there anyone with property in White Pine  
21 County who wishes to come forward?

22 (Proceedings paused briefly)

23 MS. RUBALD: Mr. Chairman, we have asked for  
24 testimony from all of the counties.

25 CHAIRMAN WREN: Thank you very much.

1                   Okay. Thanks for everybody being here.  
2           Thanks for all the outlying counties, and I guess we'll  
3           turn off your TVs and your telephones, and we have a  
4           couple more cases. If anybody who would like to sit  
5           through and listen to equalization cases, you're welcome  
6           to.

7                   We'll take a short break.

8                   (Proceedings concluded at 2:07 p.m.)  
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[illegible]

I, CARRIE HEWERDINE, RDR, Official Court Reporter  
for the State of Nevada, Department of Taxation, State  
Board of Taxation, do hereby certify:

That on Tuesday, the 18th day of August, 2012, I was present at the Nevada Legislative Building, Room 3137, Carson City, Nevada, for the purpose of reporting in verbatim stenotype notes the within-entitled public meeting;

That the foregoing transcript, consisting of pages 1 through 48, inclusive, includes a full, true and correct transcription of my stenotype notes of said public meeting, Agenda Item L (Writ of Mandate).

Dated at Carson City, Nevada, this 20th day of  
September, 2012.

Cassie Hurd

CARRIE HEWERDINE, RDR  
Nevada CCR #820  
California CSR #4579



BRIAN SANDOVAL  
*Governor*

STATE OF NEVADA  
STATE BOARD OF EQUALIZATION

1550 College Parkway, Suite 115  
Carson City, Nevada 89706-7921  
Telephone (775) 684-2160

CHRISTOPHER G.  
NIELSEN  
*Secretary*

**NOTICE OF EQUALIZATION HEARING**

October 15, 2012

Certified Mail: 7009 2250 0004 3575 1642  
Suellen Fulstone  
Snell & Wilmer  
6100 Neil Road, Suite 555  
Reno, Nevada 89511

**Date and Time:** November 5, 2012, 1:00 p.m.

**Location:** Carson City  
State Legislative Building  
401 South Carson Street, Room 4100  
Carson City, Nevada

**Video-Conferencing will also be available to the following Locations:**

Legislative Counsel Bureau  
Grant Sawyer State Office Building  
Room 4401  
555 E. Washington Avenue  
Las Vegas, Nevada

This meeting will also be available on the internet via the Legislative website at <http://leg.state.nv.us> then select Live meetings and then State Board of Equalization. You may call in your comments by telephone to the meeting. Please call the Department at (775) 684-2160 for the call-in number and reservation to speak.

**Legal Authority and Jurisdiction of the State Board of Equalization:** Writ of Mandamus dated August 21, 2012 and NRS 361.395, NAC 360.732, and NAC 361.659.

The purpose of this second hearing is to take information and testimony from County Assessors in response to the grievances made by property owner taxpayers at a hearing held by the State Board on September 18, 2012, regarding the equalization of property valuations in Nevada for the 2003-2004 tax year through each subsequent tax year to and including 2010-2011. In particular, responses will be heard on the following matters:

- Classification procedures for agricultural property, with particular information on the classification and valuation of APN 1319-09-702-020 and surrounding properties 1319-09-801-028, 1319-09-702-019, and 119-09-801-004; in general on the valuation of properties in the Town of Genoa (Douglas County);
- Valuation procedures used on APN 162-24-811-82, Louise H. Modarelli including information regarding the comparable sales used to establish the base lot value of the

neighborhood and whether any adjustments were made to the base lot value for this property (Clark County);

- Valuation procedures used to value exempt properties and in particular APN 139-34-501-003, owned by City Hall LLC (Clark County);
- Property tax system in Nevada (Esmeralda County); and
- Use of unconstitutional valuation methodologies for properties in Incline Village and Crystal Bay (Washoe County).

If you have any questions, please call me at 775-684-2095 or Anita Moore at 775-684-2160.



Terry E. Rubald, Chief  
Division of Local Government Standards

cc: State Board of Equalization  
Christopher G. Nielsen, Department of Taxation Executive Director  
Dawn Buoncristiani, Senior Deputy Attorney General  
Gina Session, Chief Deputy Attorney General



POSTED: October 31, 2012

**STATE BOARD OF EQUALIZATION AGENDA**  
**November 5, 2012**  
**9:00 a.m.**

**State Legislative Building**  
**401 S Carson St, Room 4100**  
**Carson City, Nevada**

**Beginning at 1 p.m., the State Board session will also be video-conferenced to the following location:**

**Legislative Counsel Bureau**  
**Grant Sawyer State Office Building**  
**Room 4401**  
**555 E. Washington Avenue**  
**Las Vegas, Nevada**

The afternoon session will also be available on the internet via the Legislative website at <http://leg.state.nv.us> then select Live meetings and then State Board of Equalization. You may call in your comments by telephone to the meeting. Please call the Department at (775) 684-2160 for the call-in number and reservation to speak.

**STACKED AGENDA:** Each listed hearing is one of several hearings scheduled at the same time as part of a regular meeting of the State Board that is expected to last from 9:00 a.m. until 5:00 p.m. Thus, any particular hearing may be continued until later in the day or from day to day. It is each taxpayer's or his representative's responsibility to be present when the case is called. If the taxpayer or his representative is not present when his hearing is called, the State Board will invoke the requirements of NRS 361.385 and NAC 361.708(4). The State Board may (a) proceed with the hearing; (b) dismiss the proceeding with or without prejudice; or (c) recess the hearing for a period to be set by the State Board to enable the party to attend.

**NOTE (1):** "Notice of Appearance" cases are cases in which the State Board must first determine if it can accept jurisdiction. If the State Board determines it can accept jurisdiction, the parties must be prepared to proceed on the merits of the case immediately.

**NOTE (2):** Appellants are advised that decisions may be rendered at any time subsequent to a hearing; the staff or a deputy attorney general may be queried at the time requesting additional information or legal points on the matter.

**NOTE (3):** No action will be taken on any matters during public comment. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126. Public comment will be limited to comments of three minutes or less; and relevant to and within the authority of the State Board.

**NOTE (4):** The State Board of Equalization may take any case or item in a different order than the way the case is listed on the agenda. Items may be combined for consideration by the State Board of Equalization. Items may be removed from the agenda at any time or discussion on any item may be delayed until a later time.

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*The following order of presentation will ordinarily be used for each appeal:*

- 1. Administration of the Oath;**
- 2. Review of Taxpayer Notices designating an authorized agent; consideration of deficient agent authorization notices;**
- 3. Consideration of Appellant or Respondent Preliminary Objections, if any;**
- 4. Consideration of Appellant or Respondent Preliminary Motions, if any;**
- 5. Consideration of State Board Preliminary Motions, if any;**
- 6. Motions to accept or deny late-filed evidence and documents pursuant to NAC 361.723 (5);**
- 7. Introduction of new evidence pursuant to NAC 361.739;**
- 8. Brief Orientation by the County Assessor or his staff (NAC 361.741);**
- 9. A presentation of not more than 15 minutes by the petitioner;**

10. A presentation of not more than 15 minutes by the respondent;
11. A rebuttal of not more than 5 minutes by the petitioner;
12. Questions by the State Board;
13. Official Notice of matters recited in NAC 361.720; rules, regulations, official reports, decisions and orders of the Commission, State Board or any agency; matters of common knowledge and technical or scientific facts of established character; pertinent official documents; matters judicially noticed by the Courts; and
14. Closure of hearing; discussion, consideration, and vote by the State Board. The parties may not participate in the discussion of the State Board.

**Action may be taken on the following agenda items and appeals of property tax valuation in BOLD:**

- A. Opening Remarks by the Chairman; introduction of State Board members, Swearing-in
- B. Public Comment (See Note 3)

**CASE**

**NUMBER**

**PETITIONER**

**PROPERTY TYPE**

**RESPONDENT**

**C. For Possible Action: DIRECT APPEAL OF PROPERTY ON THE UNSECURED ROLL PURSUANT TO NRS 361.360(3)**

12	102*	Enel Salt Wells, LLC	Mine Property	Department of Taxation
12	103*	Enel Stillwater, LLC	Mine Property	Department of Taxation
12	472*	Magma Energy U.S. Corp	Mine Property	Department of Taxation

\* Churchill County and Churchill County Assessor are intervenors in these cases.

**D. For Possible Action: CONSENT AGENDA, RECOMMENDATIONS BY THE SECRETARY TO DISMISS TAXPAYERS' APPEALS PURSUANT TO NAC 361.7014, Untimely Filed Appeals for 2010-2011 Net Proceeds of Minerals Unsecured Tax Roll; Determination of Jurisdiction of State Board. See Note (1)**

12	465	Queenstake Resources	Net proceeds of Minerals	Department of Taxation
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**E. APPEAL OF NET PROCEEDS OF MINERALS CERTIFICATION, 2011-12 Net Proceeds of Minerals Unsecured Tax Roll**

12	466	Queenstake Resources	Net proceeds of Minerals	Department of Taxation
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**F. For Possible Action: APPEALS FROM ACTION OF A COUNTY BOARD OF EQUALIZATION PURSUANT TO NRS 361.400, TAX YEAR 2012-13, Secured Roll**

12	290	Nevada Land, LLC	Commercial Property	Washoe County Assessor
12	323A	James B. House dba North Summit Co., LLC	Personal Property	Washoe County Assessor

**G. For Possible Action: CONSENT AGENDA, RECOMMENDATIONS BY THE SECRETARY TO DISMISS TAXPAYERS' APPEALS PURSUANT TO NAC 361.7014, Untimely Filed Appeals or Appeals not Heard by County Board; Determination of Jurisdiction of State Board. See Note (1)**

12	323B	James B. House dba North Summit Co., LLC	Personal Property	Washoe County Assessor
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1:00 p.m.

H. **For Possible Action:** Pursuant to the Writ of Mandamus filed on August 21, 2012, Village League to Save Incline Assets, Inc. v. State Board of Equalization, et al, the State Board will hear responses of county assessors to grievances of property owner taxpayers regarding the equalization of real property valuations in Nevada for the 2003-2004 tax year through each subsequent tax year to and including 2010-2011. Responses may include, but are not limited to, the following complaints:

1. Valuation procedures used on APN 162-24-811-82, Louise H. Modarelli including information regarding the comparable sales used to establish the base lot value of the neighborhood and whether any adjustments were made to the base lot value for this property (Clark County);
2. Valuation procedures used to value exempt properties and in particular APN 139-34-501-003, owned by City Hall LLC (Clark County);
3. Proper valuation of property designated as agricultural property (Douglas County);
4. Property tax system in Nevada (Esmeralda County); and
5. Use of unconstitutional valuation methodologies for properties in Incline Village and Crystal Bay (Washoe County).

The State Board may raise, lower or leave unchanged the taxable value of any property for the purpose of equalization pursuant to NAC 361.650 through NAC 361.667, as applicable.

I. **For Possible Action: Briefing to and from the Board and the Secretary and Staff**

- Briefing Schedules
- Proposed Hearing Schedules and Docket Management

J. *State Board of Equalization Comments (see Note 3)*

K. *Public Comment (See Note 3)*

L. **Adjournment**

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The Department is pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Taxation in writing or call (775) 684-2160 prior to the meeting.

**Notice agendas were posted at the following locations:**

DEPARTMENT OF TAXATION LOCATIONS: 1550 E. College Parkway, Carson City; 4600 Kietzke Lane, Bldg L, Ste 235, Reno; 555 E. Washington Ave, #1300, Las Vegas; 2550 Paseo Verde Parkway, Suite 180, Henderson; Also: CLARK COUNTY GOVERNMENT CENTER, 500 S. Grand Central Parkway, Las Vegas; LAS VEGAS LIBRARY, 833 Las Vegas Blvd, Las Vegas; STATE LIBRARY & ARCHIVES, 100 Stewart St, Carson City.

STATE BOARD OF EQUALIZATION

STATE OF NEVADA

-oOo-

PUBLIC HEARING

AGENDA ITEM L5 (Writ of Mandamus Hearing)

Monday, November 5, 2012

Nevada Legislative Building, Room 4100

Carson City, Nevada

REPORTED BY:

CAPITOL REPORTERS  
Certified Court Reporters  
BY: CARRIE HEWERDINE, RDR  
Nevada CCR #820  
California CSR #4579  
Carson City, Nevada  
775-882-5322

CAPITOL REPORTERS

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(775) 882-5322

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A P P E A R A N C E S

The Board:

TONY WREN, Chairman

DENNIS MESERVY, Member

ANTHONY MARNELL, III, Member

BENJAMIN JOHNSON, Member

For the Board:

Dawn Buoncristiani,  
Deputy Attorney General

Terry Rubald, Chief of the  
Div. of Assessment Standards

Anita Moore,  
Coordinator for the Board

Keri Gransbery,  
Tax Examiner II

Janie Ware,  
Admin. Assist. 4

# I N D E X

## AGENDA ITEM:

PAGE

H. For Possible Action: Pursuant to the Writ of Mandamus filed on August 21, 2012, Village League to Save Incline Assets, Inc. v. State Board of Equalization, et al, the State Board will hear responses of county assessors to grievances of property owner taxpayers regarding the equalization of real property valuations in Nevada for the 2003-2004 tax year through each subsequent tax year to and including 2010-2011. Responses may include, but are not limited to, the following complaints:

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2. Valuation procedures used to value exempt properties and in particular APN 139-34-501-003, owned by City Hall LLC (Clark County); 11
3. Proper valuation of property designated as agricultural property (Douglas County); 15
4. Property tax system in Nevada (Esmeralda County); 29
5. Use of unconstitutional valuation methodologies for properties in Incline Village and Crystal Bay (Washoe County). 38

The State Board may raise, lower or leave unchanged the taxable value of any property for the purpose of equalization pursuant to NAC 361.650 through NAC 361.667, as applicable.

R. Public Comment 22, 30

1 MS. RUBALD: Mr. Chairman, I was just going to  
2 mention, since he mentioned the County Board of  
3 Equalization, that the department has often gone out to  
4 the counties to give a presentation to the county boards  
5 about how county boards should proceed, you know, to  
6 follow the open meeting law and all that kind of stuff.

7 And I think some of the assessors have availed  
8 themselves of that, and if Esmeralda County would like us  
9 to come out, we can do that for you, too.

10 CHAIRMAN WREN: Okay.

11 Very good. Anything else?

12 CHAIRMAN WREN: No.

13 MS. RUBALD: Oh.

14 CHAIRMAN WREN: Next.

15 **AGENDA ITEM L, 5: USE OF UNCONSTITUTIONAL VALUATION**  
16 **METHODOLOGIES FOR PROPERTIES IN INCLINE VILLAGE AND**  
17 **CRYSTAL BAY (WASHOE COUNTY)**

18 MS. RUBALD: The last item on the agenda is  
19 Number 5, use of unconstitutional valuation methodologies  
20 for properties in Incline Village and Crystal Bay. The  
21 Washoe County Assessor will be speaking to you.

22 CHAIRMAN WREN: Okay.

23 JOSH WILSON: Thank you, Mr. Chairman, Members  
24 of the Board. Josh Wilson, Washoe County Assessor, and I  
25 appreciate the opportunity to speak before you this

1 afternoon.

2 As I understand the agenda, you're asking the  
3 assessor to respond to the use of unconstitutional  
4 methodologies for properties in Incline Village and  
5 Crystal Bay during the 2003-'04 reappraisal.

6 For many properties but not all, in using the  
7 sales comparison approach to value the land, teardown  
8 properties were included in the analysis. In addition,  
9 when determining the land value for some properties, one  
10 or more adjustments were made for time, lake view, and/or  
11 beach type, but again not all properties.

12 There were many parcels whose land value was  
13 determined without the use of teardowns in the sales  
14 analysis and without the use of adjustments for time, lake  
15 view, or beach type.

16 Parcels located within the McCloud and  
17 Mountain Shadows Condominium complexes are examples, and  
18 there are certainly others.

19 I'm not sure if this response assists the  
20 Board in complying with the Writ of Mandamus which states:

21 The Nevada State Board of Equalization shall  
22 take such actions as are required to notice and hold a  
23 public hearing or hearings, as may be necessary, to hear  
24 and determine the grievances of property owner/taxpayers  
25 regarding the failure or lack of equalization of real



1 property valuations throughout the State of Nevada for the  
2 2003-'4 tax year and each subsequent tax year, to and  
3 including the 2010-'11 tax year, and to raise, lower, or  
4 leave unchanged the taxable value of any property for the  
5 purpose of equalization.

6 But it is my response, during the calendar  
7 year 2007, there were no less than 15 meetings of the  
8 State Board of Equalization dealing specifically with the  
9 Incline Village/Crystal Bay cases before this Board for  
10 both 2006-'7 and 2007-'8.

11 The Department of Taxation appears to have  
12 compiled numerous reports and cases from past State Board  
13 of Equalization proceedings for your review. I received  
14 two disks this morning that had a bunch of information on  
15 it.

16 The record should speak for itself. I don't  
17 think the writ -- or at least the writ doesn't appear to  
18 be a meeting or hearing to revisit land valuation at  
19 Incline Village and Crystal Bay nearly a decade after the  
20 values were established. We're here because of the  
21 failure to conduct a public hearing as it relates to the  
22 equalization process pursuant to 361.395.

23 As I listened to the other topics discussed in  
24 this agenda item, it almost seems as though that 395 is an  
25 avenue for redress of an individual petition's hearing,

1 and I don't think that is the case at all.

2 There is a specified process now, in  
3 regulation, which discusses the equalization process  
4 conducted by this Board to carry out the provisions of  
5 361.395.

6 If you were to put your -- if this Board was  
7 to have had an equalization hearing in either -- perhaps  
8 it did, maybe it just wasn't on the public record, and  
9 that's where I'm not sure.

10 But had this equalization hearing -- and  
11 pursuant to 361.395, occurred in 2003 or calendar year --  
12 or at the annual session in 2004 or in 2005, my opinion is  
13 no further equalization action would have been necessary,  
14 as this Board of Equalization supported both the  
15 assessor's methodologies as well as the resulting values  
16 for the 2003-'4 valuation year, for the 2004-'5 valuation  
17 year, as well as the 2005-'6 valuation year.

18 It was not until January of 2006 did any court  
19 of law give the assessor an indication that there was any  
20 unconstitutionality surrounding the reappraisal conducted  
21 in 2002 for the 2003-'4 tax year.

22 That January 2006 Maddox decision came after  
23 the assessor had already conducted the valuation process  
24 for the 2007-2008 -- excuse me -- for the 2006-2007  
25 valuation of the Incline Village/Crystal Bay property.

1           The January 2006 Maddox decision was  
2           subsequently appealed to the Supreme Court who rendered  
3           their decision on 17 property owners for 2003-2004, having  
4           unconstitutional valuation techniques in December or -- on  
5           December 28th, 2006, again, after the assessor had  
6           revalued the Incline Village/Crystal Bay area for the  
7           2007-2008 fiscal year.

8           After that decision was rendered in  
9           two-thousand -- in December of 2006, this Board, as well  
10          as the Nevada Tax Commission and the Department of  
11          Taxation conducted many, many hearings dealing with the  
12          ramifications of the Bakst decision.

13          And just to quickly go through those, on  
14          March 6th the Tax Commission -- on March 6th, 2007, the  
15          Tax Commission and the State Board of Equalization met to  
16          discuss the Bakst decision.

17          On March 13th, 2007 the State Board met -- the  
18          State Board of Equalization met on the 2006-'7 hearings.

19          On March 26th and 27th, there was two more  
20          additional days of hearings on the '06-'07 cases.

21          On April 10th, 2007 the State Board heard the  
22          mass rollback decision by the County Board of Equalization  
23          for the 2006-'7 year and remanded that case back to the  
24          County Board of Equalization.

25          On May 3rd and 4th, 2007 the State Board

1 conducted cases -- hearings on this, and I could go on and  
2 on. My point is that there was a lot of discussion  
3 regarding, umm, the Bakst case, the individual petitions  
4 pending before you, and I don't think that's what the writ  
5 today -- why we're here today, based on writ, that that's  
6 what we're here to do.

7 The writ requires the Board to take such  
8 actions to notice and hold a public hearing, not to  
9 revisit the individual land valuation techniques that have  
10 already been adjudicated.

11 I think the question here is -- and we did  
12 settle the individual petitions for 2006-'7 before this  
13 Board, as well as the 2007-'8 petitions before this Board,  
14 in what I thought was an agreeable methodology, and, in  
15 fact, is -- is very similar to what the petitioner's  
16 representative suggested at your last meeting.

17 But it was not correct -- or is not correct to  
18 say that all of the residential properties in Incline  
19 Village and Crystal Bay were valued using teardowns or  
20 just -- or comparable sales to -- adjusted for time, view,  
21 or lake type geographical features.

22 I guess, are there any questions from the  
23 Board?

24 CHAIRMAN WREN: Questions?

25 I don't, either.

1 JOSH WILSON: Thank you.

2 CHAIRMAN WREN: Thank you. Come on down.

3 Give her three minutes.

4 No, give her five.

5 SUELLEN FULSTONE: Good afternoon. Suellen  
6 Fulstone on behalf of the Village League, on behalf of the  
7 Incline Village equalization grievance.

8 I've registered my objection already to the  
9 denial to grievance of a proper rebuttal. I would object  
10 further to the limitation of -- to the grievance case, all  
11 1400 of them, to five minutes with no similar limitation  
12 on the assessor.

13 I would object to the characterization of this  
14 matter as having to do with the methodologies. I -- I  
15 agree with Assessor Wilson on that part. This hearing is  
16 about equalization. It is not about methodologies. This  
17 is not an individual rehearing.

18 I would object further to the failure of the  
19 department to provide a proper record for the Board. When  
20 we submitted our submission prior to the September hearing  
21 we specifically identified, as evidence, the individual  
22 cases before this Board that were heard for the 2003-'4,  
23 the 2004-'5, and the 2005-'6 tax years. Those are not  
24 included in your record.

25 Instead what you have is the equalization

1 proceeding for -- in which you reviewed the County Board  
2 of Equalization's determination in '06, a matter which was  
3 not a subject of a grievance.

4 You have '07 and '08 files, although I don't  
5 believe it's the individual case files, but what you have  
6 are -- you know, we also said last time, the years in  
7 question, that we are grieving are '03-'04, '04-'05,  
8 '05-'06.

9 There are further omissions from the record:  
10 The 11 volumes of appendix in the Bakst case, the 38  
11 volumes of appendix in the Barta case.

12 All of those will demonstrate, if you look at  
13 them, that, in fact, there is a failure of equalization at  
14 Incline Village for the '03-'04, '04-'05, and '05-'06 tax  
15 years.

16 The direction of the Court has also been  
17 mischaracterized in this proceeding. You're here to take  
18 testimony. You're not here to hold a hearing. What you  
19 are here to do, pursuant to the directive of the Court, is  
20 to hear and determine equalization grievances.

21 You don't just hear the cases. You know, you  
22 get it right. It requires due process. You cannot hear  
23 these cases without hearing, in full, the -- the  
24 grievances and the evidence in support of those  
25 grievances, which you are denying the taxpayers'

1 opportunity to present.

2 The county had six weeks between the initial  
3 hearing and this hearing to prepare a response. You're  
4 denying us rebuttal in allowing us public comment on  
5 the -- on the spot.

6 I would reiterate, I believe it to be the  
7 record, is that all of the properties were, in fact,  
8 valued using unconstitutional methodologies, but that is  
9 not the issue before you.

10 They issue is equalization. If 900 of those  
11 properties were valued using improper or unconstitutional  
12 methodologies, then you follow what you did in -- for the  
13 2006 tax year and equalize throughout Incline Village and  
14 Crystal Bay.

15 The issue is equalization in this hearing. It  
16 is not something to which you are -- the equalization  
17 regulations that this Board has developed apply. There  
18 are no provisions in those regulations for the hearing of  
19 individual grievances.

20 This hearing is held pursuant to a Writ of  
21 Mandate, and you are directed to hear and determine those  
22 grievances. They are -- the taxpayers are entitled to be  
23 heard fully and impartially by this Board.

24 Any questions?

25 CHAIRMAN WREN: Yeah. How come you didn't

1 object to the record prior to today?

2 SUELLEN FULSTONE: I did object.

3 CHAIRMAN WREN: Okay.

4 SUELLEN FULSTONE: I didn't get the record  
5 until, uh, late yesterday afternoon. I believe it was a  
6 quarter to 5:00 -- or late Friday afternoon. It was a  
7 quarter to 5:00. I work the weekends, so sometimes my  
8 days get mixed up.

9 So the earliest -- I mean, I objected at this  
10 hearing. It was the earliest opportunity to object.

11 CHAIRMAN WREN: Okay. And I want to point  
12 out, so everybody is clear, that the writ was for us to  
13 hold a hearing, inviting all taxpayers in the State of  
14 Nevada, all 17 counties, to come before us with any  
15 grievances, complaints, suggestions, ideas about  
16 equalization, which we did, to which you have already  
17 testified to.

18 It was our decision as of that date to hold  
19 another hearing, which is today, to listen to the  
20 assessors and anything they had to say, which we have  
21 done.

22 Any other questions? Comments?

23 Okay. Thank you.

24 SUELLEN FULSTONE: If I could say one  
25 additional thing, one of the things that Assessor Wilson



1 said is that maybe you did hold a hearing, you just didn't  
2 hold a public hearing. And now it's kind of too late,  
3 but, in fact, if you had had -- had held the public  
4 hearing required by 361.195, that case could have been  
5 taken to the Court, as the Bakst case was.

6 And when the Bakst case was reversed, your  
7 decision -- it's true, you did, in 2003-'4, and '4-'5, and  
8 '5-'6, and '6-'7 you affirmed what the assessor wanted.  
9 Those cases were reversed. If you had equalized in those  
10 years, those equalization decisions could also have been  
11 reversed and would have been reversed.

12 MS. BUONCRISTIANI: Ms. Rubald, could you  
13 clarify for record when the State Board held those  
14 equalization hearings? The record that -- in the ones  
15 they've had the last two years?

16 MS. RUBALD: Well, for the last two years,  
17 that they've been in March.

18 MS. BUONCRISTIANI: Okay. Under the  
19 regulations?

20 MS. RUBALD: Right.

21 MS. BUONCRISTIANI: Or there seems to be --  
22 seems to be Ms. Rubald's [sic] responding to something  
23 about that Mr. Wilson talked about equalization hearings  
24 that weren't -- weren't on an agenda.

25 Are you familiar with any of those kinds of

1       hearings?

2               MS. RUBALD:  No.

3               MS. BUONCRISTIANI:  Thank you.

4               CHAIRMAN WREN:  So I guess maybe I'll ask for  
5       '03'-'04, '04-'05, '05-'06, the years we're talking about,  
6       correct?

7               SUELLEN FULSTONE:  Yes.

8               CHAIRMAN WREN:  And do you have specific  
9       information as to specific properties that the assessor  
10      has placed valuations on, that he used techniques that  
11      were not authorized by --

12              SUELLEN FULSTONE:  You have --

13              CHAIRMAN WREN:  -- regulations?

14              SUELLEN FULSTONE:  You have all of that  
15      information in the records of this Board for those years.  
16      There are -- you know, there aren't 17 cases for '03-'04.  
17              There were 17 cases that were taken all the  
18      way to the Supreme Court, but there were more than 100  
19      cases before this Board, and in every one of those 100  
20      cases you will find an unconstitutional methodology being  
21      used.

22              CHAIRMAN WREN:  How do you know that?

23              SUELLEN FULSTONE:  Because I know how the  
24      county appraised properties in that year.

25              CHAIRMAN WREN:  So the counties did absolutely

1 everything wrong?

2 SUELLEN FULSTONE: No.

3 CHAIRMAN WREN: In Washoe County?

4 SUELLEN FULSTONE: No, the county did not do  
5 everything wrong. The county assessor did what I think  
6 the county assessor thought he had the entitlement to do  
7 at the time, which was to develop certain methodologies,  
8 which he said were, you know, approved within the industry  
9 or the -- the profession of appraisal, to value properties  
10 at Incline Village, where there were an inadequate number  
11 of comparable sales of vacant land.

12 As you know, and I think everybody in this  
13 room knows, land and improvements are valued separately.  
14 Land is valued in -- on basically -- you know, the  
15 preference is to value land looking at comparable sales of  
16 vacant land.

17 And when there were not sufficient comparable  
18 sales of vacant land, the assessor developed other  
19 methodologies. What the Supreme Court said was the  
20 assessor had no authority to develop or use methodologies  
21 on his own, because that produced a lack of uniformity  
22 throughout the state.

23 CHAIRMAN WREN: Pardon me. Are you speaking  
24 as an expert appraiser?

25 SUELLEN FULSTONE: You know I'm not.

1 CHAIRMAN WREN: Okay.

2 SUELLEN FULSTONE: I'm not speaking as an

3 expert appraiser.

4 CHAIRMAN WREN: Okay.

5 SUELLEN FULSTONE: I'm speaking as an

6 attorney. I'm speaking as someone who has been with this

7 case since 2004, at least, uh, and I'm familiar with the

8 record.

9 CHAIRMAN WREN: Okay. Very good.

10 So repeat what you just said a minute ago.

11 What did the Supreme Court -- or what court system said

12 that the assessor used the wrong methodologies in '03-'04,

13 '04-'05, '05-'06?

14 SUELLEN FULSTONE: The State Board of

15 Equalization versus Bakst, 122 Nevada 1403.

16 Holding: Taxpayers who paid property taxes

17 imposed under non-uniform assessment methodologies were

18 entitled to refunds.

19 CHAIRMAN WREN: So --

20 SUELLEN FULSTONE: If you want to get into

21 the --

22 CHAIRMAN WREN: Whoa. For what years?

23 SUELLEN FULSTONE: Uh, that was '03-'04.

24 CHAIRMAN WREN: Okay.

25 SUELLEN FULSTONE: '04-'05 --

1 CHAIRMAN WREN: Wait. And the first thing  
2 I've ask you -- I apologize for interrupting.

3 I've asked you this before. You keep  
4 continuing [sic] or saying that the Supreme Court has  
5 ruled that the assessor has utilized unconstitutional  
6 methods for other years. And -- and I need for you to  
7 tell me exactly where they did that.

8 SUELLEN FULSTONE: What the Supreme Court said  
9 in the Bakst case was that the methods used by the  
10 assessor for the 2002 appraisal, which was for the 2003-'4  
11 tax year, were non-uniform and un -- not authorized by the  
12 Tax Commission and were unconstitutional, reduced -- and  
13 resulted in unconstitutional valuations.

14 It is that same appraisal, that is the base  
15 appraisal for the following four years. In the following  
16 year the Supreme Court, on the -- for the 04-'05 cases,  
17 decided in -- in the Barta case, that because it was the  
18 same appraisal, it was the same failure to use assessment  
19 methodologies authorized by the Tax Commission, that the  
20 valuations for 04-'05 at issue in the Barta case were also  
21 unconstitutional and that taxpayers were entitled to  
22 refunds.

23 In '05-'06 that case has not gone to the  
24 Supreme Court yet, but Judge McGee has similarly ruled  
25 that the properties that are at issue in that case are

1 also unconstitutionally valued because of the use of the  
2 unconstitutional, not authorized methodologies. So, you  
3 know, those are the cases.

4 CHAIRMAN WREN: Okay. So if we had the -- the  
5 assessor go back and look at '03-'04, and the base year,  
6 and revalue all the properties, it's a possibility that  
7 they could come up with -- he could come up with a higher  
8 value than what he had on them currently. I mean, there  
9 isn't any guarantee that when you reassess something that  
10 it's going to be lower.

11 You know, what the -- what the assessor has to  
12 do is put -- put a land value on these properties, which  
13 he's done. He has to start off with the base value and  
14 then make adjustments for their differences.

15 Now, whether he makes those adjustments  
16 calling them a view, or rocks and pebbles, or time, or  
17 whatever, they still need to be adjusted. And if he  
18 utilizes the techniques that are constitutionally  
19 approved, if you will, there's no guarantee those values  
20 would be lower. As a matter of fact, they could be  
21 higher.

22 SUELLEN FULSTONE: Well, we're not here  
23 talking about having the assessor reassess. One of the  
24 things that the assessor -- or the county assessor asked  
25 for in Bakst was the opportunity to go back and redo

1 assessments and the court said, no, you did -- you know, I  
2 mean, the -- there's no reason to give the assessor  
3 another assessment. Uh, when the -- when the assessment  
4 is wrong, and it was wrong in '03-04. The court said the  
5 taxpayers are entitled to refunds.

6 CHAIRMAN WREN: So were all these -- were  
7 these -- these unconstitutional methods used in all 17  
8 counties?

9 SUELLEN FULSTONE: No. That was part of the  
10 problem was that these methods were developed in Washoe  
11 County, and they were not methods that were either  
12 approved or authorized by the Tax Commission or uniformly  
13 used throughout the state.

14 What the concern of the court was that if you  
15 had 17 assessors developing their own assessment  
16 methodologies, you would have 17 different sets of  
17 methodologies and resultant unconstitutional valuations.

18 MEMBER MESERVY: Mr. Chairman, I'm -- I'm  
19 concerned that now we're talking about things that are  
20 beyond the scope of this Board, if we're talking that were  
21 not -- talking about valuations or assessments.

22 I mean, where are we getting into where we're  
23 involved with refunds and --

24 CHAIRMAN WREN: We're -- we're not, Dennis.  
25 That has --

1           MEMBER MESERVY: So, I mean, what -- why are  
2 we asking for that here?

3           CHAIRMAN WREN: We're not. I'm just taking  
4 the testimony for the record.

5           Okay. Thank you. And let the record reflect,  
6 with our discussions with you, it was much longer than  
7 five minutes.

8           Terry, do you have recommendations for us?

9           No? You know, one --

10          MS. RUBALD: I guess I would like to just add,  
11 for the record, that -- that I would like, that NAC  
12 361.652 is the definition of "equalized property," and it  
13 means "to ensure that the property in this state is  
14 assessed uniformly in accordance with the methods of  
15 appraisal and at the level of assessment required by law."

16          And if the assertion is that the methods of  
17 assessment or the methods of appraisal were not uniform  
18 then I think that there isn't enough information in the  
19 record. As the assessor testified, we don't know which  
20 properties had the four methodologies applied to them and  
21 which did not.

22          And if they -- if they were  
23 unconstitutional -- they are unconstitutional, but  
24 whichever properties had that, you know, you might want to  
25 explore what happens when you remove those methodologies.



1           If you remove those methodologies, what's the  
2     resulting value and is that resulting value then at a  
3     level of assessment that does not comply with law?

4           CHAIRMAN WREN: Well, and that's -- that --  
5     that is my -- my concern through all the testimony, for  
6     all the years I've been listening to this, is that by law  
7     the assessor has to assess the land, and that's the only  
8     thing that we've been talking about. There hasn't been  
9     any testimony as to misuse or the wrong use of Marshall  
10    and Swift for the improvements.

11           So when the assessor has to look at the land  
12    and look at the market value of the land, he has to make  
13    comparisons between sales and/or comparisons between  
14    improved properties through the extraction method  
15    appropriately.

16           So regardless of what it's called, and -- you  
17    know, you get into -- and I've said this before, that I  
18    disagree with the Supreme Court, as far as their decision  
19    because of the use of the terminology that they're using.  
20    These -- these aren't -- you know, time adjustments and  
21    view adjustments are not methodologies.

22           They're units of measurement, which the  
23    assessor has to -- all property is not identical. Okay?  
24    A lot next door can be different than the lot on the other  
25    side of it. Okay? So the -- it's the assessor's job to

1 look at those and to place a market value on them,  
2 regardless of what he calls the unit of measurement.

3 And my point earlier was -- it's -- if we had  
4 the assessor go out and reassess these properties  
5 utilizing, if you will, the proper terminology for his  
6 units of measurement, more than likely -- more than likely  
7 than not he's going to coming up with the same value --  
8 should come up with the same value. Okay?

9 It's not going to be less. Could be less.  
10 Could be higher, but probably it would be the -- the same  
11 value. You know, and -- and I just have to believe that  
12 things such as time, and compared sales analysis, and  
13 differences in locations, all 17 assessors have utilized  
14 at some time over the last 100 years, regardless of what  
15 they -- they call it. They're -- they're just units of  
16 measurements for differentials in properties.

17 And I'm not sure, you know, with -- with --  
18 what this hearing was for was for us to give the property  
19 owners in the entire state, all 17 counties, not just  
20 Incline Village or Washoe County, the opportunity to  
21 address equalization.

22 And I'm not sure, just because of the Court  
23 decision for '03 -- '02-'03, that everything is wrong  
24 forever. I'm just not buying off on that, myself.

25 MEMBER MARNELL: Mr. Chairman, I believe

1     when -- and I just read the writ. It gives us direction  
2     to either lower them, raise them, or do nothing,  
3     quote/unquote, per the judge's order in the last  
4     paragraph.

5             CHAIRMAN WREN: Okay. So what would you like  
6     to do?

7             MEMBER MARNELL: Well, I don't have enough --  
8     I don't believe that I have enough information to go back  
9     and make a broadcast decision.

10            I'm not opposed to looking deeper into this to  
11     try to understand, in the years that are being discussed,  
12     what properties were unconstitutionally valued versus the  
13     ones that were not. And then I have no problem have -- I  
14     have zero problem taking action on something that was  
15     unconstitutional.

16            Umm, I think that's what we are here to do. I  
17     think that's what the judge wants us to do, and I think  
18     that that's what we get paid a whole lot of money to do.

19            CHAIRMAN WREN: I'm looking forward to that  
20     check. You know, I --

21            MEMBER MARNELL: And I -- I don't have a  
22     problem with that, Mr. Chairman, in looking in the years  
23     prior where there may be some confusion, but -- I'll wait  
24     for other Board members to chime in, but I'm not at all  
25     inclined to support or make a broad-based motion on those

1 years.

2 CHAIRMAN WREN: There's -- there's no -- if --  
3 I understand everybody's argument right there. There  
4 isn't any objection to the base lot value. Is that  
5 correct? Am I -- am I correct in that maybe? You've got  
6 your base lot --

7 MS. RUBALD: I think only the taxpayer can  
8 address that. I think that -- I think they might think  
9 that the base lot value was determined using teardowns.

10 CHAIRMAN WREN: Okay. Then I don't want to go  
11 there then, if that's -- that's fine.

12 We can either -- Anthony, we can either direct  
13 them to redo it, or we could take it back to the basis of  
14 '02-'03 and have either the counties or the state do a  
15 sales ratio study to determine an appropriate factor to  
16 adjust those properties upward or downward for '03-'04,  
17 '04-'05, '05-'06, but at the end of the day we need to do  
18 something or nothing.

19 MEMBER JOHNSON: I --

20 MEMBER MARNELL: So I understand -- oh, I'm  
21 sorry, Ben. Go ahead.

22 MEMBER JOHNSON: Oh, okay. And I want to get  
23 it right, like Anthony does. I think that's important,  
24 and I don't know what we have the ability to do,  
25 statutorily, if we can go back and consider '03-'04 at

1 this point or if that's too far in the past.

2 But it -- I -- I lean towards -- I don't have  
3 enough information in front of me today. I couldn't make  
4 a credible decision as to the claims of Ms. Fulstone's  
5 clients.

6 I would -- if we're going to delve deeper into  
7 it, we need information, and I don't know if we can even  
8 ask for a reappraisal. That's a pretty big undertaking,  
9 and I don't think -- if we have the resources to do that.  
10 I'm uncertain of, but if there's some way we can come to a  
11 conclusion here, I'm all for it.

12 CHAIRMAN WREN: Anthony?

13 MEMBER MARNELL: I echo a lot Ben's comments.  
14 And I'm sorry, Ben. I'm not used to having somebody to my  
15 left. For four years I've had this whole counter to  
16 myself.

17 MEMBER JOHNSON: Well, you're climbing up.

18 MEMBER MARNELL: It's scary. I sat in the hot  
19 seat once before.

20 I also think that the resource argument is --  
21 is a good one, but I don't think that the Court's going to  
22 care. At the end of the day the Court's going to want  
23 done what the Court wants done, and that's for this to be  
24 constitutional.

25 I could support doing it off of a -- a couple

1 of different ways. One, I think I just heard Ben say, or  
2 we go back to the last constitutional -- I think I heard  
3 you say it -- go back to the last constitutional year and  
4 then direct the methodology going forward on how we want  
5 those subsequent years, in the constitutional way, valued,  
6 built off of that base year, which is going to, I think,  
7 require some reappraising, using the methods -- the  
8 methods that were constitutional at the time, I believe.  
9 I'm not sure.

10 Or we can have the assessor go do some more  
11 work and come back and tell us how big of a problem is  
12 this, you know, in the sense of -- are we talking about  
13 100 homes or are we talking about 5,000 homes that are  
14 unconstitutionally improper?

15 I agree with Ben on that. We don't know.

16 CHAIRMAN WREN: Well, I'm not sure the  
17 assessor can do that, either. I mean, this is -- we're  
18 talking 10 years, you know. I don't know how far back  
19 they maintain their materials. You know, it's -- this is  
20 almost 2013. So ...

21 MEMBER MARNELL: I understand.

22 CHAIRMAN WREN: Dennis?

23 MEMBER MESERVY: It's been a mess from Day 1,  
24 and I think we've lost a lot of Board members over this  
25 issue. So obviously it's not an easy issue.

1           Umm, you know, I -- I've heard from them that  
2   they don't want to have it reassessed, but I don't see how  
3   we can do it any other way than some sort of a  
4   reassessment.

5           I don't feel comfortable with just throwing in  
6   a factor on everyone in the area. That doesn't make  
7   sense. I think the only way would be to look at the homes  
8   in question that are unconstitutional and do something.

9           But I think we probably need to ask the  
10   assessor's office what resources and what type of  
11   information they have available to even identify those and  
12   what options we have. Because I really am not clear how  
13   we could do that in a comfortable way.

14          And I'm sure only the assessor's office would  
15   be probably the only ones that would really know how easy  
16   that would be to identify.

17          So, you know, I'd love to hear from them on --  
18   while I'm here, but I don't know what -- whatever anyone  
19   else would want to do. He looks like he's ready to come  
20   up if we want it.

21          MEMBER MARNELL: I also just throw out one  
22   other concern or cause, before Mr. Wilson may comment on  
23   this, if you allow it, Mr. Chairman.

24          I don't want to be in a spot, with all due  
25   respect to Mrs. Fulstone -- or Ms. Fulstone that we do

1 something unconstitutional.

2 So I think that my heart and mind are in the  
3 place of trying to do the right thing, per the law and  
4 what we're supposed to do. I don't want to make a  
5 decision that, you know, now's going to put all of us in  
6 jeopardy part 5.

7 So I'm not afraid to make a decision. I'm  
8 more than comfortable making a decision but -- or make the  
9 recommendation to make a decision.

10 But I want to make sure that we're doing it  
11 the right way. And, to me, that -- that says that the  
12 taxpayer and the assessor would need to come back to us  
13 and tell us what they feel is an appropriate methodology  
14 for this, in a constitutional way, that they can agree  
15 upon, and all the parties agree, before I feel comfortable  
16 slinging out any idea, literally, on how they should go  
17 about this. Because I have this very certain confidence  
18 that I'm going to fumble over myself. So ...

19 CHAIRMAN WREN: And I would much rather  
20 predict that they're going to be able to agree on  
21 anything, too.

22 MEMBER MARNELL: Well --

23 CHAIRMAN WREN: And I -- and I agree --

24 MEMBER MARNELL: -- maybe they can boil it  
25 down to a final issue or two, and then we could take it



1 from there. But right now, this testimony could go on  
2 until -- well into next month, of back and forth, and back  
3 and forth about how to -- if we directed a constitutional,  
4 per-the-court, reappraisal for those years, how would they  
5 go about it?

6 It's not a matter of they agree about it or  
7 not, that we're asking them to do it. It's a matter of  
8 what is the right way to go about it, given the -- the  
9 constraints and the lapse of time that we have.

10 CHAIRMAN WREN: Yeah, and -- and I agree. And  
11 I agree that we want to do it right.

12 Because, like you guys, I don't care one way  
13 or the other. Like some of this other stuff, I don't have  
14 a dog in this fight.

15 MEMBER MARNELL: You want to get it right.

16 CHAIRMAN WREN: Yeah, I just want to get it  
17 right. I mean, the fact that I disagree with the -- with  
18 the arguments made before the Supreme Court, it's because  
19 I'm an appraiser, and they've misused the terminology.  
20 Okay? And -- but that's not neither here nor there. The  
21 Court's made that decision.

22 So, you know, how -- you know, and what the  
23 argument has been is: Okay, they did it  
24 unconstitutionally. That was the base. So everything is  
25 wrong.

1 Well, how do we fix that? And I'm just -- I'm  
2 not sure we can fix --

3 MEMBER MARNELL: I think --

4 CHAIRMAN WREN: -- the problem.

5 MEMBER MARNELL: I think that -- I think if  
6 both parties have an interest in not coming here any more  
7 and doing this, and they have a sincere interest on a  
8 reasonable compromise, that they can guarantee is -- is  
9 not going to come back and raise the issue again, which is  
10 going to take compromise between these two, to sit down  
11 and go -- look at it for those three years, off the base  
12 that I think we, as a Board, established, and try to build  
13 a methodology from there that the League can agree to,  
14 that the assessor can say is fair, and constitutional, and  
15 appropriate -- because we're talking about some years  
16 where there was some pretty big hikes in property prices.  
17 I mean, '04-'05, and '05-'06, and whatever the years that  
18 you stated --

19 CHAIRMAN WREN: But I --

20 MEMBER MARNELL: -- they're not -- there's  
21 some monster --

22 CHAIRMAN WREN: They were higher.

23 MEMBER MARNELL: -- jacks going on in there on  
24 real estate prices, and they need to be done right.

25 CHAIRMAN WREN: Right.

1           MEMBER MARNELL: So -- and I don't -- I don't  
2 believe that the -- that the argument of: Well, just give  
3 everybody their money back -- we've -- we've established a  
4 base here, and I think we should build on that, and that's  
5 my final comments.

6           CHAIRMAN WREN: Well, here's -- here's the  
7 other thing I guess we need to consider also, is that as  
8 far as the way the assessor's doing it now -- I think the  
9 assessors in all 17 counties, we've had them before us,  
10 they're all utilizing the appropriate methods and  
11 techniques.

12           I think that there's been regulations written  
13 that makes everything that they do constitutional. Okay?  
14 I think that we've -- at the end of day we've got that  
15 done.

16           It's my understanding that '03-'04, '04-'05,  
17 and '05-'06 are still in the court system. They're still  
18 being litigated. So you know --

19           MS. BUONCRISTIANI: Those aren't quite the  
20 years. Those years that you were saying --

21           CHAIRMAN WREN: Okay.

22           MS. BUONCRISTIANI: Do you want Suellen to say  
23 it?

24           CHAIRMAN WREN: What -- what years are still  
25 in the court system?

1           SUELLEN FULSTONE: Well, this case is still in  
2 the court system, that were all there, but the individual  
3 valuation cases for '03-'04 were completed with Bakst, for  
4 '04-'05 were completed with the Barta decision.

5           So the '05-'06 cases are still in the system,  
6 pending decision of this Court -- of this Board and  
7 whatever happens in this case.

8           CHAIRMAN WREN: Okay.

9           SUELLEN FULSTONE: So the -- you know, the  
10 '07-'08, those cases are still in the system, as well, but  
11 they're not at issue here.

12          CHAIRMAN WREN: Okay. So we're not -- so it's  
13 already -- '03-'0 -- '03 through '05 has already been  
14 through the court system, right?

15          SUELLEN FULSTONE: '03-'04, '04-'5 have been  
16 through the court system.

17          CHAIRMAN WREN: Okay. So now --

18          SUELLEN FULSTONE: To the -- yeah. They're  
19 not -- sorry. I didn't mean to interrupt. What?

20          CHAIRMAN WREN: They're done, right?

21          SUELLEN FULSTONE: The individual valuation --  
22 valuation cases for those years are done, yes.

23          MS. BUONCRISTIANI: I guess, to clarify,  
24 which -- which years are you seeking relief for? Could  
25 you refresh my memory?

1                   SUELLEN FULSTONE: Equalization relief for  
2                   '03-'04, '04-'05, '05-'06.

3                   And to the extent that any members of the  
4                   Board feel that they have a lack of information, I think  
5                   if the record were supplemented by the evidence that we  
6                   asked the Board to look at, which would be the cases that  
7                   were filed before the Board in '03-'04 and '04-'05 -- as I  
8                   said before, there are a number of those cases that did  
9                   not go beyond the Board decision.

10                  MS. RUBALD: Mr. Chairman, the number of cases  
11                  that -- in some of those years -- the most cases that we  
12                  ever had -- and I think that was '06 -- was like 1100  
13                  cases.

14                  There are 8700 properties up there. So  
15                  that's -- that's quite a difference, and I think the  
16                  information that you're looking for is what about those  
17                  that weren't appealed?

18                  MEMBER MESERVY: Yeah. That's why, again,  
19                  I -- I would rather hear from the county, you know,  
20                  because there weren't some appealed, and this is  
21                  equalization. It's not about individual cases, in my  
22                  view.

23                  CHAIRMAN WREN: I --

24                  MEMBER MARNELL: I agree. This is a  
25                  broad-based equalization discussion, not who appealed and

1 who didn't appeal, because they either got it, or didn't  
2 get it, or didn't want to do it.

3 This is a much broader thing as it pertains to  
4 Incline. The way I'm hearing the -- the request, it's not  
5 the whole state. It's still up in Incline.

6 CHAIRMAN WREN: Right.

7 SUELLEN FULSTONE: Yes. It's just that if you  
8 had that additional information, you would have more  
9 information, in terms of what was done at Incline for  
10 those years.

11 MEMBER MARNELL: Okay.

12 MS. RUBALD: Mr. Chairman, those cases, that  
13 she's referencing, were for those properties, not for the  
14 whole 8700 properties.

15 CHAIRMAN WREN: Right.

16 MEMBER MESERVY: That's right. Do we let the  
17 assessor comment to some of my questions?

18 CHAIRMAN WREN: I'm trying not to, but Dennis  
19 keeps insisting.

20 MEMBER MESERVY: Keep it short.

21 CHAIRMAN WREN: Do you have an answer?

22 JOSH WILSON: Mr. Chairman, I'm here at your  
23 pleasure. It was clearly adjudicated or at least  
24 discussed during 2007. Certain Village League petitioners  
25 received relief and others, primarily the condominium

1 owners, did not receive relieve, because they were  
2 subject -- not subject to one of the four individual  
3 methodologies.

4 And as to Member Marnell's comments about me  
5 and the Village League getting together and coming up with  
6 an agreement, that's not what we're here for. We've  
7 already done that. We're done. We're beyond that. We're  
8 here today because the State Board has repeatedly stated  
9 in its motions and briefs that no hearing has been held to  
10 equalize all properties values in the state.

11 The State Board has previously met to discuss  
12 how to implement the requirements of 361.395, but it has  
13 not held a public hearing during which taxpayers could air  
14 their grievances with the equalization process, nor has it  
15 affirmatively acted to equalize property values.

16 The State Board's failure to conduct public  
17 hearings with regard to statewide equalization has denied  
18 the Village League an adequate remedy of law.

19 When I indicated earlier that, umm, maybe the  
20 State Board did conduct equalization [sic], that was  
21 because I can't imagine with the Attorney General sitting  
22 with you that you didn't comply with 395.

23 Here it's just sounds like they're maybe  
24 wasn't a public hearing. I mean, it's hard for me to  
25 believe, throughout my tenure with the Assessor's Office,

1 and well before I became involved in the Assessor's  
2 Office, in 1999, that this Board has not complied with the  
3 statutory requirements provided for in 361.395, and that  
4 was the basis of my -- umm, my comments.

5 And perhaps we should ask the Attorney General  
6 or the Department of Taxation whether there were public  
7 hearings conducted during that time.

8 MS. BUONCRISTIANI: I'm not -- I'm going to  
9 respond to the effect that you have mentioned the Attorney  
10 General's Office, and I -- and this board has complied  
11 with the hearings that it has been -- that -- to the  
12 extent that we understood, and I understood, and the other  
13 attorney -- deputy attorney generals or senior deputy  
14 attorney generals who have argued the cases in front of  
15 the Courts, in the Village League, were following the law.

16 However, the Court has determined that there  
17 is a separate independent duty by the State Board to -- to  
18 equalize statewide. And in response to that, the  
19 department developed those regulations, and the -- the  
20 State Board approved the regulations for equalization  
21 hearings, separate and apart from contested cases.

22 MEMBER MARNELL: Dawn, I'm going to -- I  
23 don't -- Josh, I'm not sure if you're having a hard day  
24 with me today or what, but this isn't personal towards you  
25 at all.



1 But I'm going to read are this for the record  
2 so we're really clear on how I read what we've been asked  
3 to do.

4 "It is ordered, adjudicated, and decreed from  
5 the Supreme Court to the State Board that a peremptory  
6 writ of memorandum [sic] shall issue commanding that  
7 Nevada State Board of Equalization, the Board, to notice  
8 and hold a public hearing or hearings as may be necessary  
9 to hear and determine the grievances of property owners/  
10 taxpayers, regarding the failure or lack of equalization  
11 of real property valuations throughout the State of Nevada  
12 for the 2003-2004 tax year, and each subsequent tax year,  
13 to and including the 2010-2011 tax year, and to raise,  
14 lower, or leave unchanged the taxable value of any  
15 property for the property of equalization."

16 That is not a request to just have a  
17 broad-based discussion, let everybody say their piece and  
18 walk out the door. That is a request to take action, and  
19 no action, in their minds, is considered action.

20 So I want to make sure -- I think I'm very  
21 clear here today, that we either can raise them, lower  
22 them, or leave them unchanged. And what I threw out was a  
23 suggestion so we don't get it wrong, and we can get it  
24 behind us, was to follow the methodologies that the court  
25 ruled on before, and to have you guys go take a look

1 together.

2 So I don't think this is beyond us. We tried  
3 to let it go beyond us, and the court turned around and  
4 shoved it right back on our desk and said, "Go handle  
5 this." That's what this says.

6 So that's what -- what I'm trying to bring out  
7 is: Is there some sort of approach that the two of you  
8 can take, so we don't get it wrong and keep going in  
9 circular loops, spending taxpayers dollars on your  
10 attorneys, and spending more taxpayers dollars on -- or  
11 their dollars on their attorneys, and we can come up to a  
12 reasonable, fair, credible, constitutional resolution to  
13 this and put it behind us.

14 That's all I was trying to recommend. If  
15 your -- if your answer to that is no, I completely respect  
16 you for that. Just say no, you don't want to do that, and  
17 we'll have to do what we think is the best we can do with  
18 what we have.

19 But this is very clear to me: Take action  
20 because we don't want to. It's your guys' job. They're  
21 pushing it back here, and just saying, "We don't want to  
22 take any action" is a possibility.

23 But what I was trying to do was -- I don't  
24 think that's going to work, in my humble opinion. I think  
25 it's going to keep going in circles, and circles, and

1 circles, and if my kid's nominated for this Board he's  
2 going to be listening to this.

3 So I think that we should just come up with a  
4 fair solution, and maybe today's not the day. Maybe  
5 it's -- let's take a breather until March or take a  
6 breather until as long as we can and come back for a  
7 special meeting in Christmas or December, and maybe you  
8 guys have a resolution that you think is fair, that's  
9 constitutional, and we can be done.

10 That's all I was saying. I'm not trying to  
11 say you didn't do your job. Heck, I wasn't even around  
12 then.

13 So I don't know what I've done to offend you  
14 today. I'm not trying to piss you off. I'm just trying  
15 to get the -- get this done.

16 And if you if you don't want to do that, then  
17 that's fine, but that's the way I read it. If you read it  
18 differently, then -- I think you already said you do --  
19 then I respect that.

20 CHAIRMAN WREN: Okay.

21 JOSH WILSON: Chairman Wren, can I just  
22 respond?

23 CHAIRMAN WREN: Sure.

24 JOSH WILSON: I do not read the Supreme Court  
25 any differently than Member Marnell has read it to -- into

1 the record.

2 CHAIRMAN WREN: Okay. I -- I'm agreeing with  
3 both of you.

4 So the question is, Anthony, Dennis, Ben, do  
5 we want to take an action today? Do we want to leave them  
6 where they are, raise them, lower them?

7 MEMBER JOHNSON: I don't feel that I'm in a  
8 capacity today to make a decision relative to raising,  
9 lowering, increasing -- there's a lot of dollars at stake  
10 for the taxpayers here, and that's something that I  
11 think's a real burden of this Board to get it right.

12 So I think that we -- I would support what  
13 Mr. Marnell has been saying, where maybe -- I think we  
14 need a subsequent meeting, unfortunately, where we try and  
15 understand the problem. Right now it's been very high  
16 level. We haven't identified what parcels -- or maybe  
17 we're doing all 87 [sic] parcels in Incline Village and  
18 Crystal Bay, but we need to identify what the problem is  
19 and what the potential solutions are within the confines  
20 of this writ that's been issued to us, and figure out how  
21 to comply with it.

22 I would be very uncomfortable with not giving  
23 them their due process in not complying with this writ as  
24 I understand it.

25 CHAIRMAN WREN: And I don't necessarily

1 disagree with that, but I'm not sure that's reasonable.  
2 We don't have the time to go through 8700 properties and  
3 make those decisions. I mean, we -- it's just is not  
4 going to happen.

5 MEMBER MESERVY: Personally, I don't think  
6 that just getting another meeting is going to resolve  
7 this, because I've been on this Board long enough to know  
8 that that's not going to be the solution.

9 But if, you know, they were able the identify  
10 and have -- have a listing of which ones that they all  
11 agree and then -- have they them and they could point them  
12 out in some reasonable chart or something that everyone  
13 agreed, on both sides, these are the properties in  
14 question, and then how they relate or don't relate to the  
15 other properties, and there -- but it just -- to me, you  
16 need to reassessment.

17 So, I mean, I -- I, personally don't see a  
18 need to even change anything, and I'd be willing to vote  
19 information that today, because I -- I just feel like I  
20 don't see where we're going in the right direction with  
21 this. And I don't think that -- I -- I don't really  
22 believe that we're there -- today we're actually going --  
23 we're in the right direction.

24 And I don't think that we're going to ever be  
25 qualified to know how to reappraise it without

1 reappraising it, and I don't see that -- that being the  
2 option.

3 CHAIRMAN WREN: And which ones? There's 8700.  
4 And that's why I started to turn to the assessor and ask  
5 him how many of those did he think that the -- any  
6 unconstitutional methodologies were utilized on them, and  
7 I'm not sure if he would know.

8 But if he came up with a number, I think the  
9 other side would disagree. I mean, nobody's agreed any  
10 place on either side of these tables in the five years  
11 I've been on this thing. And I understand what the Court  
12 has said, to start off with, with the original ones. I  
13 understand what the judge has told us to do now, which was  
14 hold these hearings and make a decision.

15 And, you know, I'm not -- I'm like Dennis at  
16 this point. I'm not convinced that there's been testimony  
17 on either side, either today or any of our hearings in the  
18 past, that -- that the assessor has utilized  
19 unconstitutional methods and/or assessed higher than --  
20 than full cash value.

21 And I -- I know, my concern is -- not my  
22 concern, but my -- my comment earlier is: If it was even  
23 possible for the assessor to go back and reappraise these  
24 properties, as Anthony is indicating, utilizing whatever  
25 methods everybody can agree on, which I doubt that they

1 can agree on them, I doubt his numbers would change.

2 So my whole point is regardless of what we do,  
3 I'm not sure the numbers are wrong.

4 MEMBER MARNELL: Mr. Chairman, it seems like  
5 the only way to do this in a quick and painless -- not  
6 painless --

7 CHAIRMAN WREN: This is painful.

8 MEMBER MARNELL: No, it is. It's  
9 disheartening, too, at the same time for me.

10 Umm, to go back and look at the -- the base  
11 year that we established as the last year of  
12 constitutional, and come up with some agreed-to method of  
13 increase based on that market area.

14 That's my concern is that that methodology  
15 would be simple. It would be fairly easy to work through.  
16 It would be -- it would be close to fair. And then all of  
17 a sudden it's not constitutional. The only way to do this  
18 constitutional is to go reappraise them all.

19 CHAIRMAN WREN: I kind of agree.

20 MEMBER MARNELL: And do it under the laws that  
21 were approved at the time.

22 CHAIRMAN WREN: Well, they can do -- they  
23 can --

24 MEMBER MARNELL: Unless you have a different  
25 idea.

1 CHAIRMAN WREN: They could go back to -- they  
2 could go back to '02-'03, do a sales ratio study, in  
3 you -- know, my -- again, even saying that, is -- we're  
4 just talking of Washoe County here. What -- what about  
5 the other 16 counties?

6 I'm telling you that if I asked all 17  
7 assessors if they've ever made a time adjustment, they're  
8 going to say, well, yeah, of course, I did. What are we  
9 going to do about that?

10 MEMBER JOHNSON: Can we limit that in any way,  
11 because we made a public hearing, which we're hear at  
12 today, as part of, and here's the objections we received,  
13 and if we didn't receive your objections, then you're not  
14 part of what we're going to be looking at this time? Is  
15 that any way to limit it down, Mr. Chairman?

16 CHAIRMAN WREN: As far as counties?

17 MEMBER JOHNSON: Yeah, and as far as counties  
18 that we're looking at.

19 CHAIRMAN WREN: Yeah, probably. You know,  
20 we've already given the taxpayers -- we've noticed all the  
21 taxpayers for -- to a public hearing, to give them an  
22 opportunity to speak, and they have, and again they have  
23 again today.

24 But the thing is there's -- I think we need to  
25 try to make a decision, and the best decision we can.



1 They can appeal it to the court if they want, but we will  
2 have done what the court has ordered us to do.

3 MEMBER MESERVY: Yeah, I -- I agree. I don't  
4 think that we're going to get -- get any solution by a  
5 continuing with what we have without reassessing  
6 everything, and I personally -- I wasn't there as -- on  
7 the Board at the time, but I personally, from what I've  
8 seen of this, I -- I would be very surprised if there is a  
9 major equalization problem outside of this area and within  
10 that area, based on what I've seen.

11 Umm, and that's where I'm -- I personally have  
12 seen a lot. I haven't been around during all those years  
13 in those cases, but I have seen a lot since, and I can  
14 tell you, I haven't seen anything that would make me  
15 recognize that, on -- on my limited knowledge.

16 CHAIRMAN WREN: On the other side, you know,  
17 I -- I guess the way I'm leaning is I would -- I would  
18 entertain a motion that we take no further action at this  
19 point.

20 SUELLEN FULSTONE: Before the Board makes its  
21 decision --

22 CHAIRMAN WREN: No, no.

23 SUELLEN FULSTONE: -- could I --

24 CHAIRMAN WREN: No. Thank you very much.

25 MEMBER MESERVY: And that would be my motion

1 is that we don't take any -- any change, and no further  
2 action on this, based on all the information, and the  
3 conversation, and all the gathering of the public  
4 hearings, and what we've had, regarding this matter, and  
5 there's been a awful lot of information.

6 CHAIRMAN WREN: Exactly. You know, and I have  
7 no problems -- I mean, this is still in the court system.  
8 If -- if the Village League and Incline can get with the  
9 Washoe County Assessor's Office and come up with a  
10 suggestion that would make everybody happy, as it goes to  
11 litigation, they can bring that to us in March.

12 MEMBER MESERVY: I -- I believe there's way  
13 more than adequate information to make a decision, and my  
14 thoughts are that there really isn't an equalization issue  
15 of a magnitude that we're trying to declare on the  
16 plaintiffs' -- the petitioners' part in the past on this  
17 issue, or on the -- on the public in that area.

18 But I -- that's just my opinion. That's what  
19 I've always had as an opinion being a member of this  
20 Board.

21 CHAIRMAN WREN: Is there a motion? Do I have  
22 a second?

23 Dies for lack of a second.

24 MEMBER MARNELL: The reason I don't second  
25 it -- and maybe I'm confused on the information, but I

1 think the methodologies that were deemed unconstitutional  
2 are well within the years that we're talking about. It's  
3 already been decided. Maybe I missed that.

4 CHAIRMAN WREN: That utilized them?

5 MEMBER MARNELL: That they utilized methods  
6 are -- that have not been determined, that still has to be  
7 determined. Is that the issue that? I -- maybe I'm not  
8 connecting.

9 CHAIRMAN WREN: The court -- the court has --  
10 my understanding, the court has not ruled that anything  
11 was unconstitutional other than '02-'03.

12 MEMBER MESERVY: You know --

13 MEMBER MARNELL: Do you concur with that,  
14 Dawn?

15 MS. BUONCRISTIANI: No. There was a case, the  
16 subsequent year, '03-'04, used unconstitutional methods.  
17 And then 04-'05, in the Bakst case, they tried to use a  
18 factor on the base year or the year that was -- where the  
19 unconstitutional methods were used, and the court said,  
20 no, that's not going to work.

21 MEMBER MESERVY: And again --

22 MS. BUONCRISTIANI: In the other case -- the  
23 other years, as Ms. Fulstone said, are still in the courts  
24 waiting to see, because this -- this case pretty much  
25 encompasses those -- those individual cases that are in

1 the -- those individual cases -- cases within the courts  
2 that are being -- I think they're stayed right now, the  
3 other ones; aren't they?

4 I'm not sure if -- I don't have them. I'm not  
5 sure, but the ones I have are stayed.

6 And Ms. Fulstone is indicating "yes."

7 MEMBER MESERVY: My thoughts aren't that  
8 they -- that they weren't unconstitutional. My thoughts  
9 are equalization.

10 And that -- that's different than just saying  
11 that they're unconstitutional methodologies. Was  
12 it equalized? I believe that it was. I -- I really do,  
13 based on everything I've seen. I -- I think even though  
14 they used wrong methods, I still don't think they're that  
15 far off, that it was unequal throughout the state and  
16 throughout the area.

17 MEMBER MARNELL: You just -- if you're  
18 agreeing that they were unconstitutional methods, then  
19 they didn't follow the law.

20 MEMBER MESERVY: And we have the right to  
21 know -- we -- we agree with that, but we also have to know  
22 that if they didn't follow the law, in the cases that  
23 were -- I'm aware of and in the information I've been  
24 presented, did that make it unequal? And that's what I'm  
25 here for.

1 I'm not here to say umm, that that -- what I'm  
2 saying, even though they didn't follow the law, to me, it  
3 doesn't justify this -- and from the information I've  
4 received, that we need the make a change. That's what I'm  
5 saying.

6 MEMBER JOHNSON: What I struggle with a little  
7 bit here is I -- we don't know what the outcome of these  
8 methods, that have been ruled unconstitutional, is.

9 We don't know what would happen if these  
10 properties were reappraised using statutorily correct  
11 methods of valuation that -- I just have a hard time  
12 making a broad-based decision that, well, it looks close  
13 enough, we're going to go with it.

14 I -- I'm just trying to think of some way that  
15 we can do this in an expeditious manner, but also give  
16 some more consideration, I just don't -- I don't -- I  
17 don't feel like I understand, specifically with what  
18 properties have grievances, what the specifics are, and  
19 how it would affect if we remove these unconstitutional  
20 methods that were used.

21 MEMBER MESERVY: Well, if we have the data, I  
22 guess we could do another study, and that's basically what  
23 we could require.

24 I'm not certain that all the counties would  
25 have all the right information to make that adequate, and

1 that's why I think it would be unequal to do it when we  
2 don't have the right data, than to actually go back and --  
3 and make severe changes.

4 CHAIRMAN WREN: Well, it's something that  
5 complicates it also is -- you know, we're talking about  
6 8700 properties in this line, you know, if -- if in fact,  
7 The incline. The Washoe County Assessor's Office used  
8 unconstitutional terminology or methodology, he did it in  
9 the entire county: Gerlach, Reno, Sparks. Okay? So we  
10 can't just, you know -- just can't necessarily focus on  
11 Incline Village.

12 MEMBER MESERVY: Can't do it.

13 CHAIRMAN WREN: So ...

14 MEMBER MESERVY: I mean --

15 CHAIRMAN WREN: And I don't -- you know, I --  
16 I agree that I want as much information as possible, but  
17 also I don't have hearing, after hearing, after hearing,  
18 after hearing, after hearing for everybody to stand up and  
19 saying: Everybody has done everything wrong. Okay?

20 I guess if we have another hearing then I  
21 would have to require the assessor to bring us the exact  
22 parcels that those methodologies had been used on, and  
23 have anybody who wanted to dispute that if, they wanted  
24 to.

25 I mean, we can go back and forth, and back and

1     forth, and back and forth. We're not getting any place  
2     and --

3             MEMBER JOHNSON: I think we do need to limit  
4     it. At this Board that issue has gone on far longer than  
5     it should. I think we all agree.

6             I would be in favor of a meeting, but let's  
7     limit it. I would like to hear from the assessors, hear  
8     what they've done. I would like both sides to come up --  
9     to us with a proposed compromise. They know what  
10    constraints we're under.

11            I would like to put the burden back on them  
12    and say: You were -- you're here today. You hear why  
13    we're struggling. I wouldn't mind giving each of them the  
14    opportunity to come up with a proposed solution here,  
15    given our constraints, and maybe we adopt one side, maybe  
16    we adopt the other, or maybe we mix and match.

17            But I think I -- I just think I need at least  
18    another hearing to be able to competently comply with my  
19    duties as a member of this Board to make a decision.

20            MEMBER MESERVY: And you're the new member on  
21    the Board, and obviously you haven't been around for a  
22    this, but I -- I can tell you that I -- everything I've  
23    seen, I don't see a compromise, and nor am I feeling like  
24    they need to come up with it.

25            I think the -- the Supreme Court has told us

1 to move it up or down or keep it the same.

2 I think it's our responsibility when all the  
3 chips are -- are placed in front of us, when we get all  
4 the information placed that we want to, and in every case  
5 we've been limited as to seeing all the data.

6 And in every case it's valuations, and there's  
7 been various issues. When we have -- individual cases or  
8 as an equalization, we've never seen all the data that  
9 we've ever wanted. It's always short.

10 At some point we've got to decide we've seen  
11 enough, and we've got to make a decision, and it should  
12 rest on this Board, because we have been given that  
13 commission through a judge.

14 CHAIRMAN WREN: Well, when Anthony asks the  
15 question, at the last hearing, what the taxpayer wanted  
16 is what they -- if I remember relatively correctly, is to  
17 have us put it back to the base year and just apply a  
18 factor for the years going forward.

19 MEMBER MARNELL: That's the only reasonable  
20 way that this will ever happen. I don't disagree with  
21 what Ms. Fulstone said.

22 The question is: What's the factor? Let them  
23 go agree on a reasonable market factor for the people that  
24 are in this case. I -- I'm not at all suggesting going  
25 across Washoe County.



1 I'm suggesting the people that are in the  
2 system, that have the appeal in the issue, that are before  
3 us, they are the appellants. They have spoken for the  
4 four years we have been here. If the others had an issue,  
5 they'd be down here. They're not. And so they must not  
6 have an issue.

7 So I look at it Mr. Chairman, as to -- I don't  
8 see any other reasonable way, if we are going to take an  
9 action other than no action, that that would be -- that  
10 methodology -- can they go agree on a factor on those  
11 years of increase, starting from the last constitutional  
12 year to get through '03, '04, '05, and '06 for the people  
13 that are in the appeal process.

14 I don't think her recommendation was a bad  
15 one. I think it's reasonable from the perspective of it  
16 doesn't take a lot of time, in the sense of you're not  
17 going to go reappraise 10,000 homes. You're going to take  
18 what's -- what's in the appeal process and apply a factor.

19 And that was what I was basically trying to  
20 say. Could the two come together, so we can have this  
21 done in a way that -- you know, Josh can stand up and say,  
22 "You know, that's a fair factor. That's how much property  
23 increased in Incline over this period of time," and  
24 Ms. Fulstone can say the same thing, "Yeah, it's a fair  
25 factor. You now, it didn't go up 100 percent. It really

1     went up 40."

2                     They can figure that out.  It's  
3     constitutional.  It's done consistently for the people  
4     that are in the bucket.

5                     CHAIRMAN WREN:  Well, I think we can keep it  
6     constitutional.  I think we can do that.  I think we can  
7     take it back to that base value and have the Department of  
8     Taxation give them that factor, predicated order their  
9     information, and that way -- that way it's constitutional.

10                    MEMBER MESERVY:  Then the only -- I agree with  
11    that, and the only thing I'm concerned about is when we  
12    limit it to Incline Village, I think we're going to --  
13    we're going to create a new method that might not be --

14                    CHAIRMAN WREN:  Well, nobody else has told us  
15    they were out of the equalization besides this.  I mean,  
16    it's -- you know, we've had -- where we've had in the  
17    neighborhood, where we've said, okay, these people on this  
18    block, okay, we're going to change everybody in the block  
19    the same way.  Okay?  Because that's how the question was  
20    raised.

21                    So, you know, let's just -- let's see what  
22    happens.  I'd entertain a motion that we take it back to  
23    base value 2003, that it was ruled constitutional.  The --  
24    we'll direct the state to provide the factor, and factor  
25    it forward through all the contested years, up through --

1 I'm not sure -- they didn't appeal last year, right?

2 MS. BUONCRISTIANI: I think that Ms. Fulstone  
3 could correctly identify the years she's speaking of for  
4 the Incline Village/Crystal Bay. If you --

5 JOSH WILSON: Mr. Chairman, can I say  
6 something before you vote on any motion?

7 CHAIRMAN WREN: Let me have this answer first,  
8 please. Just the years, please.

9 SUELLEN FULSTONE: '03-'04, '04-'05, '05-'06.

10 CHAIRMAN WREN: Okay. Real quick.

11 JOSH WILSON: The assessor has no desire to  
12 increase any of those value years referenced through the  
13 application of any factor that the department may provide.

14 I don't think the -- what? I guess we've got  
15 roughly 1400 authorizations. We're talking 8700 people.  
16 I don't want to see any of those other 6500 or plus --  
17 7,000 people have their value increased potentially when  
18 they don't even know any of this is going on. That  
19 doesn't seem fair.

20 And I think you also have 17 taxpayers that  
21 have been truly adjudicated for '03-'04 through the  
22 Supreme Court, and I can't imagine applying any factor to  
23 those 17.

24 So no matter what you do, you end up in a  
25 quandary, unless you do, as suggested by Ms. Fulstone,

1 which is adjudicate the '03-'04, the 04-'05, and the  
2 '05-'06. The '05-'06 was adjudicated in the manner in  
3 which we agreed to where you roll it back and apply the  
4 Tax Commission factors.

5 That's how Norm Azevedo suggested we resolve  
6 this for -- at least for his clients, and that's how we  
7 did resolve the individual petitions for '06-'07, as well  
8 as '07-'08, for those properties that were subject to one  
9 of the four contested methodologies, and many of  
10 Ms. Fulstone's clients received relief through that.  
11 However, the condominiums weren't.

12 CHAIRMAN WREN: Okay. So --

13 MS. BUONCRISTIANI: I do have a suggestion to  
14 address Josh's concern, and that is that it would -- if it  
15 results in an increase in value, then it's -- is this what  
16 you're saying? If it results in an increase in value,  
17 then you wouldn't apply the factor? It would remain the  
18 same or some such thing?

19 JOSH WILSON: That is --

20 MS. RUBALD: How is that equalization? How is  
21 that equalization?

22 MEMBER MESERVY: That's not equalization,  
23 yeah.

24 MS. BUONCRISTIANI: Because the statute says  
25 they can't raise values if -- unless they are noticed and

1 those people --

2 MS. RUBALD: Well --

3 MS. BUONCRISTIANI: -- would have to be

4 noticed to come in, whoever it is.

5 CHAIRMAN WREN: Okay. So we can take no

6 action, too.

7 THE REPORTER: We can take a break.

8 CHAIRMAN WREN: Okay. You need a break?

9 THE REPORTER: We've been on the record for

10 two hours and ten minutes.

11 CHAIRMAN WREN: Well, okay. Let's take a

12 short break. You guys are going to miss your flight.

13 (Proceedings recessed from 3:11 p.m. until 3:25 p.m.)

14 CHAIRMAN WREN: Okay. We're back on the

15 record.

16 Okay. Anthony?

17 MEMBER MARNELL: Do you have a question for

18 the assessor real quick?

19 CHAIRMAN WREN: Yes. Josh? I don't know who

20 will, but if we were to ask you to give us a specific

21 number and parcel numbers for parcels in Incline Village,

22 that you've utilized these methods on, would you be able

23 to do that, these contested methods?

24 JOSH WILSON: Thank you, Mr. Chairman. Josh

25 Wilson.

1 I believe that we could provide the  
2 neighborhoods that the -- the neighborhood and condominium  
3 complexes, which would show whether one of the four  
4 contested methodologies was used.

5 CHAIRMAN WREN: Okay.

6 MEMBER MARNELL: My followup question to  
7 Mr. Wilson is: What kind of effort is involved in that?

8 JOSH WILSON: It would certainly be some  
9 effort, but at the same time this was the exercise that we  
10 took up -- took -- that we utilized for settling the  
11 individual '06-'07 and '07-'08.

12 So we could certainly to -- to do that. I  
13 think, what you may hear from the other side is: Well,  
14 you still have some at this level and some at here. Is  
15 that equalization?

16 But I -- I don't know. So -- but, yes, we  
17 could certainly provide that information to this Board.

18 CHAIRMAN WREN: You asked for it. Okay.  
19 Thank you.

20 MS. RUBALD: Mr. Chairman, could I just ask:  
21 Are we -- you mentioned condominiums specifically. Does  
22 that mean every single-family residence and commercial  
23 property used one of the four methodologies?

24 JOSH WILSON: Umm, I don't believe the Bakst  
25 decision was -- was application to any commercial

1 property. What it would be is -- and I can tell you off  
2 had top of my head, every free-standing single-family  
3 residential neighborhood in Incline Village and Crystal  
4 Bay, free-standing -- not a condominium, free-standing.  
5 Those neighborhoods utilized one of the four contested  
6 methodologies. So those are the 2500 or so tax-paying  
7 parcels, because the majority -- there's a lot of that  
8 that is owned by the State of Nevada.

9 When you move over to the condominium side,  
10 what you'll find is, I think, there was roughly 4,000  
11 condominiums up there, and there was a little bit over  
12 3100 -- 4,000 parcels of condominium, and roughly a little  
13 over 3100 of those were not valued using one of the four  
14 contested methodologies.

15 MEMBER MESERVY: My concern is, though, what  
16 about Reno and other areas? What -- how many do we have  
17 over there? Do we even know?

18 JOSH WILSON: You won't have any with a view  
19 classification system of Lake Tahoe, because you can't see  
20 the lake from anywhere in the valley. That's why we  
21 developed that view classification.

22 And actually I don't know even know if I  
23 should have answered that. I'm not sure any of those  
24 people are here before you, so I -- I can't talk.

25 MEMBER MARNELL: I have some thoughts on that.

1 I think that, number one, Josh, right there I  
2 think just honed it down for me in making me feel very  
3 comfortable, and this doesn't apply outside of Washoe  
4 County or outside of Incline, for that exact factor.

5 If you can't see the lake, then let's move on.  
6 I'm not comfortable going outside the lake, anyway,  
7 Mr. Chairman.

8 CHAIRMAN WREN: I can see Russia from my  
9 house.

10 MEMBER MESERVY: On the computer?

11 MEMBER MARNELL: We should have made that 3:55  
12 plane.

13 CHAIRMAN WREN: Go ahead.

14 MEMBER MARNELL: Well, in saying that, in my  
15 opinion if we want to get this right and have it be equal,  
16 I was going a different direction, but I'll throw out the  
17 two paths that I see.

18 One is to take the people that are in  
19 Ms. Fulstone's group, meaning the League -- and the reason  
20 I was originally going down that path was because I still  
21 believe -- and I may be wrong, but my belief says to me  
22 that you -- there is a due process that we provide here in  
23 the state.

24 We stick to that every day when we do what we  
25 do. If you don't appeal properly, if you don't appeal on



1 time, if you don't take the time to follow the public  
2 process that's been laid out for you as the public, then  
3 I'm not sure that you should be considered if you're not  
4 going to take the time to follow your due process rights.

5 Now in saying that I understand that our job  
6 is to equalize broad-base, and based on the question that  
7 you asked the assessor, Mr. Wilson, that it would be some  
8 work, but I got to -- I've got a feeling of confidence  
9 from him that while it would be some work it would be  
10 accurate.

11 And that we would be assessing or we would be  
12 looking at all of those affected, not just the people that  
13 are appealing, and it would be a very fair and equal  
14 approach to everybody in Incline.

15 I'd like to ask Ms. Fulstone just one simple  
16 question, and it's "yes" or "no." And if you say, "no,"  
17 then I guess you could talk, Mr. Chairman.

18 Do you agree with that? Does that include  
19 your group? Is that okay, Mr. Chairman? I mean, I'm  
20 close to making a motion.

21 CHAIRMAN WREN: It sounds like a yes-or-no  
22 answer to me.

23 MEMBER MARNELL: To go back and understand  
24 everybody who had this methodology used, not just who's in  
25 your group, but everybody involved?

1                   SUELLEN FULSTONE: I think that that's a way  
2 to approach this. I also represent owners of  
3 condominiums, and I think there are probably only remain  
4 two issues -- but I think -- I think that it certainly  
5 solves a large part of the problem to ident -- and  
6 Assessor Wilson is right. We did do this for '06-'07 and  
7 '07-'08 -- settled '06-'07 cases on this -- on this basis,  
8 and the condominium -- individual condominium valuation  
9 cases pursued their rights in court, which remain  
10 undetermined, but --

11                  CHAIRMAN WREN: Is "yes" or "no" in your  
12 vocabulary?

13                  SUELLEN FULSTONE: You know, "yes" or "no" is  
14 in my vocabulary. Yes, it is.

15                  CHAIRMAN WREN: Okay. Very good. That  
16 answers that.

17                  SUELLEN FULSTONE: But there are -- there are  
18 questions that don't allow for a yes-or-no answer --

19                  CHAIRMAN WREN: That's what he asked for.

20                  SUELLEN FULSTONE: -- if it's honest.

21                  CHAIRMAN WREN: Thank you very much.

22                         That's all he asked for was a "yes" or "no."  
23 So every once in a while let's just go what we ask for,  
24 just for the fun of it. Thank you very much.

25                         Anthony?

1 MEMBER MARNELL: Well, what I guess I want to  
2 make sure is that -- I thought I heard Josh say that there  
3 was about 1,000 condominium people involved in this, as  
4 well, that -- where it was not equally assessed, 4,000.  
5 4,000 parcels -- can you -- can I get that reclarified?  
6 JOSH WILSON: Yes. There was roughly 4,060  
7 total condominiums up at the lake. 3158 of those were not  
8 subject to one of the four methods, and I'm showing 902  
9 condominiums were subject to one of the four methods.  
10 MEMBER MARNELL: Okay.  
11 MS. RUBALD: Mr. Chairman? Could I add one  
12 thought.  
13 CHAIRMAN WREN: Okay.  
14 MS. RUBALD: After you find out which  
15 properties had one of the four methodologies applied to  
16 them, and then whatever you decide to do with them, do you  
17 still then have an equalization problem with those that  
18 did not have any of those methodologies applied?  
19 And that's where a sales ratio study comes in,  
20 so that you can measure, by area, whether they're within  
21 the range that is provided for in 361.333. It's a  
22 two-part process.  
23 MEMBER MARNELL: But let me ask a question on  
24 that. That's a good point, Terry. That will round out  
25 the remainder of this, at least in my head, is that if

1 they weren't done with one of the unfour [sic]  
2 unconstitutional methods, then I would have to assume that  
3 they were done constitutionally, and those property tax  
4 people -- those property taxpayers did not appeal, and  
5 their dues -- due process rights have passed. That would  
6 be the counter to that.

7 MS. RUBALD: Except I'm still going on what  
8 your regulation says about what the definition of  
9 "equalization" says, and it's not only the methods used  
10 but whether it reaches the proper level of assessment.

11 Because if you remove some of those methods,  
12 you could result in a value that's either too high or too  
13 low.

14 MEMBER MARNELL: So it wouldn't be removing  
15 methods from people who had constitutional assessments.

16 MS. RUBALD: Well, that's true. So they're  
17 going to -- they're going to presumably be already within  
18 the range.

19 But what about those that had these  
20 unconstitutional methods applied? You remove the effect  
21 of that, you come up with a new value. Is that value  
22 within the range of the level of assessment? And the only  
23 way you can do that for land for market value is to do a  
24 sales ratio study.

25 MEMBER MARNELL: Do you have any thoughts on

1 that before I make my motion?

2 CHAIRMAN WREN: No, make your motion.

3 MEMBER MARNELL: I guess that's a no.

4 Well, Mr. Chairman, based on all the evidence  
5 provided, I don't believe in my heart there's any perfect  
6 solution to this, and if anybody wants a perfect solution  
7 to this, that they probably need to go to the alter, and  
8 there they might have a hard time find it.

9 So I'm going to do the best I can with the  
10 information that I've been given to me, and I'm going to  
11 make a motion that we -- for the -- I want to be specific  
12 here -- for any taxpayer within Incline and Crystal Bay  
13 that was unconstitutionally assessed for the '03-'04,  
14 '04-'05 and '05-'06 years -- and I'll be specific about  
15 those that were testified to, and I believe that would be  
16 all single-family residences and approximately the 902  
17 that were subject to unconstitutional methods -- that,  
18 number one, my motion would be first that the assessor  
19 confirm that that data is accurate, and those people who  
20 were unconstitutionally assessed.

21 Part two is that we would go back to the last  
22 constitutional year, which I believe is the '02-'03 years;  
23 is that correct?

24 JOSH WILSON: (Nodding)

25 CHAIRMAN WREN: I believe so.

1                   MEMBER MARNELL: Okay. And from there, on  
2 those particular parcels, we would -- would have the  
3 Nevada Tax Commission apply the factor, so this is an  
4 objective factor of increase to those particular parcels  
5 starting from the '02-'03 year, and each year they would  
6 apply that factor going forward for the next three years.

7                   MEMBER MESERVY: What factor?

8                   MEMBER MARNELL: Whatever the factor is. They  
9 know it. They know exactly -- they should know what it  
10 is.

11                  CHAIRMAN WREN: They -- they will have to do a  
12 sales -- they'll have to do a sales ratio study.

13                  MEMBER MARNELL: Then could --

14                  MS. BUONCRISTIANI: Could I cut in just for a  
15 second. There's a factor -- there was a factor, as Josh  
16 mentioned, I think, approved by the Tax Commission, was  
17 that used on the settlements?

18                  JOSH WILSON: Yes, it was, for '04-'05 the  
19 factor was 1.0, and on '05-'06 the factor was 8 percent.

20                  SUELLEN FULSTONE: 8?

21                  JOSH WILSON: Thank you.

22                  MEMBER MARNELL: Was there a percent for  
23 '03-'04?

24                  JOSH WILSON: '03-'04 would be established as  
25 '02-'03, so that was a reappraisal year. That's what

1 we're discussing now is that '03-'04 reappraisal.

2 MEMBER MESERVY: Which means --

3 JOSH WILSON: So essentially the way I see it,  
4 under the motion, if I understand it correctly, and if you  
5 followed the manner in which it was settled for '06-'07  
6 and '07-'08, you roll back '03-'04 to '02-'03.

7 And then for '04-'05 you would apply a 1.0 to  
8 the already- rolled-back prior year.

9 And then for '05-'06 you would apply the  
10 8 percent factor, approved by the Commission, to those  
11 properties that were subject to one of the four contested  
12 methodologies, which I think '05-'06 is -- that's how we  
13 already have adjudicated '05-'06.

14 But I think what's pending in count -- well,  
15 there's an interesting case, but I think it's those  
16 condominiums that weren't subject to one of the four have  
17 continued to move forward through the process, but as  
18 you -- okay.

19 MEMBER MARNELL: Then again -- go ahead.

20 MEMBER MESERVY: Before you do your motion,  
21 I -- I just want to be clear. So he's talking about that  
22 area -- when did you '06-'07, was it just these ones he's  
23 talking about or was it the full area of Incline Village  
24 and --

25 JOSH WILSON: It was for any individual

1 petition filed to this Board.

2 MEMBER MESERVY: Just the petition?

3 JOSH WILSON: Just the petition.

4 MEMBER MESERVY: Not anyone else. I want to  
5 make sure I'm clear on that.

6 JOSH WILSON: Right.

7 MEMBER MARNELL: So anyway in -- in saying all  
8 of that, the '03-'04 year, then, the factor would be the  
9 '02-'03 year.

10 The '04-'05 factor would be 1 percent.

11 And the '05-'06 factor would be 8 percent.

12 I also would like to include, per the  
13 directive of Judge Flanagan -- I believe it's in the writ  
14 on page 2, where it says, "that if the Board proposes to  
15 increase the valuation of any property on the assessed  
16 role of any county, it shall comply with the provisions of  
17 NRS 361.3952."

18 So I just want to make sure that as we go  
19 through this, that if there are increases to anybody's  
20 taxes in those years, that we comply with this provision  
21 as we were directed.

22 Does anybody have a problem with anything that  
23 I've said, before I say "that's my motion"?

24 MEMBER MESERVY: Before you do, when he says  
25 1.0, is that 1 percent? I didn't think so.



1 JOSH WILSON: It's a -- it's a 1.0 which is --  
2 MEMBER MESERVY: Yeah, 1 -- so no change.  
3 JOSH WILSON: Correct.  
4 MEMBER MESERVY: Not 1 percent. So I would --  
5 MEMBER JOHNSON: I would -- I want to  
6 understand how, between '02 and '04, property values  
7 didn't increase at all. In the lake portion of the Washoe  
8 County I've seen a lot of evidence to the contrary to that  
9 that would bother me. I don't know what it's based on.  
10 JOSH WILSON: It was based on the land factors  
11 approved by the Nevada Tax Commission through the Land  
12 Factor Analysis provided in 361.260.  
13 MEMBER JOHNSON: Okay.  
14 MEMBER MARNELL: And I agree with you on your  
15 concern there. I'm just going off a basis that's already  
16 been established by the Tax Commission.  
17 So the next time Ms. Fulstone has a problem,  
18 maybe she can go see them on their factor problems. I'm  
19 just kidding. So that -- I guess if I can summarize that,  
20 Mr. Chairman, at the end of the day, my motion is -- is  
21 to -- and I'll try to be as clear as I can --  
22 approximately 900 multi-family residences, which  
23 Mr. Wilson will go take a look at to confirm that they --  
24 one of the four methods were used, same thing on all the  
25 single-family residences in Incline and Crystal Bay.

1           If that is the case, he will role them back to  
2     the '02-'03, which is the last constitutional year, and  
3     provide the factors that we've stated by the Nevada Tax  
4     Commission, and we will follow the Judge's writ per the  
5     NRS 361.3952, that if anybody's taxes are increased we  
6     will follow that Nevada Revised Statute.

7           And that's my motion.

8           CHAIRMAN WREN: What for the years -- for the  
9     years up through and including '05-'06.

10          MEMBER MARNELL: Yes, I don't believe that  
11     there's any reason to go beyond '05-'06.

12          CHAIRMAN WREN: Right. Okay.

13          MEMBER MARNELL: Those have been settled. I  
14     think there have been changes to the law since then. All  
15     kinds of things have happened, and I don't believe that's  
16     what's on the table in this request.

17          MEMBER MESERVY: So just so I'm clear -- just  
18     so I'm clear, it's not just those who -- who appealed,  
19     then, is what you're saying?

20          MEMBER MARNELL: What I -- I -- I want this to  
21     be equal for all those who had an unconstitutional  
22     appraisal. That's what -- that's what my motion is based  
23     on.

24                 I originally was -- like I said, originally, I  
25     was going down the path of only the people that were

1 before us, that followed their due process rights, and  
2 went through this lengthy process to be here until today.

3 But with feedback and comments from all of  
4 you, I think it's better that we clean this across the  
5 board, once -- for anybody who had this. It's the best I  
6 can do with what I understand.

7 MEMBER MESERVY: And I -- and I like what  
8 you're saying. One last thought, though, is -- then will  
9 this backfire if it goes outside of -- to other people  
10 outside of the area of just -- of just Incline Village and  
11 Crystal Bay?

12 MEMBER MARNELL: I don't think it does, and I  
13 think that Mr. Wilson's testimony is -- is accurate,  
14 because a large portion of these, if not all of these, the  
15 view form was used.

16 And if you don't have a view of the lake or  
17 you're not -- I don't believe -- none of those people have  
18 been here before us, ever, on any of these issues. I'm  
19 not going to be arrogant enough to assume that they've had  
20 these issues.

21 I can't make that assumption today, that other  
22 people in Reno, or Sparks, or any place else had had  
23 unconstitutional methods or not.

24 All I know is that the people before us,  
25 representing a large portion of the taxpayers in that very

1 particular geographic area, are here stating that, and  
2 they've been here stating that ever since the first day we  
3 came here.

4 And I would not feel comfortable jumping  
5 outside of that boundary line unless I had some other  
6 evidence, any shred of evidence to say that that was  
7 something that happened.

8 And if that's something that somebody else  
9 wants to look into, then maybe so, Dennis, but I think  
10 that -- I think that we're putting this in a box in which  
11 it's been brought to us where the issue lies, and I think  
12 that we are, at least right now, making a motion to put  
13 the years that are in front of us, that are in question on  
14 the table until a lot of this law has been amended and  
15 clarified about what could and could not be done, and  
16 hopefully come up to an applicable resolution for both  
17 parties that puts this behind us. So that's ...

18 MEMBER MESERVY: And I'll -- I'll be willing  
19 to second that and -- the motion, but I also want -- my  
20 thought is that -- I'm hoping that we're just making it  
21 clear that we believe that was where the equalization  
22 issue is, and that even if people came later expecting  
23 to -- because some of the methodologies were used in other  
24 areas, that we don't think there's an equalization issue,  
25 that's the question in my mind, and that's kind of what

1 we're stating here.

2 And that's what I've been saying.

3 MEMBER JOHNSON: And my question is: Do we  
4 need a ratio study of these new values, however they turn  
5 out to make sure they are fair and equalized or is that  
6 not something that needs to be done?

7 MEMBER MESERVY: I don't believe we need to go  
8 there. I think it's just a cost to everyone.

9 MEMBER JOHNSON: Oh.

10 MEMBER MESERVY: I don't think it's going to  
11 create much of a difference here.

12 MEMBER MARNELL: I think the only that that --  
13 I think that would be good, in my opinion. I think your  
14 suggestion is great, given a different context.

15 I think that this -- again, I don't think  
16 there's a perfect solution to this. From -- from my  
17 history here trying to understand this, I think that  
18 this -- this ends it or maybe it doesn't. But hopefully  
19 it ends it, and then the parties can build upon a new day  
20 here with new law and more clarification as we go forward.

21 But if we ask for different studies to  
22 continue to happen, then I think that we'll never have a  
23 resolution. There's an issue with the study. It wasn't  
24 done right. Terry's going to have to run 5,000 workshops  
25 over the next decade, and we might get to this into the

1 2020 timeframe.

2 At least it just doesn't seem like those  
3 studies or those analyses ever go very quickly. It's not  
4 a quick process. That's my only concern with giving  
5 further information to come into the mix.

6 I think it's very clear. I think, what we've  
7 said -- at least in my motion. It's been very objective.  
8 Josh has a task to do. He knows those properties. He can  
9 confirm, and then they have a very -- very set base line  
10 to go back to, and they have a set matrix to follow, and  
11 they have a conclusion, and there's no deviation from the  
12 path.

13 CHAIRMAN WREN: Okay. And --

14 JOSH WILSON: And, Mr. Chairman, just one  
15 point that I want to add if the Board goes in this  
16 direction, I'm not comfortable changing these values in my  
17 system.

18 I think the Board can make any motion they  
19 want to direct me for information, but I did -- if the  
20 values get altered by this Board, I want them to be  
21 presented to this Board, so that it's clear what action  
22 was taken as the basis for me to change any value in my  
23 system, just making a motion, saying, "the assessor, go do  
24 this," I'm very uncomfortable with.

25 And I have no problem preparing all the

1 information and having it approved by this Board.

2 CHAIRMAN WREN: That makes sense.

3 MEMBER MARNELL: Let me amend that in my  
4 motion, that you can put together a summary analysis for  
5 each property with this information, and bring it, and  
6 send it back to us, and maybe it's a consent agenda item  
7 that we can see it all, and go through and make a final  
8 motion to approve, so you have what you need for cover, to  
9 go do what you're saying, and it's not just you doing it  
10 and then we start other sets of issues.

11 At least at that point the responsibility  
12 falls on the Board. I'm more than happy to take that  
13 responsibility. I am, anyway. I don't speak for --

14 CHAIRMAN WREN: Okay. Do we have a  
15 friendly --

16 MEMBER MESERVY: I have a second.

17 CHAIRMAN WREN: Okay. Amendment to the  
18 second.

19 And how much time will you need to do this?  
20 Six years? Seven years? What?

21 JOSH WILSON: You could direct me to have it  
22 available at your most practical noticed next meeting, and  
23 it will be done.

24 CHAIRMAN WREN: Okay. Because we have to  
25 report back to the judge in February.

1 MS. BUONCRISTIANI: Yes, and we don't have a  
2 hearing before then.

3 CHAIRMAN WREN: But -- which is fine, I think.  
4 I think that if we've held the meetings. We made a  
5 decision. You can report back what we've done.

6 What -- it doesn't have to all be  
7 accomplished, I don't think, in that 90 days. The  
8 hearings had to, and the decision -- we've made -- we're  
9 getting ready to make a decision.

10 MEMBER MARNELL: I think the decision,  
11 unless -- if the motion passes, in my mind, the decision  
12 has been made.

13 Now the work needs to get done, and all the  
14 Board's asked for is a confirmation in order to -- what I  
15 believe is appropriate, which is to give Mr. Wilson the  
16 confidence and the record that allows him to go make  
17 changes to his system, so he's not just doing it without  
18 us knowing that any of these values.

19 CHAIRMAN WREN: Okay. Dawn?

20 MS. BUONCRISTIANI: I'm -- I'm not really sure  
21 that -- of your role. There are other things in here that  
22 talk about you having the hearing and take the action --  
23 you will have taken the actions. You know, you won't have  
24 taken that final action, though, I mean, in terms of the  
25 values by then.



1 MEMBER MESERVY: Well, also my question is:  
2 Do we have to notify people whose values even go down and  
3 there's no reason?  
4 MS. BUONCRISTIANI: There's nothing to do if  
5 they go down.  
6 MEMBER MESERVY: I just want to make sure.  
7 CHAIRMAN WREN: So. In your motion, we'll  
8 direct Josh to have it completed by -- what was the --  
9 MS. BUONCRISTIANI: It's in February, but  
10 so -- I'm not sure when you'll want to have a hearing.  
11 You can probably do this by telephonic conference if you  
12 want to do something like that.  
13 CHAIRMAN WREN: So the first part of February,  
14 and what we'll do is have Terry agendize a -- a hearing  
15 for us, for you to present this information some time the  
16 beginning of February.  
17 JOSH WILSON: Is there any way to move that  
18 into closer to -- we're in county board all month of  
19 February.  
20 MS. BUONCRISTIANI: January would be better  
21 for me, because I have to write a brief for the court.  
22 JOSH WILSON: Or in two weeks or three weeks  
23 or whatever we need.  
24 MEMBER MESERVY: That's fine.  
25 CHAIRMAN WREN: Okay.

1 MEMBER MARNELL: I think as fast as Josh feels  
2 he can do it, it's appropriate, Mr. Chairman, and maybe we  
3 don't have need to the convened Board. Maybe we can have  
4 a video conferencing where we can go through the data on  
5 our own, like we always do, and come together, and we all  
6 can say we either agree with the data or we don't.  
7 If we don't, there might be some more work to  
8 do. If we do, we can finish this motion, and we can be  
9 done.  
10 CHAIRMAN WREN: First week -- some time the  
11 first week of December then?  
12 JOSH WILSON: That would be fine.  
13 CHAIRMAN WREN: Okay. I've amended your  
14 motion to include that, and you've agreed to second it?  
15 MEMBER MESERVY: Second.  
16 MEMBER MARNELL: Thank you, Mr. Chairman. The  
17 pressure was unbelievable. I'm glad you're now a part of  
18 that.  
19 CHAIRMAN WREN: I feel better, too.  
20 Okay. All in favor say "Aye."  
21 ("Aye" responses)  
22 CHAIRMAN: Opposed?  
23 Motion carries unanimously.  
24 (Vote on the motion carried unanimously)  
25 CHAIRMAN WREN: Thank you very much.

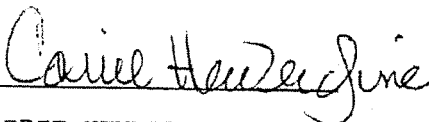
1 STATE OF NEVADA, )  
2 CLARK COUNTY. ) ss.  
3

4 I, CARRIE HEWERDINE, RDR, Official Court Reporter  
5 for the State of Nevada, Board of Equalization, do hereby  
6 certify:

7 That on Monday, the 5th day of November, 2012, I  
8 was present at the Nevada Legislative Building, Room 4100,  
9 Carson City, Nevada, for the purpose of reporting in  
10 verbatim stenotype notes the within-entitled public  
11 meeting;

12 That the foregoing transcript, consisting of  
13 pages 38 through 113, inclusive, includes an excerpted,  
14 true and correct transcription of my stenotype notes of  
15 said public meeting, Agenda Item L (Writ of Mandamus).  
16

17 Dated at Carson City, Nevada, this 20th day of  
18 November, 2012.  
19  
20  
21

22   
23

24 CARRIE HEWERDINE, RDR  
25 Nevada CCR #820  
California CSR #4579



**BRIAN SANDOVAL**  
*Governor*

**STATE OF NEVADA  
STATE BOARD OF EQUALIZATION**

1550 College Parkway, Suite 115  
Carson City, Nevada 89706-7921  
Telephone (775) 684-2160

**CHRISTOPHER G.  
NIELSEN**  
*Secretary*

**NOTICE OF EQUALIZATION HEARING**

November 16, 2012

**Certified Mail: 7009 2820 0001 6686 1255**

Suellen Fulstone  
Snell & Wilmer  
6100 Neil Road, Suite 555  
Reno, Nevada 89511

**Date and Time:** December 3, 2012, 9:00 a.m.

**Location:** Carson City Nevada Department of Education  
Boardroom #101  
700 E. Fifth Street  
Carson City, Nevada

**Video-Conferencing will also be available to the following Locations:**

**Las Vegas** Nevada Department of Education  
Boardroom #228  
9890 South Maryland Parkway Suite 221  
Las Vegas, Nevada

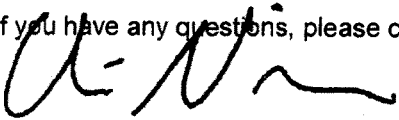
This meeting will also be available by teleconference. You may call in your comments by telephone to the meeting. Please call the Department at (775) 684-2160 for the call-in number and reservation to speak.

**Legal Authority and Jurisdiction of the State Board of Equalization:** Writ of Mandamus dated August 21, 2012 and NRS 361.395, NAC 360.732, and NAC 361.659.

The purpose of this third hearing is to take information and testimony from the Washoe County Assessor in response to the direction of the State Board made at the hearing held on November 5, 2012 regarding equalization for the Incline Village and Crystal Bay area.

Briefs and evidence regarding these matters must be received in Department of Taxation offices no later than 5 p.m., November 28, 2012. Please send your evidence along with a brief or letter explaining your response to the attention of Christopher G. Nielsen, Secretary to the State Board at 1550 College Parkway, Carson City, NV 89706.

If you have any questions, please call Terry Rubald at 775-684-2095 or Anita Moore at 775-684-2160.



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Christopher G. Nielsen  
Department of Taxation Executive Director

cc: State Board of Equalization  
Dawn Buoncristiani, Senior Deputy Attorney General  
Gina Session, Chief Deputy Attorney General

POSTED: November 28, 2012

**REVISED STATE BOARD OF EQUALIZATION AGENDA**  
December 3, 2012 9:00 a.m.

Nevada Department of Education  
Boardroom #101  
700 E. Fifth Street  
Carson City, Nevada

The State Board session will also be video-conferenced to the following location:

Nevada Department of Education  
Boardroom #228  
9890 South Maryland Parkway Suite 221  
Las Vegas, Nevada

You may also call in your comments by telephone to the meeting. Please call the Department at (775) 684-2160 for the call-in number and reservation to speak.

**Action may be taken on the following agenda items and appeals of property tax valuation in BOLD:**

A. *Opening Remarks by the Chairman; introduction of State Board members, Swearing-in*

B. *Public Comment (See Note 1)*

C. ***For Possible Action: Equalization of Incline Village and Crystal Bay properties in Washoe County.***

- a. Report of the Washoe County Assessor regarding revised valuations of properties located in Incline Village and Crystal Bay for the 2003-2004, 2004-2005, and 2005-2006 tax years pursuant to the direction of the State Board at a hearing held on November 5, 2012;
- b. Rebuttal of any affected party to the Report of the Washoe County Assessor and to any proposed equalization action;
- c. Equalization of properties located at Incline Village and Crystal Bay; pursuant to the Writ of Mandamus filed on August 21, 2012, Village League to Save Incline Assets, Inc. v. State Board of Equalization, et al, the State Board may raise, lower or leave unchanged the taxable value of any property for the purpose of equalization pursuant to NAC 361.650 through NAC 361.667, as applicable.

D. ***For Possible Action: Statewide Equalization***

E. ***Briefing to and from the Board and the Secretary and Staff***

- Briefing Schedules
- Proposed Hearing Schedules and Docket Management

F. *Public Comment (See Note 1)*

G. ***Adjournment***

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**NOTE (1):** No action will be taken on any matters during public comment. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126. Public comment will be limited to comments of three minutes or less; and relevant to and within the authority of the State Board.

**NOTE (2):** The Department is pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Taxation in writing or call (775) 684-2160 prior to the meeting.

**Notice agendas were posted at the following locations:**

DEPARTMENT OF TAXATION LOCATIONS: 1550 E. College Parkway, Carson City; 4600 Kietzke Lane, Bldg L, Ste 235, Reno; 555 E. Washington Ave, #1300, Las Vegas; 2550 Paseo Verde Parkway, Suite 180, Henderson; Also: CLARK COUNTY GOVERNMENT CENTER, 500 S. Grand Central Parkway, Las Vegas; LAS VEGAS LIBRARY, 833 Las Vegas Blvd, Las Vegas; STATE LIBRARY & ARCHIVES, 100 Stewart St, Carson City.

2003/2004	Incline Village/Crystal Bay list to the State Board of Equalization per request on November 5, 2012			
APN	Current 2003/2004 Taxable Land	Rollback to 2002/2003 Taxable Land	Difference	Owner in 2003 Archived Database
122-051-01	261,300	200,475	-60,825	COOKE
122-051-02	380,000	218,700	-161,300	DEMERS
122-051-03	360,000	218,700	-141,300	LINDBERG
122-051-04	300,000	218,700	-81,300	BLUSTEIN
122-051-05	380,000	218,700	-161,300	LUSCHAR
122-051-06	380,000	243,000	-137,000	BRODY
122-051-07	275,000	200,475	-74,525	HIRSCHBEK
122-051-08	275,000	200,475	-74,525	FREDERIC
122-051-09	275,000	200,475	-74,525	MENNE
122-051-10	250,000	200,475	-49,525	THORP
122-052-01	190,000	182,250	-7,750	NEVADA STATE OF
122-052-02	180,500	145,800	-34,700	KAPLAN
122-052-03	190,000	182,250	-7,750	MOREY
122-052-04	250,000	182,250	-67,750	UNITED STATES OF AMERICA
122-052-05	262,500	202,500	-60,000	DOWNING
122-052-06	302,500	245,025	-57,475	SILLS
122-052-07	427,500	297,000	-130,500	LOWE
122-052-08	400,000	297,000	-103,000	SCHNEIDER
122-052-09	360,000	194,400	-165,600	UPCHURCH
122-052-10	495,000	264,600	-230,400	HAMPTON
122-052-11	340,000	194,400	-145,600	D'ANGELO
122-052-12	340,000	194,400	-145,600	SARGEANT
122-052-13	425,000	237,600	-187,400	KOSANKE
122-052-14	220,000	194,400	-25,600	CARCIONE
122-052-15	220,000	178,200	-41,800	COX
122-052-16	200,000	178,200	-21,800	OKUDA
122-052-17	175,000	111,375	-63,625	CROW
122-052-18	320,000	67,500	-252,500	NEVADA STATE OF
122-052-19	240,000	141,750	-98,250	JACKA
				RICHARD E & GEORGIA

2003/2004	Incline Village/Crystal Bay list to the State Board of Equalization per request on November 5, 2012			
APN	Current 2003/2004 Taxable Land	Rollback to 2002/2003 Taxable Land	Difference	Owner in 2003 Archived Database
132-410-01	44,000	28,000	-16,000	PUGLIESE FRANK & ELIZABETH
132-410-02	44,000	28,000	-16,000	FRANDSEN H JANET
132-410-03	44,000	28,000	-16,000	KOCH DEBORAH A & TODD M
132-410-04	44,000	28,000	-16,000	MARSOWICZ BRANDON J
132-410-05	44,000	28,000	-16,000	HOMOROZAN LIVIU
132-410-06	44,000	28,000	-16,000	DAVIS JEFFREY S & CHRISTINAS
132-410-07	44,000	28,000	-16,000	MERRIN DAVID & RAYDA
132-410-08	44,000	28,000	-16,000	BANKER KIM K
132-410-09	44,000	28,000	-16,000	SOBREPENNA EMERSON A & ROSITA E
132-410-10	44,000	28,000	-16,000	VIRAY FERNANDO A & LINA E
132-410-11	44,000	28,000	-16,000	POBLANO TOM & DEBBIE
132-410-12	44,000	28,000	-16,000	GRATTO ANDREW C
132-420-01	44,000	28,000	-16,000	NIELSEN ERIC P & PATTI J
132-420-02	44,000	28,000	-16,000	POWERS RICHARD S
132-420-03	44,000	28,000	-16,000	RUTLEDGE WILLIAM A & SILVIA Z
132-420-04	44,000	28,000	-16,000	BATISTIC JOSEPH J & MARILYN
132-420-05	44,000	28,000	-16,000	STREMSKI DONNA M
132-420-06	44,000	28,000	-16,000	BURSCH GLEN
132-420-07	44,000	28,000	-16,000	GRAHAM ROBERT E & DEBRA J
132-420-08	44,000	28,000	-16,000	MALINOWSKI KIMBERLY
132-420-09	44,000	28,000	-16,000	HENDRON-HULME MARY A
Total	2,399,701,745	1,701,084,974	-698,616,771	



Page 1 of 184

2004/2005	Incline Village/Crystal Bay list to the State Board of Equalization per request on November 5, 2012			
APN	Current 2004/2005 Taxable Land	Rollback to 2002/2003 Taxable Land-2004/2005 factor was 1.0	Difference	Owner in 2004 Archived Database
132-410-02	44,000	28,000	-16,000	FRANDSEN
132-410-03	44,000	28,000	-16,000	KOCH
132-410-04	44,000	28,000	-16,000	MARSOWICZ
132-410-05	44,000	28,000	-16,000	HOMOROZAN
132-410-06	44,000	28,000	-16,000	DAVIS
132-410-07	44,000	28,000	-16,000	WILSON-SABATINI
132-410-08	44,000	28,000	-16,000	BANKER
132-410-09	44,000	28,000	-16,000	SOBREPEÑA
132-410-10	44,000	28,000	-16,000	VIRAY
132-410-11	44,000	28,000	-16,000	STROMBERGER
132-410-12	44,000	28,000	-16,000	GRATTO
132-420-01	44,000	28,000	-16,000	NIELSEN
132-420-02	44,000	28,000	-16,000	POWERS
132-420-03	44,000	28,000	-16,000	RUTLEDGE
132-420-04	44,000	28,000	-16,000	BATISTIC
132-420-05	44,000	28,000	-16,000	STREMSKI
132-420-06	44,000	28,000	-16,000	BURSCH
132-420-07	44,000	28,000	-16,000	GRAHAM
132-420-08	44,000	28,000	-16,000	MALINOWSKI
132-420-09	44,000	28,000	-16,000	HENDRON-HULME
Total	2,355,163,175	1,697,921,353	-657,241,822	

2005/2006	Incline Village/Crystal Bay list to the State Board of Equalization per request on November 5, 2012				
APN	Current 2005/2006 Taxable Land	Rollback to 2002/2003 Taxable Land*1.08 factor	Difference	Owner in 2005/2006 Archived Database	
122-051-01	282,204	216,513	-65,691	COOKE	JOHN P & PATRICIA A
122-051-02	236,196	236,196	0	DEMERS	MICHAEL
122-051-03	388,800	236,196	-152,604	LINDBERG	KELLY
122-051-04	324,000	236,196	-87,804	BLUSTEIN	BARRY J & SANDY J
122-051-05	410,400	236,196	-174,204	LUSCHAR	DONALD
122-051-06	410,400	262,440	-147,960	BRODY	ADAM C
122-051-07	216,513	216,513	0	HIRSCHBEK	JOHN L & PATRICIA J
122-051-08	216,513	216,513	0	FREDERIC	GEORGE & BARBARA
122-051-09	297,000	216,513	-80,487	KAPLAN	JAMES & CAROLINE
122-051-10	270,000	216,513	-53,487	THORP	EDWARD L
122-052-01	205,200	196,830	-8,370	NEVADA STATE OF	
122-052-02	157,464	157,464	0	KAPLAN	DONALD
122-052-03	205,200	196,830	-8,370	MOREY	MICHAEL D
122-052-04	270,000	196,830	-73,170	UNITED STATES OF AMERICA	
122-052-05	283,500	218,700	-64,800	LINARDOS	JAMES N
122-052-06	326,700	264,627	-62,073	SILLS	DONALD J & BONNIE B
122-052-07	461,700	320,760	-140,940	LOWE	STAN V
122-052-08	432,000	320,760	-111,240	SCHNEIDER	H MICHAEL & LISA L
122-052-09	388,800	209,952	-178,848	UPCHURCH	KATHRYN D
122-052-10	285,768	285,768	0	HAMPTON	WADE & NANCY
122-052-11	209,952	209,952	0	D'ANGELO	THOMAS C & NANCY M
122-052-12	345,600	209,952	-135,648	SARGEANT	LARRY & JEAN D
122-052-13	459,000	256,608	-202,392	KOSANKE	GREGG C
122-052-14	237,600	209,952	-27,648	CARCIONE	ANTHONY F JR & RUTH B
122-052-15	192,456	192,456	0	COX	E DALE & NANCY M
122-052-16	216,000	192,456	-23,544	OKUDA	MASATO & MITSUYE
122-052-17	189,000	120,285	-68,715	EWASKO	DAMON R & SUZANNE M
122-052-18	320,000	72,900	-247,100	NEVADA STATE OF	

2005/2006	Incline Village/Crystal Bay list to the State Board of Equalization per request on November 5, 2012				
APN	Current 2005/2006 Taxable Land	Rollback to 2002/2003 Taxable Land*1.08 factor	Difference	Owner in 2005/2006 Archived Database	
132-420-05	47,520	30,240	-17,280	STREMSKI	DONNA M
132-420-06	47,520	30,240	-17,280	BURSCH	GLEN
132-420-07	47,520	30,240	-17,280	GRAHAM	ROBERT E & DEBRA J
132-420-08	47,520	30,240	-17,280	MALINOWSKI	KIMBERLY
132-420-09	47,520	30,240	-17,280	HENDRON-HULME	MARY A
Total	2,397,341,684	1,833,507,678	-563,834,006		

IN THE SUPREME COURT OF THE STATE OF NEVADA

VILLAGE LEAGUE TO SAVE INCLINE )  
ASSETS, INC.; MARYANNE )  
INGEMANSON, TRUSTEE OF THE )  
LARRY D. & MARYANNE B. )  
INGEMANSON TRUST; ET AL., )  
Appellants, )  
vs. )  
THE STATE OF NEVADA, BOARD )  
OF EQUALIZATION; ET AL., )  
Respondents. )

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Electronically Filed  
Nov 27 2013 03:45 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court  
District Court No. CV13-06901  
Supreme Court Case No. 63581

**JOINT APPENDIX – VOLUME 1**

Suellen Fulstone, No. 1615  
SNELL & WILMER L.L.P.  
50 West Liberty Street, Suite 510  
Reno, Nevada 89501  
Attorneys for Village League to Save Incline  
Assets, Inc.; Maryanne Ingemanson, Dean Ingemanson,  
J. Robert Anderson, Les Barta,  
Kathy Nelson and Andrew Whyman

## **ALPHABETICAL INDEX**

<b>Document</b>	<b>Date</b>	<b>Vol.</b>	<b>Pages</b>
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2004/2005 Incline Village/Crystal Bay list to the State Board of Equalization per request on November 5, 2012 (first and last page)		1	APX00231- APX00232
2005/2006 Incline Village/Crystal Bay list to the State Board of Equalization per request on November 5, 2012 (first and last page)		1	APX00233- APX00234
Addendum to Objections to State Board of Equalization Report and Order	2/22/13	3	APX00644- APX00651
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Bakst Intervenor's Notice of Appeal	7/19/13	8	APX01507- APX01515
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Certificate of Delivery of Writ of Mandamus	8/30/12	1	APX00065- APX00078

Churchill County Notice of Non-Participation and Motion to Dismiss	5/20/13	8	APX01370-APX01375
Complaint for Declaratory and Related Relief	11/13/03	1	APX00001-APX00018
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County's Notice of Non-Aversion to Requested Stay and Response to Objections	3/22/13	5	APX00847-APX00859
County's Response and Opposition to Motion for Leave to Seek Reconsideration of July 1, 2013 Order	8/1/13	8	APX01527-APX01534
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Motion for Leave of Court to File Motion to Intervene	3/28/13	5	APX01133-APX01335
Motion for Leave to Seek Reconsideration or, in the Alternative, for Stay of July 1, 2013 Order and Reinstatement of Stay of February 8, 2013 State Board of Equalization Decision Pending Appeal	7/19/13	8	APX01516-APX01524
Notice of Appeal	7/3/13	8	APX01496-APX01504
Notice of Entry of Order and Judgment for Issuance of Writ of Mandamus	8/30/12	1	APX00057-APX00064

Notice of Entry of Order Granting Defendants' Motion to Dismiss Petitioners' Petition for Judicial Review and Denying Petitioners' Objections to State Board of Equalization Report and Order	7/1/13	8	APX01485- APX01495
Notice of Equalization Hearing	8/28/12	1	APX00054- APX00056
Notice of Equalization Hearing	10/15/12	1	APX00141- APX00142
Notice of Equalization Hearing	11/16/12	1	APX00226- APX00227
Notice of Joinder in "State Board's Opposition to Motion for Leave of Court to File Motion to Intervene"	4/18/13	6	APX00998- APX01000
Notice of Washoe County's Concurrence with "State Board's Report on Execution of Writ of Mandamus" and "Equalization Order"	2/14/13	3	APX00552- APX00568
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Petitioners' Response to Pershing County Assessor Motion to Dismiss	5/10/13	8	APX01366- APX01369
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Points and Authorities in Opposition to State Board of Equalization Motion to Dismiss	4/23/13	6	APX01016- APX01084
Reply Points and Authorities in Support of Motion for Leave to Seek Reconsideration or, in the Alternative, for Stay of July 1, 2013 Order and Reinstatement of Stay of February 8, 2013 State Board of Equalization Decision Pending Appeal	8/13/13	8	APX01583- APX01589
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Reply to State Board of Equalization's Opposition to the Bakst Intervenor's Motion to Intervene (without CD attachment of Assessor Schedules)	4/24/13	6	APX01085- APX01100
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SBOE Agenda for December 3, 2012 Hearing (amended)	11/28/12	1	APX00228
SBOE Agenda for November 5, 2012 Hearing	10/31/12	1	APX00143- APX00145
SBOE Agenda for September 18, 2012 Hearing	9/12/12	1	APX00079- APX00083
SBOE Hearing – Agenda Item L – Transcript	9/18/12		APX00093- APX00140
SBOE Hearing – Agenda Item L5 – Transcript	11/5/12	1	APX00146- APX00225
SBOE Hearing – Transcript	12/3/12	2	APX00311- APX00393
State Board of Equalization's Notice of Equalization Order	2/8/13	2	APX00394- APX00410
State Board's Motion to Dismiss Petition for Judicial Review (without exhibits of SBOE November 5, 2012 Hearing – Agenda Item L5 – Transcript and SBOE December 3, 2012 Hearing Transcript)	4/4/13	5	APX00878- APX00902

State Board's Opposition to Motion for Leave of Court to File Motion to Intervene (without exhibits of Petition for Judicial Review, SBOE November 5, 2012 Hearing – Agenda Item L5 – Transcript and SBOE December 3, 2012 Hearing Transcript)	4/15/13	6	APX00959- APX00988
State Board's Opposition to Motion for Leave to Seek Reconsideration and Opposition in Part to Reinstatement of Stay of February 8, 2013 State Board of Equalization Decision	8/5/13	8	APX01535- APX01582
State Board's Report on Execution on Writ of Mandamus	2/12/13	3	APX00411- APX00551
State Board's Supplement to Authorities in Response to Petitioners' Objection	6/10/13	8	APX01380- APX01384
State's Motion to Take Judicial Notice	5/3/13	7	APX01336- APX01352
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State's Surreply to Petitioners' Reply to State Board of Equalization Response to Objections to February 2013 Decision on Equalization	5/8/13	8	APX01336- APX01365
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Summons with Proof of Service of Petition for Judicial Review on Washoe County	3/19/13	5	APX00823- APX00825
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Summons with Proof of Service of Petition for Judicial Review on Washoe County Treasurer	3/19/13	5	APX00829- APX00831
Summons with Proof of Service of Petition for Judicial Review on State Board of Equalization	3/19/13	5	APX00832- APX00834
Summons with Proof of Service of Petition for Judicial Review on State of Nevada, Attorney General's Office	3/19/13	5	APX00835- APX00837
Summons with Proof of Service of Petition for Judicial Review on Douglas County Assessor	3/19/13	5	APX00838- APX00840
Summons with Proof of Service of Petition for Judicial Review on City Hall LLC	3/19/13	5	APX00841- APX00843
Summons with Proof of Service of Petition for Judicial Review on Carson City Assessor	3/19/13	5	APX00844- APX00846
Summons with Proof of Service of Petition for Judicial Review on Lincoln County Assessor	3/25/13	5	APX00860- APX00862
Summons with Proof of Service of Petition for Judicial Review on Humboldt County Assessor	3/26/13	5	APX00863- APX00865

Summons with Proof of Service of Petition for Judicial Review on Lander County Assessor	3/27/13	5	APX00866- APX00868
Summons with Proof of Service of Petition for Judicial Review on Mineral County Assessor	4/2/13	5	APX00869- APX00871
Summons with Proof of Service of Petition for Judicial Review on Eureka County Assessor	4/2/13	5	APX00872- APX00874
Summons with Proof of Service of Petition for Judicial Review on Clark County Assessor	4/3/13	5	APX00875- APX00877
Summons with Proof of Service of Petition for Judicial Review on Pershing County Assessor	4/5/13	6	APX00935- APX00937
Summons with Proof of Service of Petition for Judicial Review on Storey County Assessor	4/9/13	6	APX00938- APX00940
Summons with Proof of Service of Petition for Judicial Review on Louise Modarelli	4/11/13	6	APX00941- APX00943
Summons with Proof of Service of Petition for Judicial Review on Elko County Assessor	4/12/13	6	APX00944- APX00946
Summons with Proof of Service of Petition for Judicial Review on Esmeralda County Assessor	4/12/13	6	APX00947- APX00949
Summons with Proof of Service of Petition for Judicial Review on Lyon County Assessor	4/12/13	6	APX00950- APX00952

Summons with Proof of Service of Petition for Judicial Review on Paul Rupp	4/12/13	6	APX00953- APX00955
Summons with Proof of Service of Petition for Judicial Review on White Pine County Assessor	4/15/13	6	APX00956- APX00958
Summons with Proof of Service of Petition for Judicial Review on Churchill County Assessor	4/16/13	6	APX00989- APX00991
Summons with Proof of Service of Petition for Judicial Review on William Brooks	4/16/13	6	APX00992- APX00994
Summons with Proof of Service of Petition for Judicial Review on Nye County Assessor	4/17/13	6	APX00995- APX00997
Taxpayers' Rebuttal Brief to SBOE	11/30/12	2	APX00262- APX00310
Taxpayers' Submission to SBOE	9/13/02	1	APX00084- APX00092
Washoe County's Brief to the Nevada State Board of Equalization Regarding Statewide Equalization	11/28/12	2	APX00235- APX00261
Writ of Mandamus	8/21/12	1	APX00049- APX00050

No. \$1425  
SUELLEN FULSTONE  
Nevada State Bar 1615  
DALE FERGUSON  
Nevada State Bar 4986  
WOODBURN AND WEDGE  
6100 Neil Road, Suite 500  
Reno, Nevada 89511  
Telephone: (775) 688-3000

2003 NOV 13 PM 4:43

DEPT. CLERK JR.

E. D. Jaramillo

CLERK

Attorneys for plaintiff  
Village League To Save Incline Assets, Inc.

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 its  
members, and others similarly situated,

Plaintiff,

vs.

STATE OF NEVADA on relation of  
its DEPARTMENT OF TAXATION,  
the NEVADA TAX COMMISSION,  
and the STATE BOARD OF  
EQUALIZATION; WASHOE  
COUNTY; ROBERT MCGOWAN,  
WASHOE COUNTY ASSESSOR;  
BILL BERRUM, WASHOE COUNTY  
TREASURER,

Defendants.

Case No.: CV CV03 06922

Dept. No. 10

COMPLAINT FOR DECLARATORY  
AND RELATED RELIEF

Plaintiff complains of defendants and alleges as follows:

NATURE OF THE ACTION

1. This is a class action for declaratory judgment pursuant to NRS §§30.010-

1 30.160 for the purpose of determining questions of actual controversy between the parties and  
2 for related relief, as more fully set forth below. Members of the plaintiff class are owners of  
3 real property at Incline Village and Crystal Bay, in Washoe County, Nevada. In the last fiscal  
4 year, while property taxes in the rest of Washoe County rose less than 2.5 % and some casinos  
5 had their taxes reduced by as much as 31 %, the average increase in property taxes for Incline  
6 Village and Crystal Bay property owners was 31 %, with increases of as much as 400% in  
7 some individual cases. On behalf of the plaintiff class, the Village League To Save Incline  
8 Assets, Inc., asks this Court to declare that the methods used by the Washoe County Assessor's  
9 office to assess property at Incline Village and Crystal Bay, such as, for example, the  
10 assignment of value based on a view of the Lake from a bathtub, are illegal, discriminatory and  
11 unconstitutional. The Village League also seeks a determination that the State Board of  
12 Equalization and the State Department of Taxation have failed to equalize assessments among  
13 Douglas and Washoe Counties as required by the Nevada statutes and Constitution, such that  
14 Lake Tahoe property located in Washoe County is assigned a taxable value that is 55 % higher  
15 than the value assigned to property of the same or similar market value in Douglas County.  
16 On behalf of its members, the Village League seeks refunds of tax payments which they have  
17 made to the extent the tax amounts were based on invalid and unconstitutional assessments.  
18

#### 19 GENERAL ALLEGATIONS

20  
21 2. Plaintiff, Village League To Save Incline Assets, Inc. ("Village League"), is a  
22 nonprofit membership corporation organized and existing under the laws of the State of  
23 Nevada, whose members own real property at Crystal Bay or Incline Village, in Washoe  
24 County, Nevada, and pay taxes on that property as assessed, imposed and collected by the  
25 defendant Washoe County. The Village League brings this action on behalf of its members and  
26 other owners of real property at Crystal Bay and/or Incline Village who are similarly situated.  
27

28 3. The defendant Nevada Tax Commission, established by the Nevada Legislature



1 in Nevada Revised Statutes §360.010, is the head of the defendant Nevada State Department of  
2 Taxation, the state agency responsible for supervision and control of the revenue system of the  
3 State of Nevada including real property taxes. The Commission supervises the overall  
4 administration and operations of the Department of Taxation. The Commission adopts  
5 regulations, establishes enforcement and audit policies, and approves forms and procedures of  
6 the Department. Under its statutory authority, the Commission makes decisions to ensure that  
7 the application of taxes is done consistently among taxpayers.  
8

9 4. The defendant State Board of Equalization, established by the Nevada Legis-  
10 lature as codified in Nevada Revised Statutes §361.375, has the statutory responsibility for the  
11 equalizing of real property valuations throughout the State, including reviewing the tax rolls of  
12 the various counties as equalized by the county boards of equalization and, if necessary,  
13 adjusting the valuations thereon in order to equalize values with respect to taxable value.  
14

15 5. The defendant Washoe County is and, at all times mentioned in this complaint,  
16 was a political subdivision of the State of Nevada. The defendant Robert McGowan is and, all  
17 times mentioned in this complaint, was the duly elected Assessor of Washoe County. The  
18 defendant Bill Berrum is and, at all times mentioned in this complaint, was the duly elected  
19 Treasurer of Washoe County. It is the duty, among others, of the County Assessor to list and  
20 value all real property subject to taxation within the County. It is the duty of the County  
21 Treasurer to collect all real property taxes.  
22

23 6. Plaintiff represents a class of owners of real property in Incline Village or  
24 Crystal Bay, in Washoe County, Nevada, who have paid real property taxes to Washoe County  
25 on property valuations based on erroneous, invalid, illegal and unconstitutional assessment  
26 methods and practices.

27 7. The plaintiff class consists of the owners of approximately 6713 parcels of real  
28 property at Incline Village and Crystal Bay, in Washoe County, Nevada; said class is so

1 numerous that the joinder of each individual member of the class is impracticable.

2 8. The claims of class members against defendants involve common questions of  
3 law and fact including, without limitation, the validity and constitutionality of valuation  
4 methods and practices.

5 9. The claims of the members of the Village League are representative and typical  
6 of the claims of the class. The claims of all members of the class arise from the same acts and  
7 omissions of the defendants that give rise to the claims and rights of the members of the Village  
8 League.  
9

10 10. The Village League, as the representative of the class, is able to, and will, fairly  
11 and adequately protect the interests of the class.

12 11. This action is properly maintained as a class action because defendants have  
13 acted or refused to act, as more specifically alleged below, on grounds which are applicable to  
14 the class and have by reason of such conduct made appropriate declaratory and related relief  
15 with respect to the entire class as sought in this action.  
16

17 FIRST CLAIM FOR RELIEF

18 (Against all Defendants)

19 12. Plaintiff realleges, as though fully set forth, paragraphs 1 through 11, inclusive,  
20 above.

21 13. Section 1(1) of Article 10 of the Nevada Constitution requires that the Nevada  
22 Legislature "provide by law for a uniform and equal rate of assessment and taxation" of real  
23 and personal property throughout the state and "prescribe such regulations as shall secure a just  
24 valuation for the taxation of all property. . . ."  
25

26 14. Under the statutory scheme enacted by the Nevada Legislature, each county  
27 assessor is required to determine each year the "taxable value" of all real property within the  
28 respective county. NRS §361.260. To determine the "taxable value" of improved real

1 property, the assessor is required by law to appraise the land and the improvements separately  
2 and then add them to reach a total. NRS §361.227(1).

3 15. By statute, the "taxable value" of the land portion of improved real property is  
4 determined by appraising the "full cash value" of the land consistently with the use to which the  
5 improvements are being put. NRS §361.227. "Full cash value" means the most probable price  
6 which property would bring in a competitive and open market under all conditions requisite to  
7 a fair sale. NRS §361.025. The "taxable value" of the land portion of improved real property  
8 is thus the market value of vacant land to be put to the same or similar use as the improved  
9 property.  
10

11 16. The "taxable value" of the improvements portion of improved real property is  
12 not a market value. By statute, the "taxable value" of the improvements is determined by  
13 taking the cost of replacement and subtracting all applicable depreciation and obsolescence.  
14 NRS §361.227.  
15

16 17. The defendant Department of Taxation is required by law to "consult with and  
17 assist county assessors to develop and maintain standard assessment procedures to be applied  
18 and used in all of the counties of the state, to ensure that assessments of property by county  
19 assessors are made equal in each of the several counties of this state." NRS §360.215 (2).  
20 The Department is further required by law to "continually supervise assessment procedures" as  
21 carried on in the several counties of the state and to "advise county assessors in the application  
22 of such procedures." NRS §360.215(6)  
23

24 18. As the head of the defendant Department of Taxation, the defendant Nevada Tax  
25 Commission is required to establish and prescribe regulations for the determination of taxable  
26 value to be adopted and put into practice by all county assessors in the State of Nevada for the  
27 purpose of maintaining uniformity of taxation throughout the state. NRS §360.280(1). By law,  
28

1 in determining the taxable value of property within Washoe County, the Washoe County  
2 Assessor is governed by regulations issued by the State Tax Commission. NRS §360.250(1).

3 19. In enacting the Administrative Procedure Act (NRS Chapter 233B), the Nevada  
4 Legislature established minimum procedural requirements for the issuance of regulations by  
5 state agencies, including the Nevada Tax Commission. In compliance with those procedural  
6 requirements, the Tax Commission has adopted and issued certain regulations governing the  
7 determination by county assessors of the taxable value of real property.  
8

9 20. For the tax year 2003-2004 and an unknown number of prior years, if real  
10 property was believed to possess a "view" of Lake Tahoe, the Washoe County Assessor used  
11 an inconsistent and variable view classification system as the sole basis for determining the  
12 base taxable value for the land portion of such real property. This view classification system is  
13 not used anywhere else in Washoe County or in the State of Nevada. This inconsistent and  
14 variable view classification system was not disclosed to members of the plaintiff class and was  
15 unauthorized by the approved and published regulations adopted by the Nevada Tax  
16 Commission to govern county assessors in the valuation of property for ad valorem tax  
17 purposes.  
18

19 21. For the tax year 2003-2004 and unknown number of prior years, the Washoe  
20 County Assessor used sales of improved properties as "vacant" land sales for comparable sales  
21 purposes in determining the taxable value of the land portion of improved real property owned  
22 by members of the plaintiff class. The characterization of certain sales of improved properties  
23 as "teardowns" and their use as vacant land sales for comparable sales purposes was not  
24 disclosed to members of the plaintiff class and is directly inconsistent with the approved and  
25 published regulations adopted by the Nevada Tax Commission to govern county assessors in  
26 the valuation of property for ad valorem tax purposes.  
27  
28

1           22.     For the tax year 2003-2004 and an unknown number of prior years, in  
2 determining the value of the land portion of improved real property at Incline Village and  
3 Crystal Bay owned by members of the plaintiff class, the Washoe County Assessor used a  
4 "time-value" method, in which, if there were an insufficient number of recent comparable sales  
5 on which to value certain real property, an .08 % per month increase was added to the value of  
6 comparable properties that sold as long as 2 or 3 years previously. With the addition of this .08  
7 % per month increase, these old sales are assigned a much higher value for comparable sales  
8 purposes notwithstanding the fact that the value of real property in Incline Village and Crystal  
9 Bay has not increased over the past 3 years. The use of this arbitrary "time-value" method is  
10 unauthorized by the approved and published regulations adopted by the Nevada Tax  
11 Commission to govern county assessors in the valuation of property for ad valorem tax  
12 purposes and is, in fact, contrary to such regulations.  
13

14           23.     For the tax year 2003-2004 and an unknown number of prior years, the Washoe  
15 County Assessor used an arbitrary and inconsistent formula to value lineal footage of lake  
16 frontage in determining the value of the land portion of improved real property at Incline  
17 Village and Crystal Bay located on the shoreline of Lake Tahoe and owned by members of the  
18 plaintiff class. The use of an arbitrary and inconsistent formula to value footage of lake  
19 frontage in determining the taxable value of improved real property was not disclosed to  
20 members of the plaintiff class and was, and is, unauthorized by the approved and published  
21 regulations adopted by the Nevada Tax Commission to govern county assessors in the  
22 valuation of property for ad valorem tax purposes.  
23

24           24.     For the tax year 2003-2004 and an unknown number of prior years, the Washoe  
25 County Assessor used sales of single-family residential properties in determining the taxable  
26 value of the land portion of non-lakefront condominiums in Incline Village and Crystal Bay  
27 owned by members of the plaintiff class. The use of sales of single-family residential  
28

1 properties in determining the taxable value of condominiums was not disclosed to members of  
2 the plaintiff class and was, and is, unauthorized by the approved and published regulations  
3 adopted by the Nevada Tax Commission to govern county assessors in the valuation of  
4 property for ad valorem tax purposes.

5 25. For the tax year 2003-2004 and an unknown number of prior years, the Washoe  
6 County Assessor used an "allocation" method with adjustments and modifications not  
7 authorized by the approved and published regulations of the defendant Nevada Tax  
8 Commission for determining the taxable value of the land portion of lakefront condominiums  
9 owned by members of the plaintiff class, such that condominiums of same or similar size in the  
10 same building were assigned different land values.

11 26. The defendant Nevada State Department of Taxation has the statutory duty to  
12 consult with and assist county assessors to develop standard assessment procedures, to  
13 supervise these assessment procedures in the various counties, and to advise county assessors in  
14 the application of such procedures. Under Nevada law, the defendant Nevada Tax Commission  
15 has the obligation to establish and prescribe general and uniform regulations for the assessment  
16 of property by the county assessors of the various counties and the county assessors have the  
17 duty to adopt and put in practice the regulations established by the Tax Commission for the  
18 assessment of property.

19 27. The defendant State Department of Taxation and the defendant Nevada Tax  
20 Commission have allowed the use by the Washoe County Assessor's office in determining the  
21 taxable value of real property owned by members of the plaintiff class of an inconsistent and  
22 varying view classification system applicable only to properties at Lake Tahoe, of "teardowns"  
23 as comparable vacant land sales, of arbitrary increases in the value of comparable sales as  
24 "time" adjustments, of an arbitrary lakefront formula, and of the use of sales of single-family  
25 residences as comparable sales and of unauthorized adjustments and modifications to the  
26  
27  
28

1 "allocation" method in the valuation of condominiums (collectively, the "illegal assessment  
2 method").

3 28. By allowing the use of the illegal assessment methods by the Washoe County  
4 Assessor's office, the defendant State Department of Taxation and the defendant Nevada Tax  
5 Commission have failed to meet their statutory duties and obligations.

6 29. By allowing the use of the illegal assessment methods by the Washoe County  
7 Assessor's office to determine the taxable value of real property, the Department of Taxation  
8 and the Nevada Tax Commission have effectively made these illegal assessment methods, for  
9 all practical purposes, de facto "regulations" of the Commission. As de facto "regulations," the  
10 above illegal assessment methods are invalid because they were not adopted by the  
11 Commission in compliance with the notice and hearing requirements of NRS Chapter 233B.

12 30. For the tax year 2003-2004 and an unknown number of prior years, the use of  
13 these illegal and invalid assessment methods by the Washoe County Assessor has resulted in  
14 the excessive, improper, invalid and illegal valuation of real properties at Incline Village and  
15 Crystal Bay, in Washoe County, owned by members of the plaintiff class and the imposition of  
16 excessive, improper, invalid and illegal taxes based on such valuations, all in violation of the  
17 provision of the Nevada Constitution guaranteeing uniform and equal taxation and a just  
18 valuation of all property.

19 31. Plaintiff is informed and believes that defendants consider the use by the  
20 Washoe County Assessor's office of these illegal assessments methods to be valid and lawful;  
21 an actual controversy thus exists between the plaintiff class and defendants considering the  
22 validity of those methods under the Constitution and laws of the State of Nevada.

23 32. The requirement, if any, that members of the plaintiff class exhaust their  
24 administrative remedies is excused on numerous grounds, including, but not limited to, the  
25 constitutional and other defects in the administrative process, the failure of the Washoe County  
26  
27  
28

1 Assessor's office to disclose its use of these illegal assessment methods, futility, and the lack of  
2 administrative remedies.

3 33. Members of the plaintiff class have no adequate remedy at law to prevent the  
4 defendant Washoe County through its Assessor's office from using these illegal assessment  
5 methods of determining the taxable value of improved real property for purpose of assessing  
6 property taxes on such property and through its Treasurer's office from collecting on the  
7 resulting illegal and unconstitutional assessments. Members of the plaintiff class will continue  
8 to suffer irreparable harm and damage unless the defendant Washoe County is enjoined and  
9 restrained from the use of these illegal assessment methods of determining taxable value.  
10

11 34. In addition to declaratory and injunctive relief, the individual members of the  
12 plaintiff class are entitled to receive refunds from Washoe County for their overassessment and  
13 over-payment of taxes for the tax year 2003-2004 and prior years as proven together with  
14 interest at a rate determined pursuant to NRS §17.130.  
15

16 SECOND CLAIM FOR RELIEF

17 (Against all Defendants)

18 35. Plaintiff realleges, as though fully set forth, paragraphs 1 through 11, and 13  
19 through 34, inclusive, above.

20 36. The illegal assessment methods used by the office of the defendant Washoe  
21 County Assessor resulted in a disparity in valuation for ad valorem tax purposes between  
22 similarly situated property at Lake Tahoe in Douglas and Washoe Counties for the tax year  
23 2003/2004 and prior tax years, in violation of the guarantees of the Nevada Constitution of a  
24 system of uniform, equal and just valuation and assessment of ad valorem taxes.  
25

26 37. The defendant State Board of Equalization has the duty to review the tax rolls of  
27 the various counties and equalize the taxable value of the properties reflected on such rolls.  
28 The defendant State Department of Taxation has the statutory duty under NRS §360.215(2) to



1 assist county assessors to develop and maintain standard assessment procedures and to ensure  
2 that assessment of property are made equal in each of the counties of the state.

3 38. The disparity in taxable value between similarly situated property at Lake Tahoe  
4 in Douglas and Washoe Counties for the tax year 2003/2004 and prior tax years is a proximate  
5 result of the failure of the defendant State Department of Taxation to perform its statutory duty  
6 to ensure equal and uniform assessments.

7  
8 39. Notwithstanding the disparity in taxable value between similarly situated  
9 property at Lake Tahoe in Douglas and Washoe Counties for the tax year 2003/2004 and prior  
10 tax years, the defendant State Board of Equalization has failed to equalize assessments between  
11 Douglas and Washoe County as required by the Nevada Constitution and statutes.

12 40. The failure of the defendant State Board of Equalization to equalize the taxable  
13 value of similarly situated property at Lake Tahoe in Douglas and Washoe Counties for the tax  
14 year 2003/2004 and prior tax years is a denial of relief to members of the plaintiff class and  
15 said members are entitled to redress from that wrongful failure and denial.

16  
17 41. Plaintiff is informed and believes that defendants consider the disparity in  
18 valuation for ad valorem tax purposes between similarly situated property at Lake Tahoe in  
19 Douglas and Washoe Counties for the tax year 2003/2004 and prior tax years not to violate the  
20 guarantees of the Nevada Constitution of a system of uniform, equal and just valuation and  
21 assessment of ad valorem taxes; an actual controversy thus exists between the plaintiff class  
22 and defendants.

23  
24 42. In addition to declaratory relief, the individual members of the plaintiff class are  
25 entitled to receive refunds from Washoe County for the unequal, non-uniform and  
26 unconstitutional assessment of taxes for the tax year 2003-2004 and prior years as proven,  
27 together with interest at a rate to be determined pursuant to NRS § 17.130.  
28

THIRD CLAIM FOR RELIEF

(Against Washoe County Defendants)

43. Plaintiff realleges as though fully set forth paragraphs 1 through 11, 13 through 34, and 36 through 42, inclusive, above.

44. The Washoe County Assessor's office uses a 13 increment view classification system at Incline Village and Crystal Bay which places view values on land parcels ranging from zero to \$800,000 dollars. This view classification system is not used anywhere else in Washoe County except at Lake Tahoe and is not used anywhere else in the State of Nevada.

45. The view classification system described above is arbitrary and capricious in that it is not based on any written standards or guidelines such that, in practice and depending on the deputy assessor, views have been determined from locations throughout the home including bathtubs and corners of exterior decks, as well as from locations outside the home. The view classification system described above is also arbitrary and capricious in that, rather than determine the view on an individual property by property basis, the same view classification was assigned to a number of properties on a mass appraisal basis.

46. The arbitrary and capricious nature of the view classification system is further demonstrated by the fact that approximately 70% of view classifications reviewed after being questioned by property owners were changed by one or more increments. Each increment represents approximately \$65,000 of assessed value.

47. The use by the Washoe County Assessor's office of an inconsistent and variable view classification system as described above violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution as well as the due process guarantees of both the U.S. and Nevada Constitutions.

48. Plaintiff is informed and believes that defendants consider the use by the Washoe County Assessor's office of an inconsistent and varying view classification system

1 applicable only to properties at Lake Tahoe to be valid and lawful; an actual controversy thus  
2 exists between the plaintiff class and defendants considering the validity of those methods  
3 under the Constitutions of the U.S. and the State of Nevada.

4 49. Members of the plaintiff class have no adequate remedy at law to prevent the  
5 defendant Washoe County through its Assessor's office from using an inconsistent and varying  
6 view classification system applicable only to properties at Lake Tahoe and through its  
7 Treasurer's office from collecting on invalid and unconstitutional assessments made as a result  
8 of said use. Members of the plaintiff class will continue to suffer irreparable harm and damage  
9 unless the defendant Washoe County is enjoined and restrained from the use of an invalid and  
10 unconstitutional view classification system.  
11

12 50. In addition to declaratory and injunctive relief, the individual members of the  
13 plaintiff class are entitled to receive refunds from Washoe County for their overassessment and  
14 over-payment of taxes for the tax year 2003-2004 and prior years as a result of the use of an  
15 invalid and unconstitutional view classification system together with interest at a rate  
16 determined pursuant to NRS §17.130.  
17

#### 18 FOURTH CLAIM FOR RELIEF

19 (Against Washoe County Defendants)

20 51. Plaintiff realleges as though fully set forth paragraphs 1 through 11, 13 through  
21 34, 36 through 42, and 44 through 50, inclusive, above.  
22

23 52. When property is taxed, property owners are entitled by the guarantees of due  
24 process in the Nevada and U.S. Constitutions to meaningful notice and an opportunity to be  
25 heard as to the amount of the assessment and the nature and validity of the assessment  
26 methods.

27 53. Under the procedure established by the Washoe County Assessor's office, for  
28 the 2003-2004 tax year, notices of taxable value were to be mailed to property owners on or

1 before December 1, 2002. Those notices were not mailed to property owners in the plaintiff  
2 class until on or after December 6, 2002, and were not received by members of the plaintiff  
3 class until as much as a week or more later, significantly reducing the amount of time property  
4 owners had to consider the notice and investigate their rights.

5 54. The notice sent to property owners in the plaintiff class for the 2003-2004 tax  
6 year contained, on its front side, the proposed "taxable value" of the parcel or parcels. The  
7 notice does not explain what "taxable value" is nor how it is to be calculated. The notice states  
8 that a property owner can call the Assessor's Office to question or challenge an assessment.  
9 However, when members of the plaintiff class called the Assessor's Office, they were told  
10 incorrectly that their assessment was not subject to challenge because the taxable value was less  
11 than the fair market value of the property. In response to the property owner's concerns about  
12 his or her assessment, the employee at the Assessor's Office frequently inquired whether the  
13 property owner would be "willing to sell [his/her] house for the taxable value." When senior  
14 citizens and others on fixed incomes expressed concerns about being forced out of their homes  
15 by the increased assessments, the Assessor's Office simply suggested that they sell their homes  
16 and move. In these ways, the Office of the Washoe County Assessor misled inquiring property  
17 owners about the standards governing taxable value and suggested, contrary to law, that taxable  
18 value is determined by market value. The result, if not the intent, was that property owners  
19 were discouraged from pursuing an appeal of their assessments and were thus denied a  
20 meaningful opportunity to be heard.

21 55. The language of the notice, including, but not limited to, its emphasis on the fact  
22 that it is not a tax bill and its failure to state the amount of taxes that will be due, suggests  
23 improperly that it is informational and misleads the property owner recipient into the false  
24 belief that a challenge to the tax bill cannot be made until it has been received.

25 56. In response to inquiries from members of the plaintiff class with respect to the

1 assessed valuation of their properties, the Washoe County Assessor's office was neither  
2 informative nor consistent nor honest but rather attempted to discourage and deter the property  
3 owner from pursuing an appeal of that valuation.

4 57. As established and as applied, the procedure followed by the office of the  
5 Washoe County Assessor in notifying property owners in Washoe County of the assessed  
6 valuation of their real property and their right to challenge that valuation violates the due  
7 process provisions of the Nevada and U.S. Constitutions in that it fails to provide property  
8 owners, including members of the plaintiff class, with meaningful notice and the opportunity to  
9 be heard as to the accuracy of the assessed valuation and the validity of the assessment methods  
10 used to determine that valuation.  
11

12 58. An actual controversy now exists between the members of plaintiff and persons  
13 similarly situated and defendants Washoe County and the Washoe County Assessor as to  
14 whether the procedure established and applied by the office of the Washoe County Assessor in  
15 notifying property owners in Washoe County of the assessed valuation of their real property  
16 and their right to challenge that valuation violates the due process provisions of the Nevada and  
17 U.S. Constitutions.  
18

19 59. Unless this Court issues an appropriate declaration of rights, the parties will not  
20 know whether the procedure followed by the office of the Washoe County Assessor as  
21 described above violates the due process provisions of the Nevada and U.S. Constitutions and  
22 there will continue to be disputes surrounding that procedure.  
23

#### 24 FIFTH CLAIM FOR RELIEF

25 (Against Washoe County Defendants)

26 60. Plaintiff realleges as though fully set forth paragraphs 1 through 11, 13 through  
27 34, 36 through 42, 43 through 50 and 52 through 59, inclusive, above.

28 61. As a direct and proximate result of the wrongful and unconstitutional procedure,

1 as established and as applied, of the Washoe County Assessor's Office in notifying property  
2 owners in Washoe County of the assessed valuation of their real property and their right to  
3 challenge that valuation, the individual members of the plaintiff class have been damaged in the  
4 overassessment of their property and are entitled to recover those damages and receive refunds  
5 of the overassessed amount as proved

6 WHEREFORE PLAINTIFF PRAYS AS FOLLOWS:

7  
8 1. That the Court order that this action may be maintained as a class action.

9 2. That the Court declare that the use by the Washoe County Assessor's Office of  
10 an inconsistent and varying view classification system applicable only to properties at Lake  
11 Tahoe, of "teardowns" as comparable vacant land sales, of arbitrary increases in the value of  
12 comparable sales as "time" adjustments, of an arbitrary lakefront formula, and of sales of  
13 single-family residences as comparable sales and of unauthorized adjustments and modifica-  
14 tions to the allocation method in the valuation of condominiums is invalid because such  
15 methods of determining the taxable value for ad valorem tax purposes of improved real  
16 property have not been properly adopted as regulations of the Nevada Tax Commission under  
17 the Administrative Procedure Act.

18  
19 3. That the Court declare that the Constitution and laws of the State of Nevada  
20 establish the guaranty of uniformity of taxation and require standard assessment methods  
21 within and between counties in the State of Nevada

22  
23 4. That the Court declare that the disparity in valuation between property at Lake  
24 Tahoe in Douglas and Washoe Counties for the tax year 2003/2004 violates the guarantee in  
25 the Nevada State Constitution of a uniform, equal and just system of property taxation  
26 throughout the State.

27 5. That the Court enter a mandatory injunction requiring the State Board of  
28 Equalization to redress the disparity in valuation between property at Lake Tahoe in Douglas

1 and Washoe Counties and to equalize those property valuations as required by the Nevada  
2 Constitution and statutes.

3 6. That the Court enter a mandatory injunction requiring the State Department of  
4 Taxation to carry out its statutory duty under NRS §360.215(2) to assist county assessors in  
5 developing standard assessment procedures and to ensure that assessments of property are  
6 made equal in each of the counties of the state.  
7

8 7. That the Court declare that the view classification system as utilized by the  
9 Washoe County Assessor's office only for properties at Lake Tahoe violates the Equal  
10 Protection guarantee of the U.S. Constitution.

11 8. That the Court declare that the procedure followed by the Washoe County  
12 Assessor to notify property owners of the determination of the taxable value of their property  
13 and the rights and consequences related thereto violates due process of law as guaranteed by  
14 the U.S. and Nevada Constitutions.  
15

16 9. That the Court set aside the invalid and unconstitutional valuations by Washoe  
17 County of real property of members of the plaintiff class, direct the defendant Washoe County  
18 Assessor to make new valuations in accordance with the existing and properly adopted  
19 regulations of the Nevada Tax Commission, and determine the amounts to be refunded to  
20 members of the plaintiff class.  
21

22 10. That the Court enjoin defendant Washoe County and its duly authorized agents  
23 and representatives from the further use of discriminatory and illegal valuation methods to  
24 determine, for ad valorem tax purposes, the taxable value of improved real property in Washoe  
25 County;  
26

27 11. That the Court enjoin defendant Washoe County and its duly authorized agents  
28 and representatives from using methods to determine for ad valorem tax purposes the taxable

1 value of improved real property at Incline Village and Crystal Bay that are not used elsewhere  
2 in Washoe County or in surrounding counties.

3 12. That plaintiff recovers its costs of suit as provided by law and such other and  
4 further relief as the members of the plaintiff class may be adjudged entitled to in the premises.

5 DATED this 34 day of November, 2003.

6 WOODBURN AND WEDGE

7  
8 by   
9

Attorneys for plaintiff

Village League To Save Incline Assets, Inc.



**FILED**

Electronically

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Howard W. Conyers

Clerk of the Court

Transaction # 848618

1 1090  
2 Suellen Fulstone  
3 Nevada State Bar #1615  
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9 Attorneys for Petitioners

10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

11 IN AND FOR THE COUNTY OF WASHOE

12 VILLAGE LEAGUE TO SAVE INCLINE )  
13 ASSETS, INC., a Nevada non-profit corporation, )  
14 on behalf of their members and others similarly )  
15 situated; MARYANNE INGEMANSON, Trustee )  
16 of the Larry D. and Maryanne B. Ingemanson )  
17 Trust; DEAN R. INGEMANSON, individually and )  
18 as Trustee of the Dean R. Ingemanson Individual )  
19 Trust; J. ROBERT ANDERSON; and LES )  
20 BARTA; on behalf of themselves and others )  
21 similarly situated; )

22 Petitioners, )

23 vs. )

24 STATE OF NEVADA on relation of the State )  
25 Board of Equalization; WASHOE COUNTY )  
26 COUNTY; BILL BERRUM, Washoe County )  
27 Treasurer; )

28 Respondents )

Case No.: CV 03-06922

Dept. No. 7

**AMENDED  
COMPLAINT/PETITION FOR  
WRIT OF MANDAMUS**

29 Pursuant to the Supreme Court's Order Affirming in Part, Reversing in Part and  
30 Remanding and Supreme Court decisions in State ex rel. State Bd. of Equalization v. Bakst  
31 (Bakst), 122 Nev. 1403, 148 P.3d 717 (2006), and State ex rel. State Bd. of Equalization v.  
32 (Barta (Barta), 124 Nev. 58, 188 P.3d 1092 (2008), petitioners state as follows:

**GENERAL ALLEGATIONS**

33 1. Petitioner Village League To Save Incline Assets, Inc. ("Village League") is a  
34 nonprofit membership corporation organized and existing under the laws of the State of

MORRIS PETERSON  
ATTORNEYS AT LAW  
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APX00019

1 Nevada, whose members own residential real property at Crystal Bay and/or Incline Village, in  
2 Washoe County, Nevada, and pay taxes on that property as assessed, imposed and collected by  
3 the defendant Washoe County. The Village League brings this action on behalf of its members  
4 and other owners of residential real property at Crystal Bay and/or Incline Village who are  
5 similarly situated.

6 2. Petitioner Maryanne Ingemanson is and was at the time of the filing of the initial  
7 complaint in this action a citizen and resident of Washoe County, Nevada, and the trustee of the  
8 Larry D. and Maryanne B. Ingemanson Trust which at the time of the filing of the initial  
9 complaint and until 2007 owned residential real property located in Washoe County, Nevada,  
10 identified as APN 130-241-21 and paid taxes on that property as assessed, imposed and  
11 collected by Washoe County. Maryanne Ingemanson is a member and the President of the  
12 petitioner Village League.

13 3. Since 2007, petitioner Dean R. Ingemanson individually and/or as trustee of the  
14 Dean R. Ingemanson Individual Trust has owned and has been assessed for property tax  
15 purposes on residential real property at Incline Village, Washoe County, Nevada, identified as  
16 APN 130-241-21.

17 4. Petitioner J. Robert Anderson is and was at the time of the filing of the initial  
18 complaint in this action a citizen and resident of Washoe County, Nevada, who owns and is  
19 assessed for property tax purposes two parcels of residential real property at Incline  
20 Village/Crystal Bay identified as Washoe County APN 123-260-11 and APN 122-181-29.

21 5. Petitioner Les Barta is and was at the time of the filing of the initial complaint in  
22 this action a citizen and resident of Washoe County, Nevada, who owns and is assessed for  
23 property tax purposes a parcel of residential real property at Incline Village/Crystal Bay  
24 identified as Washoe County APN 125-232-24.

25 6. Respondent State Board of Equalization, established by the Nevada Legislature  
26 as codified in Nevada Revised Statutes §361.375, is an agency of the State of Nevada vested  
27 with the statutory responsibility and mandate under NRS 361.395 annually to equalize real  
28 property valuations throughout the State, including reviewing the tax rolls of the various

1 counties and, if necessary, adjusting the valuations in order to equalize values between and  
2 within counties with respect to taxable value.

3 7. Respondent Washoe County is and was at the time of the filing of the initial  
4 complaint in this action a political subdivision of the State of Nevada. Respondent Bill Berrum  
5 is and was at the time of the filing of the initial complaint in this action the duly elected  
6 Treasurer of Washoe County. It is the duty of the County Treasurer to collect all real property  
7 taxes and to refund excess taxes paid. Washoe County and Washoe County Treasurer are  
8 named in this action as parties necessary to afford complete relief.

9 8. Petitioners represent a class of residential real property taxpayers in Incline  
10 Village or Crystal Bay, in Washoe County, Nevada, who have paid real property taxes to  
11 Washoe County based on erroneous and non-equalized property valuations.

12 9. The petitioner class consists of the owners of approximately 9,000 parcels of  
13 real property at Incline Village and Crystal Bay, in Washoe County, Nevada; said class is so  
14 numerous that the joinder of each individual member of the class is impracticable.

15 10. The claims of class members against respondents involve common questions of  
16 law and fact including, without limitation, the affirmative and mandatory duty of the State  
17 Board of Equalization pursuant to NRS 361.395 to effect statewide equalization on an annual  
18 basis, specifically including the equalization of the taxable value of comparable residential real  
19 property in Douglas and Washoe Counties at Lake Tahoe.

20 11. The claims of the individual petitioners and the members of the Village League  
21 are representative and typical of the claims of the class. The claims of all members of the class  
22 arise from the same acts and omissions of the respondents that give rise to the claims and rights  
23 of the members of the Village League.

24 12. The individual petitioners as representatives of the class, are able to, and will,  
25 fairly and adequately protect the interests of the class.

26 13. This action is properly maintained as a class action because respondents have  
27 acted or refused or failed to act on grounds which are applicable to the class and have by reason  
28 of such conduct made appropriate and necessary relief with respect to the entire class as sought

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in this action.

14. Section 1(1) of Article 10 of the Nevada Constitution requires that the Nevada Legislature "provide by law for a uniform and equal rate of assessment and taxation" of real and personal property throughout the state.

15. Prior to 1981, residential real property in Nevada was valued at its full cash value or market value and assessed accordingly. In 1981, responding to complaints of increasing property taxes as a result of increasing property values, the unfair impact of those tax increases on longtime homeowners, and the potential of a tax movement in Nevada analogous to California's Proposition 13, the Nevada Legislature adopted a "taxable value" system of property taxation unique to Nevada.

16. Under the statutory scheme adopted by the Nevada Legislature in 1981, the land and the improvements of residential real property are valued separately. The two numbers are added together to determine the "taxable value" of the property. "Improved land" is valued at its "full cash value" consistently "with the use to which the improvements are being put." NRS 361.227(1). The improvements are valued under a formula for replacement cost less depreciation. NRS 361.227. Since the total "taxable value" is less than the full cash value of the property that was the previous basis of assessment, the assessed value and the taxes based on that value are proportionately less as well, providing the property tax relief intended by the Legislature.

17. The Nevada Legislature enacted a statutory scheme to achieve and maintain the Constitutionally-mandated equality and uniformity of taxation throughout the State. Each county assessor in Nevada is required to determine each year the "taxable value" of all real property within the respective county. NRS 361.260. The Nevada Tax Commission must establish and prescribe regulations for the determination of taxable value which all of the county assessors must adopt and put into practice. NRS 360.250(1); NRS 360.280(1). The Department of Taxation must "consult with and assist county assessors to develop and maintain standard assessment procedures to be applied and used in all of the counties of the state, to ensure that assessments of property by county assessors are made equal in each of the several

1 counties of this state." NRS 360.215(2). The Department must also "continually supervise  
2 assessment procedures" as carried on in the several counties of the state for the purpose of  
3 maintaining uniformity of assessment and taxation. NRS 360.215(6). The County and State  
4 Boards of Equalization correct improperly determined values and bring property into  
5 equalization within their respective jurisdictions. In valuing real property, the Department of  
6 Taxation and State Board of Equalization must also comply with Tax Commission regulations  
7 as required pursuant to NRS 360.250(1) and NRS 361.375(10).

8 18. In a "taxable value" system, equalization requires uniform assessment methods  
9 applied to similar properties resulting in the same measure of taxable value for like properties.  
10 If varying methods are used to determine the taxable value of like properties, there can be no  
11 guarantee that the same measure of taxable value would be assigned to the properties, a  
12 violation of the Constitutional mandate of "a uniform and equal rate of assessment and  
13 taxation."

14 19. For the tax year 2003-2004 and subsequent years, the Washoe County Assessor  
15 has determined the taxable value of residential real property at Incline Village and Crystal Bay  
16 using valuation methodologies in ways that have not been approved or promulgated by Tax  
17 Commission regulation, that have not been used elsewhere in the State of Nevada, including for  
18 similarly situated residential properties at Lake Tahoe in Douglas County, Nevada, and that  
19 have been adjudicated by the Nevada Supreme Court as resulting in unconstitutional and void  
20 property valuations at Incline Village and Crystal Bay in Bakst and Barta, supra.

21 20. In Bakst and Barta, supra, the Nevada Supreme Court determined that the  
22 Assessor's use of valuation methodologies that are not expressly approved and promulgated by  
23 the Tax Commission for uniform use throughout the State results in unconstitutional and void  
24 valuations and assessments. In both cases, the Court set aside the Assessor's valuations for  
25 residential real property at Incline Village/Crystal Bay and rolled back the land valuation to  
26 2002-2003 levels.

27 21. The State Board of Equalization's duty of statewide equalization under NRS  
28 §361.395 includes the duty to equalize within as well as between the various counties of the

1 State of Nevada. As defined by the Nevada Attorney General, equalization "means making  
2 sure that similarly situated taxpayers are treated the same." Nev. Atty. Gen. Opn. No. 99-32.  
3 All residential real properties at Incline Village and Crystal Bay were reappraised and valued  
4 for the 2003-2004 tax year using the specific methodologies found unauthorized in Bakst and  
5 Barta, supra, or other methodologies equally unauthorized by express regulation and equally  
6 unlawful. In equalizing within the Incline Village and Crystal Bay area of Washoe County, the  
7 State Board must look at the use of non-uniform and unauthorized methodologies as their  
8 "**predominant concern**" in equalizing to the Constitutional mandate of equal and uniform  
9 taxation as directed by the Supreme Court in Barta, supra.

10 22. The similar treatment of similarly situated taxpayers which is the State's  
11 standard of equalization requires the State Board of Equalization, pursuant to its duty of  
12 statewide equalization under NRS §361.395, to equalize the land valuation of all residential  
13 properties at Incline Village and Crystal Bay for the 2003-2004 tax year to 2002-2003 values.  
14 The State Board of Equalization has failed that duty to the loss and damage of the members of  
15 the plaintiff class. A writ of mandamus must issue directing the State Board of Equalization to  
16 declare those 2003-2004 Incline Village/Crystal Bay assessments void and direct the payment  
17 of refunds with interest for the excess over the prior constitutional valuation, pursuant to the  
18 Supreme Court Bakst and Barta decisions.

19 23. The illegal and unauthorized valuation methodologies used by the Washoe  
20 County Assessor's Office also resulted in a disparity in valuation for ad valorem tax purposes  
21 between similarly situated property at Lake Tahoe in Douglas and Washoe Counties for the tax  
22 year 2003/2004 and prior and subsequent tax years, in violation of the guarantees of the Nevada  
23 Constitution of a system of uniform, equal and just valuation and assessment of ad valorem  
24 taxes, all to the damage and loss to individual petitioners and the members of the petitioner  
25 class.

26 24. Notwithstanding the disparity in taxable value between similarly situated  
27 property at Lake Tahoe in Douglas and Washoe Counties for the tax year 2003/2004 and prior  
28 and subsequent tax years, the defendant State Board of Equalization failed to equalize

1 assessments between Douglas and Washoe County for any of those years as required by the  
2 Nevada Constitution and statutes to the resulting damage and loss to individual petitioners and  
3 the members of the petitioner class.

4 25. Petitioners and the members of the petitioner class have no plain, speedy or  
5 adequate remedy in the ordinary course of law to remedy the violations of the Nevada law and  
6 Constitution by the State Board of Equalization's failure of its statutorily mandated duty of  
7 statewide equalization.

8 26. The failure of the respondent State Board of Equalization to perform its  
9 mandatory duty to equalize the taxable value of residential real property at Incline Village and  
10 Crystal Bay which was similarly wrongfully and unconstitutionally valued and assessed  
11 through the Washoe County Assessor's use of unlawful and unauthorized valuation  
12 methodologies and further to equalize similarly situated property at Lake Tahoe in Douglas and  
13 Washoe Counties for the tax year 2003/2004 and prior and subsequent tax years has caused and  
14 resulted in the over-assessment of the property of the individual petitioners and the members of  
15 the petitioner class and the payment by individual petitioners and the members of the petitioner  
16 class of excessive taxes to Washoe County as to which petitioners and the members of the  
17 petitioner class are entitled to refunds with interest as provided by law.

18 WHEREFORE PETITIONERS PRAY AS FOLLOWS:

19 1. That the Court certify that this action may be maintained as a class action.

20 2. That the Court issue a peremptory writ of mandamus requiring the State Board  
21 of Equalization to equalize the land portion of residential real property at Incline Village and  
22 Crystal Bay to 2002-2003 values to reflect the area wide use by the Assessor of unlawful and  
23 unauthorized valuation methodologies resulting in unconstitutional valuations and assessments,  
24 to certify those changes to Washoe County and to direct the payment of refunds pursuant to  
25 NRS 361.405.

26 3. That the Court issue a peremptory writ of mandamus requiring the State Board  
27 of Equalization further to equalize property at Lake Tahoe in Douglas and Washoe Counties for  
28 the 2003-2004 tax year and subsequent years as required by the Nevada Constitution and

1 statutes, to certify those changes to Washoe County and to direct the payment of refunds  
2 pursuant to NRS 361.405.

3 4. That the Washoe County defendants be ordered to adjust the taxable value of  
4 property and refund excessive taxes to members of the petitioner class as directed by the State  
5 Board of Equalization or pay the equivalent of such refunds in damages with interest as  
6 provided by law.

7 5. That petitioners recover their attorneys' fees and costs of suit and such other and  
8 further relief as the individual plaintiffs and the members of the plaintiff class may be adjudged  
9 entitled to in the premises.

10 DATED this 19th day of June, 2009.

11 MORRIS PETERSON

12  
13  
14 By /s/ Suellen Fulstone  
15 Suellen Fulstone  
16 Attorneys for Petitioners

17 **AFFIRMATION**

18 **Pursuant to NRS 239B.030**

19 The undersigned does hereby affirm that the preceding document does not contain the  
20 social security number of any person.

21 DATED this 19th day of June, 2009.

22 MORRIS PETERSON


23  
24 By /s/ Suellen Fulstone  
25 Suellen Fulstone  
26 Attorneys for Petitioners



**VERIFICATION**

Under penalties of perjury, the undersigned declares that she is a Petitioner in her capacity as Trustee of the Larry D. and Maryanne B. Ingemanson Trust, named in the foregoing Amended Complaint/Petition for Writ of Mandamus and knows the contents thereof; that the pleading is true of her own knowledge, except as to those matters stated on information and belief, and that as to such matters she believes it to be true. The undersigned further declares that she also makes this verification as the President of Petitioner Village League to Save Incline Assets, Inc., and as the attorney-in-fact for Petitioner Dean R. Ingemanson, individually and as Trustee of the Dean R. Ingemanson Individual Trust.

Dated this 19th day of June, 2009.

  
~~Maryanne Ingemanson~~

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2  
3 **CERTIFICATE OF SERVICE**  
4

5 Pursuant to NRCP 5(b), I hereby certify that I am an employee of MORRIS  
6 PETERSON and that I served via the Court's electronic filing system a true copy of the  
7 foregoing upon the following:

8 Gina Session/Dennis L. Belcourt  
9 Office of the Attorney General  
10 100 North Carson St.  
11 Carson City, NV 89701

12 David Creekman  
13 Washoe County District Attorney's Office  
14 Civil Division  
15 P.O. Box 30083  
16 Reno, NV 89520

17 DATED this 19th day of June, 2009.

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By



Employee of Morris Peterson

1 4185  
2 STEPHANIE KOETTING  
3 CCR #207  
4 75 COURT STREET  
5 RENO, NEVADA  
6

7 IN THE SECOND JUDICIAL DISTRICT COURT  
8 IN AND FOR THE COUNTY OF WASHOE  
9 THE HONORABLE PATRICK FLANAGAN, DISTRICT JUDGE

10 --oOo--

11 VILLAGE LEAGUE, et al.,	)	
	)	
12 Plaintiffs,	)	
	)	
13 vs.	)	
	)	Case No. CV03-06922
14 NEVADA DEPARTMENT OF	)	
15 TAXATION, et al.,	)	Department 7
	)	
16 Defendants.	)	

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19 TRANSCRIPT OF PROCEEDINGS  
20 STATUS HEARING  
21 August 3rd, 2012  
22 9:00 a.m.  
23 Reno, Nevada

24 Reported by: STEPHANIE KOETTING, CCR #207, RPR  
Computer-Aided Transcription

1 APPEARANCES:

2 For the Plaintiff:

3 SNELL & WILMER  
By: SUELLEN FULSTONE, ESQ.  
By: WILLIAM PETERSON, ESQ.  
4 6100 Neil Rd.  
Reno, Nevada

5 For the Defendant:

6 DAVID CREEKMAN, ESQ.  
Deputy District Attorney  
7 P.O. Box 30083  
Reno, Nevada

8 DAWN BUONCRISTIANI, ESQ.  
9 Deputy Attorney General  
10 100 N. Carson Street  
Carson City, Nevada

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RENO, NEVADA, August 3rd, 2012, 9:00 a.m.

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THE CLERK: Case number CV03-06922, Village League, et al., versus Nevada Department of Taxation. Counsel, please state your appearance.

MS. FULSTONE: Suellen Fulstone and Bill Peterson on behalf of the Village League to Save Incline Assets and the remaining petitioners. Ms. Ingemansol is with me at counsel table and Les Barta, another one of the named plaintiffs, is in the courtroom.

MR. CREEKMAN: David Creekman on behalf of Washoe County named parties.

MS. BUONCRISTIANI: Dawn Buoncristiani, Deputy Attorney General, for the State Board of Equalization.

THE COURT: Good morning. Ms. Buoncristiani, have the board met since we last had these hearings?

MS. BUONCRISTIANI: The board is meeting currently, your Honor, on the 2012, 2013 tax year. The state board also has had two hearings. I believe it was the year after the equalization regulations were adopted and then this year in the spring on equalization.

THE COURT: All right. Ms. Fulstone.

MS. FULSTONE: I think we're here today to try to

1 agree upon what the next step is in this case, which has been  
2 remanded to the Court from the Supreme Court. I believe that  
3 what should happen next is that the Court should issue a writ  
4 of mandate directing the State Board of Equalization to  
5 perform its statutory duty of statewide equalization beginning  
6 with the year 2003, 2004. I think that's what the Supreme  
7 Court's opinion calls for and I think that's what we should  
8 proceed to.

9 As the Court knows, this case has been before it and  
10 its predecessor judge, Judge Breen, for nine years, almost  
11 nine years. It's time to get the merits of the equalization  
12 issue before the state board.

13 I do want to say, I initially delayed having this  
14 hearing, because I wanted to pursue the possibility of  
15 settlement, discussed the possibility of a settlement  
16 conference, perhaps, with your Honor's guidance. But my  
17 clients have now essentially concluded that settlement at this  
18 time is not a reasonable possibility.

19 THE COURT: All right. Thank you. Mr. Creekman.

20 MR. CREEKMAN: Yes, your Honor. I concur with Ms.  
21 Fulstone's statement of what she believes needs to happen. We  
22 need an order remanding this to the State Board of  
23 Equalization for the purposes of statewide equalization. And  
24 I would ask, though, that the Court go a little bit further.

1 I would ask that the Court order the State Board of  
2 Equalization to publically notice a meeting to consider  
3 statewide equalization.

4 The next step, I would ask that the Court order the  
5 state board to consider whether the state board has  
6 jurisdiction over all, and I mean all, each and every one of  
7 Nevada's counties for the tax years in question. If the  
8 answer is no, the case would be dismissed by the state board.  
9 If the answer is yes, the state board would proceed to the  
10 next step.

11 The next step would require them to call in all the  
12 assessors from each of Nevada's counties to review all tax  
13 rolls for the relevant tax years in question and to review all  
14 records of the state department of taxation, including all  
15 ratio studies previously performed for all the relevant tax  
16 years.

17 If after doing so the state board finds that  
18 statewide equalization is a problem, the state board has two  
19 choices under the statute. They can raise or lower values as  
20 appropriate. If they choose to raise any values, they have to  
21 follow the prescribed notice procedures.

22 I think that when the case gets to the state board,  
23 your Honor, the question of jurisdiction over all of Nevada's  
24 counties will prove to be a significant impediment to the

1 state board proceeding any further. Yet, if the state board  
2 makes the determination that they do not have jurisdiction for  
3 the years in question over all of Nevada's counties, the state  
4 board will have fulfilled its statutory obligation to consider  
5 statewide equalization for the years in question.

6 I do urge your Honor if and when you draft an order  
7 sending the case back to the state board to provide the state  
8 board with some detailed directions and guidance along the  
9 lines that I've just explained. Thank you.

10 THE COURT: All right. Thank you.

11 MS. BUONCRISTIANI: Your Honor, I think the order  
12 from the Supreme Court makes it really clear that the state  
13 board needs to have a public hearing in regard to equalization  
14 of property valuations statewide. And the state board does  
15 have regulations for equalization, which they've used in the  
16 past. I think that's an issue.

17 In talking with Ms. Fulstone, I think that there is  
18 some disagreement about whether those regulations should be  
19 applied. Otherwise, what procedures should be used. The  
20 state board is in complete -- will completely cooperate with  
21 whatever the judge orders it to do.

22 If the judge issues a writ of mandate stating the  
23 state must hold hearings and call the counties in, the state  
24 will call the counties in. If the counties object, then we



1 would have to go from there.

2 THE COURT: Ms. Fulstone, how does that sound?

3 MS. FULSTONE: First of all, there's no issue here  
4 of remanding this to the state board. This didn't come from  
5 the state board. This is an independent action.

6 THE COURT: I understand.

7 MS. FULSTONE: And the only thing the Court can do  
8 is obviously issue a writ of mandate, there is no remand.

9 When we were here last time, a couple of years now,  
10 I think, one of the things I did was ask the Court to issue,  
11 you know, issue instructions to the state board as to how it  
12 should proceed. And at that time, opposing counsel said you  
13 can't do that, because how the state board proceeds is a  
14 matter of its own determination, the Court can't interfere  
15 with that, that's the law. I do think that's the law.

16 The Court didn't issue those instructions last time  
17 I don't think the Court and I don't think that the Supreme  
18 Court decision indicates that it should issue an order with  
19 instructions to the state board as to how to do their job. I  
20 think that if the county wants to object about, you know, its  
21 jurisdiction or its this or its that, those are objections  
22 that must be made in the first instance to the state board.

23 The Supreme Court opinion does two things. It says,  
24 as counsel for the state board points out, it says there must

1 be a public hearing and there must be an opportunity for  
2 taxpayers to participate. I think the participation of  
3 taxpayers would be a possible issue under the existing  
4 regulations, but I expect that the state board would allow  
5 taxpayers to intervene in this particular case. And if they  
6 didn't, you know, we would probably then writ the State Board  
7 of Equalization as we have in the past and take that issue up.

8           If the Court does issue a bunch of instructions with  
9 its order, I think the risk of that is another appeal, which  
10 is another two or three years before this case gets to the  
11 state board. I think, in my view, what the Court should do is  
12 simply mandate the state board to proceed.

13           THE COURT: Well, the Supreme Court order has stated  
14 that, reading from its decision of February 24th, 2012, the  
15 Village League petition for a writ of mandamus to direct the  
16 state board to equalize property values throughout the state  
17 is noted that the District Court properly determined that the  
18 only available forum for taxpayers to be heard regarding the  
19 statewide adjustment of taxable property valuation is in front  
20 of the state board. The state board has repeatedly stated in  
21 its motions and briefs that no hearing has been -- no hearings  
22 have been held to equalize all property values in the state.

23           The state board has previously met to discuss how to  
24 implement the requirements of NRS 361.395, but has not held a

1 public hearing during which taxpayers could air their  
2 grievances with the equalization process nor has it  
3 affirmatively acted to equalize property values. The state  
4 board's failure to conduct public hearings with regard to  
5 state wide equalization has denied the Village League an  
6 adequate remedy at law.

7 I think Ms. Fulstone is correct, it's a fairly  
8 narrow decision requiring this Court to issue a writ of  
9 mandamus to the board of equalization to hold a public hearing  
10 within, you know, given the public notice, maybe 45 days, to  
11 permit the taxpayers an opportunity to be heard and also  
12 simply to act, as Mr. Creekman has pointed out, to equalize  
13 property values.

14 How they do it, that's in their province. I'm not  
15 going to instruct them on how to do it, whether to do it. But  
16 I am going to tell them when to do it and it's going to be  
17 sooner than later.

18 So the Court will issue a writ of mandamus directing  
19 the state board to hold a public hearing within 45 days of the  
20 date of the order and to permit the taxpayers to appear and to  
21 act to equalize property values, period.

22 MS. FULSTONE: I would remind the Court that each  
23 tax year is separate and the statutory mandate under 361.395  
24 is to equalize annually. We're talking about an equalization

1 for every year from 2003 forward to the present.

2 THE COURT: Okay.

3 MS. FULSTONE: That the state board would have to  
4 address.

5 THE COURT: Let me hear from counsel.

6 MS. BUONCRISTIANI: Your Honor, there's a couple of  
7 points I would like to respond to Ms. Fulstone.

8 THE COURT: Certainly.

9 MS. BUONCRISTIANI: First of all, the state board,  
10 I'm a little bit concerned about the 45 days.

11 THE COURT: 60 days?

12 MS. BUONCRISTIANI: We have two problems. One is  
13 that we had all the staff left and so we had one person trying  
14 to get ready for hearing and we have her boss, who is over the  
15 entire local government assessment area and including local  
16 government budgets, essentially assess properties and locally  
17 assess.

18 So the 45 days is going to be tight, because we have  
19 three days' worth of hearings in August, September and  
20 October. She did just hire someone who can help and the lady  
21 will need a little time to train. So I'm asking for more than  
22 45 days, but I'm not asking for a lot. I don't know how to  
23 determine that without -- you know, I know there is a very  
24 real problem with trying to get all this together.

1           In addition, in response to what Ms. Fulstone said,  
2 I disagree to the extent that the Court mentioned in here that  
3 it's the '03, '04 tax year and that was a tax year, I've  
4 spoken with the head of the locally assessed properties, where  
5 it was taken on its own. And my understanding is there's  
6 going to be no ramifications of every other tax year.

7           So my understanding of this is that it's limited as  
8 before the tax cap came on to that individual year and that  
9 would be what we were looking at. It would be almost  
10 impossible, even with the shortage of staff, for the  
11 department to be ready in 45 days for 10 years' worth of  
12 hearings.

13           THE COURT: Okay. Ms. Fulstone. Just a minute,  
14 Mr. Creekman.

15           MS. FULSTONE: We filed this case in 2003 for the  
16 2003, '04 tax year. At that time, initially, we sought an  
17 injunction compelling the state board to do its duty in that  
18 particular year for that year. The taxpayers can't really be  
19 punished for the fact that it's taken the courts nine years to  
20 this far. They're entitled to statewide equalization for  
21 every year from 2003 to present and that's what the complaint  
22 as amended seeks in terms of a remedy.

23           THE COURT: Mr. Creekman.

24           MR. CREEKMAN: I want to just make it clear, your

1 Honor, that this is in fact statewide equalization. We're not  
2 talking about equalization internal to Washoe County nor are  
3 we limiting ourselves to equalization as between similarly  
4 situated properties in Incline Village and Douglas County.

5 The remand -- excuse me -- the writ of mandate to  
6 the state board will include, at least by implication,  
7 directions to analyze desert property in Lincoln County, Lake  
8 Las Vegas property in Clark County, regular subdivision  
9 property in Summerlin, agricultural property in Fallon and  
10 wide open desert in the far northern reaches of the state. Am  
11 I correct with that, your Honor?

12 THE COURT: It says the writ that was sought by the  
13 Village was to direct the state board to equalize property  
14 valuations throughout the state.

15 MR. CREEKMAN: Then I am correct in my understanding  
16 we're talking all sorts of property here.

17 THE COURT: Correct.

18 MR. CREEKMAN: Thank you. With that understanding  
19 in mind, I concur with the Deputy Attorney General, this is an  
20 enormous undertaking.

21 THE COURT: I understand.

22 MR. CREEKMAN: That may require even considerably  
23 more than the slightly extended 45 days she's requested  
24 assistance on.

1           THE COURT: This is my concern. Go ahead, counsel,  
2 have a seat. You don't want to sacrifice the good for the  
3 perfect. I'm not going to -- strike that. I'm going to order  
4 that the state board meet within 60 days to hold a public  
5 hearing to permit the taxpayers to air their grievances and to  
6 take whatever action it deems necessary to equalize property  
7 values throughout the state. Now, it may not occur all at  
8 once within that 60 days, but I'm not going to wait  
9 six months.

10           MR. CREEKMAN: Okay.

11           THE COURT: For everybody to get around a table and  
12 say, now we're ready. We're going to begin this process  
13 within 60 days and you may want to schedule another hearing in  
14 another 30 days after that and another 30 days after that.  
15 I'm most mindful of the fact that, you know, with the budget  
16 crisis we're losing a lot of very knowledgeable public  
17 servants and that cripples the operations of state governments  
18 and their ability to respond to the legitimate complaints by  
19 the taxpayers to address their concerns.

20           But we've got to get this thing going. I want to  
21 get it going within 60 days. And that will get you into  
22 October, first part of October to at least begin this process.  
23 That's what the Supreme Court has ordered, that's what the  
24 taxpayers want and that's what this Court is going to do.

1 MS. BUONCRISTIANI: Your Honor, the statewide  
2 equalization, when you say statewide equalization, are we  
3 talking the year '03, '04 or are we talking everything from  
4 '03, '04 forward? I know -- I'm not sure about the few years  
5 after '03, '04, but I know there are equalization reports.  
6 Because the way the state has equalized has always gone  
7 through the tax commission and they've only done sections of  
8 the state, one-third of the state in three-year cycles. So  
9 there would not be any information on that ratio study for  
10 parts of the state, because they've been -- I'll leave it at  
11 that. Trying to make it simple. It's a difficult concept.

12 THE COURT: No doubt. No doubt about it. Thank  
13 you.

14 MS. FULSTONE: Two things, first of all,  
15 Mr. Creekman wants to limit this to between counties. That's  
16 not what the statute says and that's not what the history of  
17 the state board of equalization in its actually equalization  
18 efforts has done. In statewide equalization, the state board  
19 can equalize within counties, as well as between counties.  
20 That's its history. That's what the statute provides for.

21 Secondly, what counsel for the Attorney General --  
22 state board of equalization is just talking about is the  
23 provision for one-third of the counties to have ratio studies  
24 every three years, which you can't equalize statewide on an



1 annual basis by equalizing only one-third of the state  
2 every -- you know, every three years. There are two mutually  
3 exclusive categories. If you're going to equalize statewide  
4 on an annual basis, that means the entire state, not a third  
5 of the state. That was a dispute we've had ongoing in this  
6 matter.

7 MS. BUONCRISTIANI: My point was, your Honor, I  
8 guess I wasn't very clear, is that there's information from  
9 one-third of the state, if you want to come forward, but there  
10 is not information, that information would have to be  
11 developed --

12 THE COURT: I understand.

13 MS. BUONCRISTIANI: -- for any other year.

14 THE COURT: I would imagine that as well.

15 MR. CREEKMAN: I wanted to correct one statement  
16 made by Ms. Fulstone. Mr. Creekman is advocating for  
17 statewide equalization with no exceptions.

18 THE COURT: All right.

19 MR. CREEKMAN: Every parcel of property in this  
20 state needs to be included in this analysis.

21 THE COURT: Ms. Fulstone, anything else?

22 MS. FULSTONE: No. I think there are ways of  
23 including every parcel in the state.

24 THE COURT: I think you know exactly where this

1 Court is coming from. So, Ms. Fulstone, why don't you just  
2 draft the order.

3 MS. FULSTONE: Thank you.

4 THE COURT: This Court's in recess.

5 --oOo--

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1 STATE OF NEVADA           )  
                                  ) ss.  
2 County of Washoe        )

3       I, STEPHANIE KOETTING, a Certified Court Reporter of the  
4 Second Judicial District Court of the State of Nevada, in and  
5 for the County of Washoe, do hereby certify;

6       That I was present in Department No. 7 of the  
7 above-entitled Court on August 3rd, 2012, at the hour of 9:00  
8 a.m., and took verbatim stenotype notes of the proceedings had  
9 upon the status hearing in the matter of VILLAGE LEAGUE, et  
10 al., Plaintiffs, vs. NEVADA DEPARTMENT OF TAXATION, et al.,  
11 Defendants, Case No. CV03-06922, and thereafter, by means of  
12 computer-aided transcription, transcribed them into  
13 typewriting as herein appears;

14       That the foregoing transcript, consisting of pages 1  
15 through 17, both inclusive, contains a full, true and complete  
16 transcript of my said stenotype notes, and is a full, true and  
17 correct record of the proceedings had at said time and place.

18  
19       DATED: At Reno, Nevada, this 6th day of August, 2012.

20  
21                               S/s Stephanie Koetting  
22                               STEPHANIE KOETTING, CCR #207  
23  
24

**FILED**

Electronically

08-14-2012:04:37:41 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3148665

CASE NO. CV03-06922

VILLAGE LEAGUE et al. vs. NEVADA DEPT. OF TAXATION et al.

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

08/03/12  
HONORABLE  
PATRICK  
FLANAGAN  
DEPT. NO. 7  
K. Oates  
(Clerk)  
S. Koetting  
(Reporter)

STATUS HEARING

Suellen Fulstone, Esq., and William Peterson, Esq., were present in Court on behalf of the Plaintiff, with representatives Les Barta and Maryanne Ingemanson being present.  
Deputy District Attorney David Creekman was present in Court on behalf of Defendant Washoe County.  
Deputy Attorney General Dawn Buoncristiani was present in Court on behalf of Defendant State Board of Equalization ("State Board").  
9:00 a.m. – Court convened with Court, counsel and Plaintiff representatives present.  
Counsel for Defendant State Board of Equalization ("State Board") addressed and advised the Court that the Board is meeting currently on the 2012/ 2013 tax year.  
Counsel Fulstone, on behalf of the Plaintiff, addressed and advised the Court that today's Hearing is to determine what the next step is in this case, which has been remanded to District Court from the Supreme Court. Further, counsel argued that the District Court should issue a Writ of Mandate directing the State Board of Equalization to perform its statutory duty of statewide equalization beginning with the year 2003/2004.  
Counsel for Defendant Washoe County addressed the Court and concurred with counsel Fulstone. Further, counsel moved for an order that the State Board of Equalization publically notice a meeting to consider statewide equalization. Counsel further addressed jurisdictional issues, and argued that if the Court does send the case back to the State Board of Equalization that they, the State Board, are provided with detailed directions and guidance.  
Counsel for the State Board responded that the Order from the Supreme Court makes it very clear that the State Board needs to have a public hearing in regard to equalization of property values statewide. Counsel further advised that the State Board will comply with whatever the Court orders.  
Counsel Fulstone responded that a remand to the State Board is not the issue, but the Court issuing a Writ of Mandate that the State Board proceed is.

CASE NO. CV03-06922

VILLAGE LEAGUE et al. vs. NEVADA DEPT. OF TAXATION et al.

Page Two

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

08/03/12  
HONORABLE  
PATRICK  
FLANAGAN  
DEPT. NO. 7  
K. Oates  
(Clerk)  
S. Koetting  
(Reporter)

STATUS HEARING

COURT ORDERED: The Court will issue a Writ of Mandamus directing the State Board to hold a public hearing within 45 days of the date of this order and to permit the taxpayers to appear and to act to equalize property values.

Counsel Fulstone responded that she is requesting an equalization for every year from 2003 forward to the present.

Counsel for Defendant State Board replied and stated her concerns about the time frame given by the Court, and further addressed the tax years as stated by counsel Fulstone.

Counsel for Defendant Washoe County responded that the issue is statewide equalization, to include far northern reaches of the State. The Court confirmed counsel for the Defendant Washoe County's understanding.

Counsel for Defendant Washoe County responded that due to the enormous task at hand, forty-five days may not suffice.

COURT ORDERED: The State Board of Equalization will meet within 60 days to hold a public hearing to permit the taxpayers to air their grievances and to take whatever action is necessary to equalize property values throughout the State. It is further ordered that additional hearings may be necessary.

Counsel for Defendant State Board responded and addressed the years in question, and further advised that it would be best to keep this simple as it's a difficult concept.

Counsel Fulstone replied and addressed the limitation to between counties. Further, counsel responded that the State Board is just talking about the provision for one-third of the counties to have ratio studies every three years, which you can't equalize statewide on an annual basis by equalizing only one-third of the State every three years. Further, counsel argued that if you're going to equalize statewide on an annual basis, that means the entire state, not a third of the State.

Counsel for the State Board replied that there is information from one-third of the State, if you want to come forward, but there is not information, that information would have to be developed.

CASE NO. CV03-06922

VILLAGE LEAGUE et al. vs. NEVADA DEPT. OF TAXATION et al.

Page Three

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

08/03/12

STATUS HEARING

HONORABLE

Counsel for the Defendant Washoe County responded and reiterated  
as to statewide equalization.

PATRICK

FLANAGAN

Counsel Fulstone replied that she believes there are ways of  
including every parcel in the State.

DEPT. NO. 7

K. Oates

COURT ORDERED: Counsel Fulstone will prepare the proposed  
order.

(Clerk)

S. Koetting

9:22 a.m. – Court stood in recess.

(Reporter)

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.: CV-03-06922
	)	
	)	Dept. No. 7
	)	
Petitioners,	)	
	)	
vs.	)	
	)	
STATE OF NEVADA on relation of the State Board of Equalization; WASHOE COUNTY COUNTY; BILL BERRUM, Washoe County Treasurer;	)	
	)	
	)	
Respondents	)	

---

**WRIT OF MANDAMUS**

TO THE NEVADA STATE BOARD OF EQUALIZATION, ACTING BY AND  
THROUGH THE CHAIRMAN AND MEMBERS OF SAID BOARD:

AND TO WASHOE COUNTY AND THE WASHOE COUNTY TREASURER:

YOU ARE COMMANDED BY THIS COURT AS FOLLOWS:

(1) The Nevada State Board of Equalization ("the Board") shall take such actions as are required to notice and hold a public hearing, or hearings as may be necessary, to hear and determine the grievances of property owner taxpayers regarding the failure, or lack, of equalization of real property valuations throughout the State of Nevada for the 2003-2004 tax year and each subsequent tax year to and including the 2010-2011 tax year and to raise, lower or leave unchanged the taxable value of any property for the purpose of equalization.

(2) The Board shall take such actions as are required to hold the first public

equalization hearing under this writ of mandamus on a date not more than 60 days after the date of the writ's issuance.

(3) If, in the course of the equalization hearings held pursuant to this writ of mandamus, the Board proposes to increase the valuation of any property on the assessment roll of any county, the Board shall take such actions as are required to comply with the provisions of NRS §361.395(2).

(4) The Board shall take such actions as are required to certify any changes made by the Board in the valuation of any property to the county assessor and county tax receiver/treasurer of the county where the property is assessed.

(5) Upon the receipt of a certification from the Board of any change made in the valuation of any property within Washoe County for any tax year, Washoe County and the Washoe County Treasurer (collectively "the County") shall issue such additional tax statement(s) or tax refund(s) as the changed valuation may require to satisfy the statutory provisions for the collection of property taxes.

(6) The Board and the County shall report and make known to the Court how this writ of mandamus has been executed no later than 180 days after the date of its issuance and on such further dates as may be ordered by the Court.

ISSUED by the Court this 21 day of August, 2012.

By Patrick Flanagan  
District Judge



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 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 Individual )  
Trust; J. ROBERT ANDERSON; and LES )  
BARTA; on behalf of themselves and others )  
similarly situated; )

Petitioners, )

vs. )

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

Respondents )

Case No.: CV03-06922

Dept. No. 7

**ORDER AND JUDGMENT FOR ISSUANCE OF WRIT OF MANDAMUS**

The Village League to Save Incline Assets, Inc. and individual residential property owners in Incline Village and Crystal Bay, in Washoe County, Nevada, brought this action for a writ of mandamus compelling the respondent State of Nevada on relation of the State Board of Equalization to perform its annual duty of statewide equalization pursuant to NRS §361.395 for the 2003-2004 tax year and continuing for each tax year thereafter in which no public

hearing was held and no findings as to statewide equalization were made by the respondent Board. Having determined that the respondent State Board of Equalization has an obligation on an annual basis to determine the proper equalization of real property valuations throughout the State of Nevada, both between counties and within counties pursuant to NRS §361.395; that the State Board of Equalization has failed to hold a public hearing to hear and determine the grievances of property owner taxpayers throughout the State of Nevada regarding the failure, or lack, of equalization of real property valuations for the 2003-2004 tax year and subsequent tax years to and including the 2010-2011 tax year; that petitioners have no plain, speedy or adequate remedy in the ordinary course of the law other than the issuance of the peremptory writ of mandamus requested in the petition; and that petitioners are entitled to the relief sought, this Court enters its order as follows:

IT IS ORDERED, ADJUDGED AND DECREED

(1) That a peremptory writ of mandamus shall issue commanding the Nevada State Board of Equalization ("the Board") to notice and hold a public hearing, or hearings as may be necessary, to hear and determine the grievances of property owner taxpayers regarding the failure, or lack, of equalization of real property valuations throughout the State of Nevada for the 2003-2004 tax year and each subsequent tax year to and including the 2010-2011 tax year and to raise, lower or leave unchanged the taxable value of any property for the purpose of equalization.

(2) That the Board's first public equalization hearing shall be held on a date determined by the Board but not more than 60 days after the date of issuance of the writ of mandamus.

(3) That, if the Board proposes to increase the valuation of any property on the assessment roll of any county, it shall comply with the provisions of NRS §361.395(2).

(4) That the Board shall certify any change made in the valuation of any property for any individual tax year to the county assessor and county tax receiver/treasurer of the county where the property is assessed.

(5) That, upon the receipt of a certification from the Board of any change made in

the valuation of any property within Washoe County for any tax year, the Washoe County respondents shall conform the assessment roll for that year to reflect each and any such change and shall issue such additional tax statement(s) or tax refund(s) as the changed valuation may require to satisfy the statutory provisions for the collection of property taxes.

(6) That the writ of mandamus shall be made returnable to this Court not later than 180 days after the date of its issuance at which time the Board and County shall make known to the Court how the writ has been executed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to NRS §34.280, the peremptory writ of mandamus shall be served on the Nevada State Board of Equalization, Washoe County and the Washoe County Treasurer by delivery within 3 business days of the date of issuance to their respective counsel appearing in this matter.

DATED this 21 day of AUGUST, 2012.

By Patrick Flanagan  
DISTRICT JUDGE



**BRIAN SANDOVAL**  
*Governor*

**STATE OF NEVADA**  
**STATE BOARD OF EQUALIZATION**  
1550 College Parkway, Suite 115  
Carson City, Nevada 89706-7921  
Telephone (775) 684-2160

**CHRISTOPHER G. NIELSEN**  
*Secretary*

**NOTICE OF EQUALIZATION HEARING**

August 28, 2012

**CERTIFIED:** 7009 2250 0004 3574 5146  
SUEELLEN FULSTONE  
SNELL AND WILMER  
6100 NEIL ROAD #555  
RENO, NV 89511

**Date and Time:** September 18, 2012, 1:00 p.m.  
**Location: Carson City** State Legislative Building  
401 South Carson Street, Room 3137  
Carson City, Nevada

**Video-Conferencing will also be available to the following Locations:**

Legislative Counsel Bureau  
Grant Sawyer State Office Building  
Room 4412E  
555 E. Washington Avenue  
Las Vegas, Nevada

**In addition, the Department is currently waiting confirmation of video-conferencing locations in Elko, Winnemucca, Ely, Pahrump, Caliente, Eureka, Battle Mountain, and Lovelock. Please call (775) 684-2160 for precise locations.**

This meeting will also be available on the internet via the Legislative website at <http://leg.state.nv.us> then select Live meetings and then State Board of Equalization. You may call in your comments by telephone to the meeting. Please call the Department at (775) 684-2160 for the call-in number and reservation to speak.

**Legal Authority and Jurisdiction of the State Board of Equalization:** Writ of Mandamus dated August 21, 2012 and NRS 361.395, NAC 360.732, and NAC 361.659.

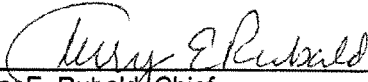
The purpose of the hearing is to hear and determine the grievances of property owner taxpayers regarding the equalization of real property valuations in Nevada for the 2003-2004 tax year through each subsequent tax year to and including 2010-2011; and to raise, lower or leave unchanged the taxable value of any property for the purpose of equalization.

Evidence regarding these matters must be received in Department of Taxation offices no later than 5 p.m., September 13, 2012. Please send your evidence along with a brief or letter explaining your

grievance to the attention of Christopher G. Nielsen, Secretary to the State Board at 1550 College Parkway, Carson City, NV 89706.

Based on the evidence and testimony taken at this hearing, the State Board may request a response from county officials at future hearings before taking any equalization action. You will be notified if additional hearings will be held.

If you have any questions, please call me at 775-684-2095 or Anita Moore at 775-684-2160.

  
\_\_\_\_\_  
Terry E. Rubald, Chief  
Division of Local Government Standards

cc: State Board of Equalization  
Christopher G. Nielsen, Department of Taxation Executive Director  
Dawn Buoncristiani, Senior Deputy Attorney General  
Gina Session, Chief Deputy Attorney General

**CERTIFICATE OF SERVICE**

I hereby certify on the 28 day of August 2012 I served the foregoing Notice of Equalization Hearing by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

**CERTIFIED:** 7009 2250 0004 3574 5146

SUEELLEN FULSTONE  
SNELL AND WILMER  
6100 NEIL ROAD #555  
RENO, NV 89511

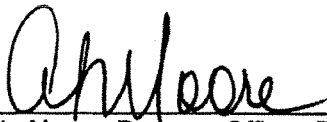
**CERTIFIED:** 7009 2250 0004 3574 5160

RICHARD GAMMICK  
WASHOE COUNTY DISTRICT ATTORNEY  
PO BOX 30083  
RENO, NV 89520-3083

**CERTIFIED:** 7009 2250 0004 3574 5153

JOSHUA G WILSON  
WASHOE COUNTY ASSESSOR  
PO BOX 11130  
RENO NV 89520-0027

Copy: State Board of Equalization  
Christopher G. Nielsen, Department of Taxation Executive Director  
Dawn Buoncristiani, Senior Deputy Attorney General  
Gina Session, Chief Deputy Attorney General



Anita L. Moore, Program Officer, Boards and Commissions  
State Board of Equalization

**FILED**

Electronically

08-30-2012:11:54:08 AM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3185625

1 **2535**  
2 **SNELL & WILMER L.L.P.**  
3 **Suellen Fulstone, No. 1615**  
4 **6100 Neil Road, Suite 555**  
5 **Reno, Nevada 89511**  
6 **Telephone: (775) 829-6000**

7 **Attorneys for Petitioners**

8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF**

9 **NEVADA IN AND FOR THE COUNTY OF WASHOE**

10 **VILLAGE LEAGUE TO SAVE INCLINE** ) **Case No. CV03-06922**  
11 **ASSETS, INC., a Nevada non-profit** )  
12 **corporation, on behalf of their members and** ) **Dept. No. 7**  
13 **others similarly situated; MARYANNE** )  
14 **INGEMANSON, Trustee of the Larry D. and** )  
15 **Maryanne B. Ingemanson Trust; DEAN R.** )  
16 **INGEMANSON, individually and as Trustee** )  
17 **of the Dean R. Ingemanson; J. ROBERT** )  
18 **ANDERSON; and LES BARTA; on behalf of** )  
19 **themselves and others similarly situated;** )

20 **Petitioners,**

21 **vs.**

22 **STATE OF NEVADA on relation of the State** )  
23 **Board of Equalization; WASHOE COUNTY;** )  
24 **BILL BERRUM, Washoe County Treasurer,** )

25 **Respondents.**

26 **NOTICE OF ENTRY OF JUDGMENT**

27 **PLEASE TAKE NOTICE** that on August 21, 2012, the Court entered its Order and  
28 **Judgment for Issuance of Writ of Mandamus.** A copy of the Order and Judgment is attached as  
Exhibit I.

The undersigned affirms that this document does not contain the social security number of  
any person.

Snell & Wilmer  
LLP  
LAW OFFICES  
6100 NEIL ROAD, SUITE 555  
RENO, NEVADA 89511  
(775) 829-6000


**Snell & Wilmer**

LLP  
LAW OFFICES  
3881 HOWARD HUGHES PARKWAY, SUITE 1100  
LAS VEGAS, NEVADA 89169  
(702) 845-5200

1 Dated this 30th day of August, 2012.

2 SNELL & WILMER L.L.P.

3  
4 By:



Suellen Fulstone, No. 1615  
6100 Neil Road, Suite 555  
Reno, Nevada 89511

5  
6 Attorneys for Petitioners  
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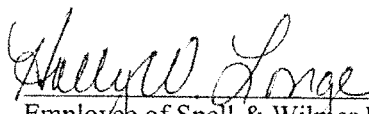
**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b), I certify that I am an employee of SNELL & WILMER, L.L.P., and I served the foregoing document via the Court's e-flex filing system on the date and to the addressee(s) shown below:

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

David Creekman  
Washoe County District Attorney's Office  
Civil Division  
P.O. Box 30083  
Reno, NV 89520

DATED this 30th day of August, 2012.

  
Employee of Snell & Wilmer L.L.P.

INDEX TO EXHIBITS

<u>Exhibit No.</u>	<u>Document Title</u>	<u>Pages</u>
1.	Order and Judgment for Issuance of Writ of Mandamus	3

# EXHIBIT 1

**FILED**  
Electronically  
08-30-2012:11:54:08 AM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3185625

EXHIBIT 1

**FILED**  
Electronically  
08-21-2012:04:35:49 PM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3166652

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

VILLAGE LEAGUE TO SAVE INCLINE	)	Case No.: CV03-06922
ASSETS, INC., a Nevada non-profit corporation,	)	
on behalf of their members and others similarly	)	Dept. No. 7
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 Individual	)	
Trust; J. ROBERT ANDERSON; and LES	)	
BARTA; on behalf of themselves and others	)	
similarly situated;	)	
	)	
Petitioners,	)	
	)	
vs.	)	
	)	
STATE OF NEVADA on relation of the State	)	
Board of Equalization; WASHOE COUNTY	)	
COUNTY; BILL BERRUM, Washoe County	)	
Treasurer;	)	
	)	
Respondents	)	

**ORDER AND JUDGMENT FOR ISSUANCE OF WRIT OF MANDAMUS**

The Village League to Save Incline Assets, Inc. and individual residential property owners in Incline Village and Crystal Bay, in Washoe County, Nevada, brought this action for a writ of mandamus compelling the respondent State of Nevada on relation of the State Board of Equalization to perform its annual duty of statewide equalization pursuant to NRS §361.395 for the 2003-2004 tax year and continuing for each tax year thereafter in which no public

hearing was held and no findings as to statewide equalization were made by the respondent Board. Having determined that the respondent State Board of Equalization has an obligation on an annual basis to determine the proper equalization of real property valuations throughout the State of Nevada, both between counties and within counties pursuant to NRS §361.395; that the State Board of Equalization has failed to hold a public hearing to hear and determine the grievances of property owner taxpayers throughout the State of Nevada regarding the failure, or lack, of equalization of real property valuations for the 2003-2004 tax year and subsequent tax years to and including the 2010-2011 tax year; that petitioners have no plain, speedy or adequate remedy in the ordinary course of the law other than the issuance of the peremptory writ of mandamus requested in the petition; and that petitioners are entitled to the relief sought, this Court enters its order as follows:

IT IS ORDERED, ADJUDGED AND DECREED

(1) That a peremptory writ of mandamus shall issue commanding the Nevada State Board of Equalization ("the Board") to notice and hold a public hearing, or hearings as may be necessary, to hear and determine the grievances of property owner taxpayers regarding the failure, or lack, of equalization of real property valuations throughout the State of Nevada for the 2003-2004 tax year and each subsequent tax year to and including the 2010-2011 tax year and to raise, lower or leave unchanged the taxable value of any property for the purpose of equalization.

(2) That the Board's first public equalization hearing shall be held on a date determined by the Board but not more than 60 days after the date of issuance of the writ of mandamus.

(3) That, if the Board proposes to increase the valuation of any property on the assessment roll of any county, it shall comply with the provisions of NRS §361.395(2).

(4) That the Board shall certify any change made in the valuation of any property for any individual tax year to the county assessor and county tax receiver/treasurer of the county where the property is assessed.

(5) That, upon the receipt of a certification from the Board of any change made in

the valuation of any property within Washoe County for any tax year, the Washoe County respondents shall conform the assessment roll for that year to reflect each and any such change and shall issue such additional tax statement(s) or tax refund(s) as the changed valuation may require to satisfy the statutory provisions for the collection of property taxes.

(6) That the writ of mandamus shall be made returnable to this Court not later than 180 days after the date of its issuance at which time the Board and County shall make known to the Court how the writ has been executed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to NRS §34.280, the peremptory writ of mandamus shall be served on the Nevada State Board of Equalization, Washoe County and the Washoe County Treasurer by delivery within 3 business days of the date of issuance to their respective counsel appearing in this matter.

DATED this 21 day of AUGUST, 2012.

By Patrick Flanagan  
DISTRICT JUDGE

1368  
SNELL & WILMER L.L.P.  
Suellen Fulstone, No. 1615  
6100 Neil Road, Suite 555  
Reno, Nevada 89511  
Telephone: (775) 829-6000

Attorneys for Petitioners

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  
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; J. ROBERT  
ANDERSON; and LES BARTA; on behalf of  
themselves and others similarly situated;

Petitioners,

vs.

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

Respondents.

Case No. CV03-06922

Dept. No. 7

**CERTIFICATE OF DELIVERY**

As set forth in the attached exhibits 1-5, inclusive, the Writ of Mandamus was delivered to respondents and their counsel as required by the Writ.

Exhibit 1 - Tammi Davis, Washoe County Treasurer, on August 23, 2012;

Exhibit 2 - Christopher Nielsen, Secretary, State Board of Equalization, on August 23, 2012;

Exhibit 3 - Katy Simon, Washoe County Manager, on August 23, 2012;

Exhibit 4 - Office of the Nevada Attorney General on August 23, 2012;

Exhibit 5 - Office of the Washoe County District Attorney on August 24, 2012.

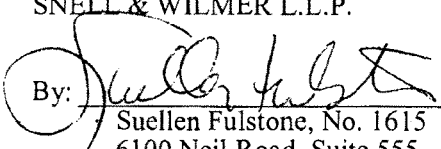
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The undersigned affirms that this document does not contain the social security number of any person.

Dated this 30th day of August, 2012.

SNELL & WILMER L.L.P.

By:

  
Suellen Fulstone, No. 1615  
6100 Neil Road, Suite 555  
Reno, Nevada 89511

Attorneys for Petitioners



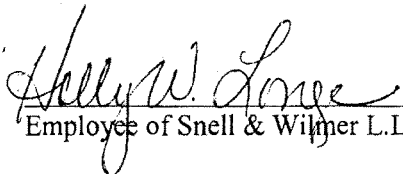
**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b), I certify that I am an employee of SNELL & WILMER, L.L.P., and I served the foregoing document via the Court's e-flex filing system on the date and to the addressee(s) shown below:

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

David Creekman  
Washoe County District Attorney's Office  
Civil Division  
P.O. Box 30083  
Reno, NV 89520

DATED this 30th day of August, 2012.

  
Employee of Snell & Wilmer L.L.P.

INDEX TO EXHIBITS

<u>Exhibit No.</u>	<u>Document Title</u>	<u>Pages</u>
1.	Delivery: Tammi Davis, Washoe County Treasurer	1
2.	Delivery: Christopher Nielsen, State Board of Equalization	1
3.	Delivery: Katy Simon, Washoe County Manager	1
4.	Delivery: Office of the Nevada Attorney General	1
5.	Delivery: Office of the Washoe County District Attorney	1

# EXHIBIT 1

**FILED**

Electronically

08-30-2012:03:14:38 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3187505

# EXHIBIT 1



# EXHIBIT 2

**FILED**

Electronically

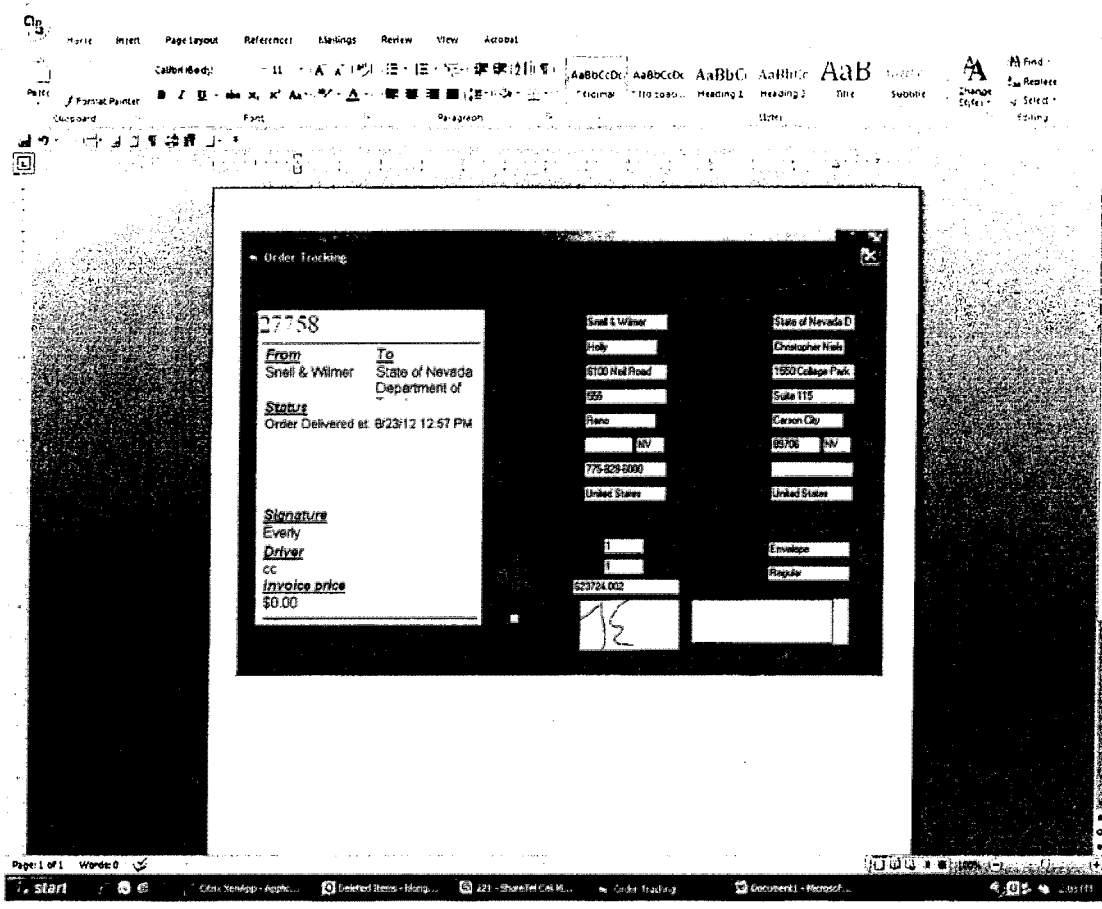
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Joey Orduna Hastings

Clerk of the Court

Transaction # 3187505

# EXHIBIT 2



# EXHIBIT 3

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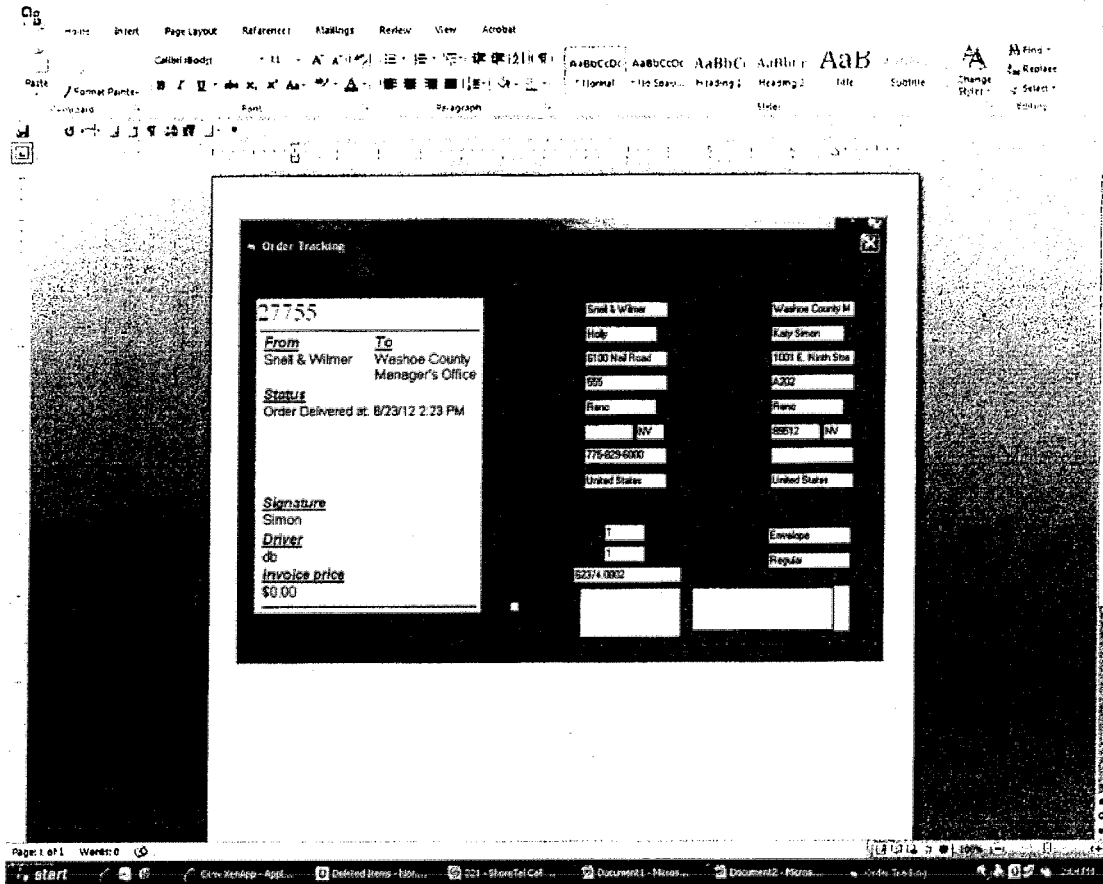
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Joey Orduna Hastings

Clerk of the Court

Transaction # 3187505

# EXHIBIT 3





# EXHIBIT 4

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Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3187505

# EXHIBIT 4

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Style: Normal

Order Tracking

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Snell & Wilmer	Office of the Attorney General

Status  
Order Delivered at: 8/23/12 1:38 PM

Signature  
Gibson

Driver  
CC

Invoice price  
\$0.00

Snell & Wilmer	Office of the Attorney General
Holly	Dawn Buscemi
6100 Neil Road	100 North Carson
999	
Reno	Carson City
857	89701 NV
775-629-6000	
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Page 1 of 1 Word

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Document4 - P6

Order Tracking

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# EXHIBIT 5

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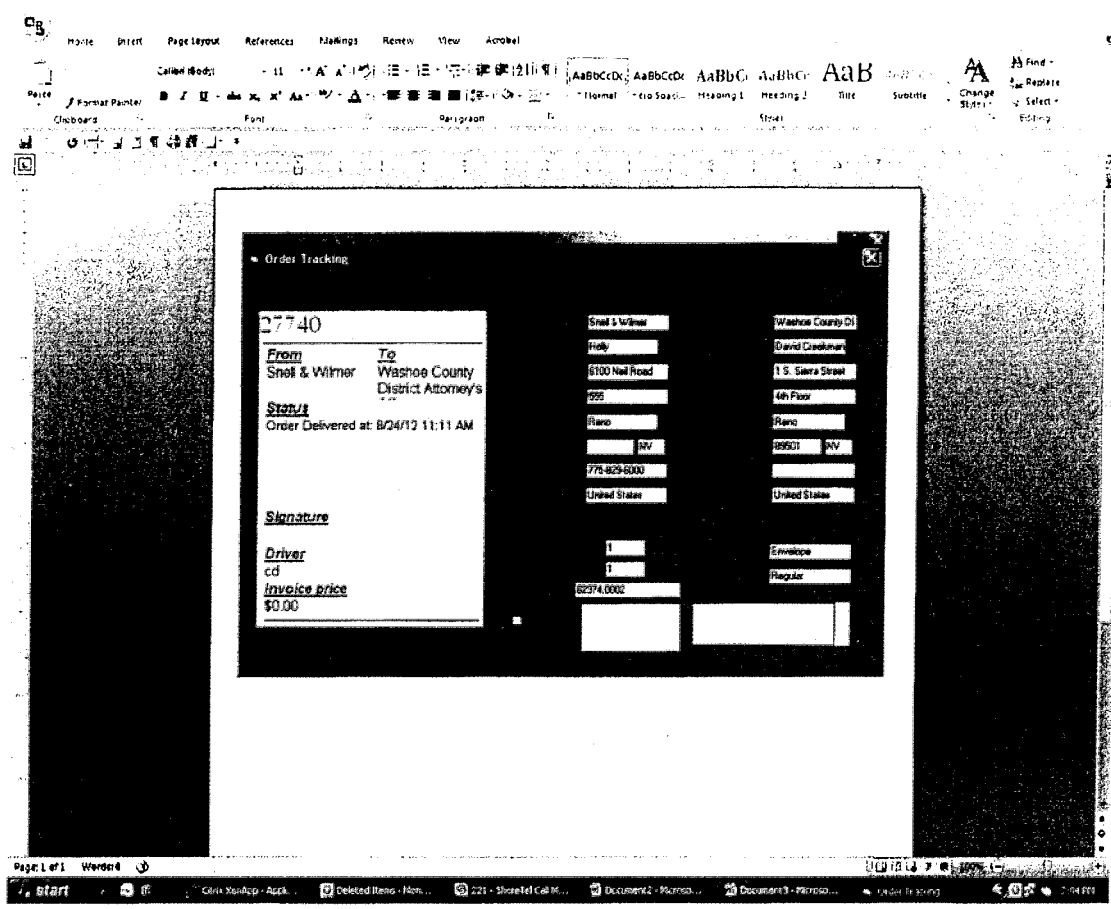
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Joey Orduna Hastings

Clerk of the Court

Transaction # 3187505

# EXHIBIT 5



POSTED: September 12, 2012

**STATE BOARD OF EQUALIZATION AGENDA**  
**September 17-18, 2012**  
**8:00 a.m. each day**

State Legislative Building  
401 S Carson St, Room 3137  
Carson City, Nevada

STACKED AGENDA: Each listed hearing is one of several hearings scheduled at the same time as part of a regular meeting of the State Board that is expected to last from 8:00 a.m. until 5:00 p.m. Thus, any particular hearing may be continued until later in the day or from day to day. It is each taxpayer's or his representative's responsibility to be present when the case is called. If the taxpayer or his representative is not present when his hearing is called, the State Board will invoke the requirements of NRS 361.385 and NAC 361.708(4). The State Board may (a) proceed with the hearing; (b) dismiss the proceeding with or without prejudice; or (c) recess the hearing for a period to be set by the State Board to enable the party to attend.

**NOTE (1):** "Notice of Appearance" cases are cases in which the State Board must first determine if it can accept jurisdiction. If the State Board determines it can accept jurisdiction, the parties must be prepared to proceed on the merits of the case immediately.

**NOTE (2):** Appellants are advised that decisions may be rendered at any time subsequent to a hearing; the staff or a deputy attorney general may be queried at the time requesting additional information or legal points on the matter.

**NOTE (3):** No action will be taken on any matters during public comment. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126. Public comment will be limited to comments of three minutes or less; and relevant to and within the authority of the State Board.

**NOTE (4):** The State Board of Equalization may take any case or item in a different order than the way the case is listed on the agenda. Items may be combined for consideration by the State Board of Equalization. Items may be removed from the agenda at any time or discussion on any item may be delayed until a later time.

-----  
*The following order of presentation will ordinarily be used for each appeal:*

- 1. Administration of the Oath;**
- 2. Review of Taxpayer Notices designating an authorized agent; consideration of deficient agent authorization notices;**
- 3. Consideration of Appellant or Respondent Preliminary Objections, if any;**
- 4. Consideration of Appellant or Respondent Preliminary Motions, if any;**
- 5. Consideration of State Board Preliminary Motions, if any;**
- 6. Motions to accept or deny late-filed evidence and documents pursuant to NAC 361.723 (5);**
- 7. Introduction of new evidence pursuant to NAC 361.739;**
- 8. Brief Orientation by the County Assessor or his staff (NAC 361.741);**
- 9. A presentation of not more than 15 minutes by the petitioner;**
- 10. A presentation of not more than 15 minutes by the respondent;**
- 11. A rebuttal of not more than 5 minutes by the petitioner;**
- 12. Questions by the State Board;**
- 13. Official Notice of matters recited in NAC 361.720; rules, regulations, official reports, decisions and orders of the Commission, State Board or any agency; matters of common knowledge and technical or scientific facts of established character; pertinent official documents; matters judicially noticed by the Courts; and**
- 14. Closure of hearing; discussion, consideration, and vote by the State Board. The parties may not participate in the discussion of the State Board.**

**Action may be taken on the following agenda items and appeals of property tax valuation in BOLD:**

**September 17, 2012**

A. Opening Remarks by the Chairman; introduction of State Board members, Swearing-in

B. Public Comment (See Note 3)

**C. For Possible Action: APPEALS FROM ACTION OF A COUNTY BOARD OF EQUALIZATION  
PURSUANT TO NRS 361.400, TAX YEAR 2012-13, Secured Roll**

<b><u>CASE NUMBER</u></b>	<b><u>PETITIONER</u></b>	<b><u>PROPERTY TYPE</u></b>	<b><u>RESPONDENT</u></b>
<b>Group 1:</b>			
12 127	Herrman and Hilda Glockler	Residential Property	Washoe County Assessor
12 266	John A. & Doreen M. Hash	Residential Property	Washoe County Assessor
<b>Group 2:</b>			
12 275	Raley's / Roger Bergmann Tr dba Raley's Store #103	Commercial Property	Washoe County Assessor
12 276	Raley's / Bertrand Living Trust, ELD dba Raley's Store #103	Commercial Property	Washoe County Assessor
12 277	Raley's / McQueen Crossing SC LP dba Raley's Store #105	Commercial Property	Washoe County Assessor
12 278	R Raley's / McQueen Crossing SC LP dba Raley's Store #105	Commercial Property	Washoe County Assessor
12 279	Raley's / Galena Junction LLC dba Raley's Store #108	Commercial Property	Washoe County Assessor
12 280	Raley's / Sparks Mercantile LP	Commercial Property	Washoe County Assessor
12 281	Raley's / Donahue Schriber Realty Grp L dba Raley's #110	Commercial Property	Washoe County Assessor
12 282	Raley's / Donahue Schriber Realty Grp L dba Raley's #110	Commercial Property	Washoe County Assessor
<b>Group 3:</b>			
12 228	King Family Trust	Commercial Property	Washoe County Assessor
12 240	King Family Trust	Commercial Property	Washoe County Assessor
12 229	1320-1350 Freeport LLC	Commercial Property	Washoe County Assessor
12 230	Manoukian Family Trust	Commercial Property	Washoe County Assessor
12 231	Sierra Quail Ltd Liability Co.	Commercial Property	Washoe County Assessor
12 232	660 Sierra Rose LLC	Commercial Property	Washoe County Assessor
12 233	6490 S. McCarran Blvd., Bldg. E	Commercial Property	Washoe County Assessor
12 234	Quail Path South LLC	Commercial Property	Washoe County Assessor
12 235	RBC Northwest II LLC	Commercial Property	Washoe County Assessor
12 236	Quail North West Phase II, LLC	Commercial Property	Washoe County Assessor
12 237	Quail North West Phase II, LLC	Commercial Property	Washoe County Assessor
12 238	Waiala Investment Group	Commercial Property	Washoe County Assessor
12 239	Waiala Investment Group	Commercial Property	Washoe County Assessor
<b>Group 4:</b>			
12 126	John R. Rauch Properties LLC	Commercial Property	Washoe County Assessor
12 224	Windsor West Ventures LLC	Commercial Property	Washoe County Assessor
12 270	Rosenbaum Declaration of Trust	Commercial Property	Washoe County Assessor

**D. For Possible Action: DIRECT APPEAL OF PROPERTY ON THE UNSECURED ROLL PURSUANT TO  
NRS 361.360(3)**

12 412	Tim Keepel dba Silver State Furniture LLC	Personal Property	Washoe County Assessor
12 420	Peter Mancini dba Reno Inside & Out LLC	Personal Property	Washoe County Assessor

**E. For Possible Action: CONSENT AGENDA, RECOMMENDATIONS BY THE SECRETARY TO DISMISS TAXPAYERS' APPEALS PURSUANT TO NAC 361.7014, Untimely Filed Appeals or Appeals not Heard by County Board; Determination of Jurisdiction of State Board. See Note (1)**

<u>CASE NUMBER</u>	<u>PETITIONER</u>	<u>PROPERTY TYPE</u>	<u>RESPONDENT</u>
12 499	Hildebrand Photography	Personal Property	Washoe County Assessor
12 286	Target Investments LLC	Commercial Property	Washoe County Assessor
12 495	Jan and Julie Clark	Residential Property	Washoe County Assessor
12 496	Jan and Julie Clark	Vacant Land	Washoe County Assessor
12 497	Jan and Julie Clark	Vacant Land	Washoe County Assessor
12 498	Jan and Julie Clark	Vacant Land	Washoe County Assessor

**September 18, 2012**

**F. For Possible Action: ORDER ON REMAND TO STATE BOARD OF EQUALIZATION FROM THE FIRST JUDICIAL DISTRICT COURT, CASE NUMBER 08-OC-00354 1B, DEPARTMENT No. 1**

08 1254	Schulz Partners LLC	Residential Property	Douglas County Assessor
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**G. For Possible Action: APPEALS FROM ACTION OF A COUNTY BOARD OF EQUALIZATION PURSUANT TO NRS 361.400, TAX YEARS 2009-2010 and 2010-2011 Secured Rolls, Continued from Prior Years**

09 112	Schulz Partners LLC	Residential Property	Douglas County Assessor
10 139	Schulz Partners LLC	Residential Property	Douglas County Assessor
11 158	Schulz Partners LLC	Residential Property	Douglas County Assessor

**H. For Possible Action: APPEALS FROM ACTION OF A COUNTY BOARD OF EQUALIZATION PURSUANT TO NRS 361.400, TAX YEAR 2012-13, Secured Roll**

12 147	Schultz Partners LLC	Residential Property	Douglas County Assessor
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**I. For Possible Action: APPEALS FROM ACTION OF A COUNTY BOARD OF EQUALIZATION PURSUANT TO NRS 361.400, TAX YEAR 2012-13, Secured Roll**

12 149	Druscilla Thyssen	Commercial Property	Storey County Assessor
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**J. For Possible Action: CONSENT AGENDA, RECOMMENDATIONS BY THE SECRETARY TO DISMISS TAXPAYERS' APPEALS PURSUANT TO NAC 361.7014, Untimely Filed Appeals or Appeals not Heard by County Board; Determination of Jurisdiction of State Board. See Note (1)**

12 457	MW Fund LLC c/o Marvin F. Poer & Co.	Commercial Property	Lyon County Assessor
12 227	Kirk Thompson dba Projects West Inc.	Vacant Land	Esmeralda County Assessor

**K. For Possible Action: APPEALS FROM ACTION OF A COUNTY BOARD OF EQUALIZATION PURSUANT TO NRS 361.400, TAX YEAR 2012-13, Secured Roll**

12 222	Paul W. Rupp	Residential Property	Esmeralda County Assessor
12 223	Paul W. Rupp	Residential Property	Esmeralda County Assessor

**1:00 p.m. The afternoon session will be video-conferenced to the following locations:**

University of Nevada Cooperative Extension  
Lander County  
815 North 2<sup>nd</sup> Street  
Battle Mountain, NV.

University of Nevada Cooperative Extension  
Eureka County  
701 South Main Street  
Eureka, NV.

University of Nevada School of Medicine  
Grover C. Dils Medical Center  
700 North Spring Street  
Caliente, NV.

University of Nevada Cooperative Extension  
Pershing County  
810 Sixth Street  
Lovelock, NV.

Great Basin College  
Lundberg Hall  
Room 114  
1500 College Parkway,  
Elko, NV.

Great Basin College  
Pahrump Valley Center  
Room 115  
551 East Calvada Boulevard  
Pahrump, NV.

University of Nevada Cooperative Extension  
White Pine County  
995 Campton Street  
Ely, NV.

University of Nevada Cooperative Extension  
Humboldt County  
1085 Fairgrounds Road  
Winnemucca, NV.

Legislative Counsel Bureau  
Grant Sawyer State Office Building  
Room 4412E  
555 E. Washington Avenue  
Las Vegas, Nevada

The afternoon session will also be available on the internet via the Legislative website at <http://leg.state.nv.us> then select Live meetings and then State Board of Equalization. You may call in your comments by telephone to the meeting. Please call the Department at (775) 684-2160 for the call-in number and reservation to speak.

**L. For Possible Action:** Pursuant to the Writ of Mandamus filed on August 21, 2012, Village League to Save Incline Assets, Inc. v. State Board of Equalization, et al, the State Board will hear and determine grievances of property owner taxpayers regarding the equalization of real property valuations in Nevada for the 2003-2004 tax year through each subsequent tax year to and including 2010-2011 and will raise, lower or leave unchanged the taxable value of any property for the purpose of equalization pursuant to NAC 361.650 through NAC 361.667, as applicable.

**M. For Possible Action: Briefing to and from the Board and the Secretary and Staff**

- Briefing Schedules
- Proposed Hearing Schedules and Docket Management

**N. State Board of Equalization Comments (see Note 3)**

**O. Public Comment (See Note 3)**

**P. Adjournment**

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The Department is pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Taxation in writing or call (775) 684-2160 prior to the meeting.

**Notice agendas were posted at the following locations:**

DEPARTMENT OF TAXATION LOCATIONS: 1550 E. College Parkway, Carson City; 4600 Kietzke Lane, Bldg L, Ste 235, Reno; 555 E. Washington Ave, #1300, Las Vegas; 2550 Paseo Verde Parkway, Suite 180, Henderson; Also: CLARK COUNTY GOVERNMENT CENTER, 500 S. Grand Central Parkway, Las Vegas; LAS VEGAS LIBRARY, 833 Las Vegas Blvd, Las Vegas; STATE LIBRARY & ARCHIVES, 100 Stewart St, Carson City.



SUBMISSION  
OF INCLINE VILLAGE/CRYSTAL BAY  
RESIDENTIAL PROPERTY OWNER/TAXPAYERS

EQUALIZATION HEARING

SEPTEMBER 18, 2012

SUELLEN FULSTONE  
SNELL & WILMER  
6100 NEIL ROAD, SUITE 555  
RENO, NEVADA 89511  
ATTORNEYS FOR VILLAGE LEAGUE TO SAVE INCLINE ASSETS  
AND INCLINE VILLAGE/CRYSTAL BAY  
RESIDENTIAL PROPERTY OWNER TAXPAYERS

## I. INTRODUCTION

Incline Village/Crystal Bay taxpayer equalization grievances arise out of the Washoe County Assessor's 2002 mass reappraisal of Incline Village/Crystal Bay residential properties. The 2002 mass reappraisal provided the base valuation for all Incline Village/Crystal Bay residential properties for the 2003/2004 tax year and for the subsequent four tax years: 2004/2005, 2005/2006, 2006/2007 and 2007/2008. No actual physical reappraisal was done for the 2004/2005, 2005/2006, 2006/2007 and 2007/2008 tax years.

The property valuations established by the 2002 mass reappraisal of Incline Village/Crystal Bay residential properties were null, void, unjust, inequitable and unconstitutional. The Nevada Supreme Court made that determination in *State Board of Equalization v. Bakst*, 122 Nev. 1403, 148 P.3d 717 (2006), after determining that those valuations had been made using methodologies which were not approved by the Nevada Tax Commission, were not used elsewhere in Washoe County, and were not used elsewhere in the State of Nevada. The use of such unauthorized and non-uniform methodologies violated the constitutional requirement of equal and uniform taxation.

In *Bakst*, the Supreme Court held that the valuations established by the 2002 reappraisal were null and void. For the taxpayer parties in that case, the Supreme Court itself set the valuations of Incline Village and Crystal Bay residential property for the 2003/2004 tax year at their 2002/2003 (pre-2002 appraisal) constitutional levels. In *State Board of Equalization v. Barta*, 124 Nev. 58, 188 P.3d 1092 (2008), the Supreme Court looked at those same 2002 reappraisal valuations, this time as reflected in the 2004/2005 tax year valuations of Incline Village/Crystal Bay residential properties. In *Barta* as in *Bakst*, the Court held those valuations null and void. Again, for the taxpayer parties in the *Barta* case, the Court set their 2004/2005 valuations at 2002/2003 constitutional levels.

Following the *Bakst* and *Barta* decisions, the Carson City District Court set aside the 2005/2006 valuations of Incline Village/Crystal Bay residential property because they likewise were based on the unconstitutional 2002 reappraisal. Consistent with the Supreme Court decisions, the Carson Court set valuation levels to their 2002/2003 constitutional levels and then applied the "factor" developed by Washoe County for the 2005/2006 tax year. In the following two years, this State Board of Equalization itself set aside the Washoe County Assessor's 2006-2007 and 2007-2008 valuations of Incline Village/Crystal Bay residential property because those valuations were still based on the unconstitutional 2002 reappraisal.<sup>1</sup> The Board set the values at their 2002/2003 constitutional levels and again applied the Assessor's "factors" to reach the Board's final valuation.

Those 2003/2004, 2004/2005, 2005/2006, 2006-2007, and 2007-2008 decisions affected individual taxpayer property owners who brought constitutional challenges to their property valuations. The unconstitutional 2002 reappraisal, however, included all residential properties at Incline Village/Crystal Bay, rendering all such base valuations unconstitutional.<sup>2</sup> Addressing equalization claims for all residential property owners in Incline Village/Crystal Bay for the 2006/2007 tax year, this Board vacated the Assessor's valuations (which were based on the 2002 unconstitutional reappraisal) and established the 2006/2007 values for all residential properties at Incline Village/Crystal Bay to their 2002/2003 levels. Incline Village/Crystal Bay taxpayers ask for similar equalization of all residential properties at Incline Village/Crystal Bay for the 2003/2004, 2004/2005, 2005/2006 and 2007-2008 tax years.

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<sup>1</sup> See, e.g., *Village League v. State Bd. of Equalization* ("Village League"), 194 P.3d 1254, 124 Nev. 1079 (Nev., 2008); *Berrum v. Otto* ("Otto I"), 255 P.3d 1269, 127 Nev. Adv. Op. 30 (Nev., 2011); *Washoe County v. Otto* ("Otto II"), 128 Nev. Adv. Op. No. 40 (Nev., 2012).

<sup>2</sup> There are approximately 9000 residential properties in the Incline Village/Crystal Bay area. That number will be used as a benchmark in this submission.

The Constitutional requirement of uniformity as well as this Board's equalization obligation and its equalization precedent requires that the unconstitutional base valuations of all Incline Village/Crystal Bay residential properties for the tax years 2003/2004, 2004/2005, 2005/2006 and 2007/2008 be set aside and those base valuations reset to 2002-2003 constitutional levels. All Incline Village/Crystal Bay residential property owners are justly entitled to the same valuations as the constitutionally mandated individual valuations set by the courts for those tax years. Completion of the equalization process pursuant to the Writ of Mandamus issued on August 21, 2012, will provide justice to Incline Village/Crystal Bay residential property owner-taxpayers and will finally put a close to this long pending dispute.

## II. STATEMENT OF FACTS

### A. The 2003/2004 tax year

These equalization grievances begin with the 2003/2004 tax year. The salient facts have been determined by the Nevada Supreme Court. In *Bakst*, the Court wrote as follows:

In 2002. . .[the] Washoe County Assessor . . . performed a mass reappraisal of the properties in [the Incline Village-Crystal Bay] area to determine their taxable values for the 2003-2004 tax year. \*  
\* \* In completing appraisals, county assessors must use the 'sales comparison approach,' which is a standard method to determine the full cash value of land on which its taxable value is based; under this approach, comparable sales of land in the same area are examined. \*\*\* Concerned that it would be difficult to determine comparable sales for land in the Incline Village/Crystal Bay area for the 2003-2004 tax year, the Assessor decided to use four methodologies to adjust comparable sales for the reappraisal period.

The Court

conclude[d] that the methodologies used are invalid. Specifically, their inconsistent application violated the uniform and equal rate of assessment required by Article 10 of the Nevada Constitution. **The 2003-2004 valuations, which were based on those methodologies, are therefore unjust and inequitable. Any taxes collected that can be attributed to those invalid methodologies**

**are unconstitutional, as determined by the district court, and the Taxpayers who paid such taxes are entitled to a refund.** (Emphasis added.)

In this case, the Assessor used what he characterized as generally recognized appraisal standards and guidelines and created a set of methodologies that were unique to the Incline Village and Crystal Bay areas. We do not address whether those methodologies were standard or generally recognized in the appraisal industry. Instead, we conclude that the methodologies the Assessor used are invalid and violated the Nevada Constitution because they were not consistent with the methods used throughout Washoe County. \*\*\* We conclude on that basis that none of the four methodologies used by the Assessor in 2002 to assess property values in Incline Village and Crystal Bay were constitutional.

. . . Taxpayers are entitled to a refund of the difference between any taxes they paid based on their 2003-2004 valuations and the taxes they should have paid based on their 2002-2003 valuations. That formula allows the Taxpayers to receive a refund for the taxes that are directly attributable to the use of the disputed methodologies.

The *Bakst* Court affirmed the trial court in vacating the Assessor's valuations and establishing property valuations at their 2002-2003 constitutional levels and the payment of refunds to the seventeen taxpayer parties to that case. As described by the Supreme Court, the unconstitutional methods were used in a mass reappraisal of all residential properties in Incline Village and Crystal Bay. "Mass reappraisal" means that the remaining approximately 9000 residential properties in Incline Village/Crystal Bay were also valued for the 2003-2004 tax year using the same unconstitutional methods. This Board's equalization mandate requires that it follow the Supreme Court in vacating those valuations as null and void and establishing valuations for those properties at their 2002-2003 constitutional levels.

**B. The 2004/2005 tax year**

Under NRS §361.260(6), the County Assessor must reappraise real property at least once every five years. The Washoe County Assessor divided the County into five areas,

and did one area each year. Since the Incline Village/Crystal Bay area was reappraised in 2002 for the 2003/2004 tax year, it was not scheduled to be reappraised again until 2007 for the 2008/2009 tax year. Accordingly, the Washoe County Assessor used the unjust, inequitable and unconstitutional valuations of the 2002 reappraisal for the Incline Village/Crystal Bay area again for the 2004/2005 tax year. The Assessor argued that a factor had been applied to validate the 2002 reappraisal valuations. In *Barta*, the Nevada Supreme Court rejected that argument and again rejected the valuations based on the 2002 reappraisal as unjust, inequitable and unconstitutional.

The Court wrote as follows:

We determined in *Bakst* that the methods used by the Assessor to determine the 2003-2004 property valuations were unconstitutional, and therefore, the assessments based on those valuations were null and void. \* \* \* Because null and void values could not be validly adjusted, and because the adjustment of those unconstitutional values by applying the same factors to each property in 2004-2005 did not address or remedy the 2003-2004 values' unjustness and inequity, the use of factoring does not materially distinguish this case from *Bakst*. \* \* \* [T]he resulting 2004-2005 values were affected by the same unconstitutional infirmities as the 2003-2004 values and, like those values, are unjust and inequitable.

The Court then affirmed the trial court's decision to vacate the unconstitutional 2004/2005 valuations and to establish valuations at their constitutionally mandated 2002/2003 levels for all thirty-five parties in the case. Again, the remaining approximately 8000 residential properties in Incline Village/Crystal Bay were valued in the same way rendering those valuations unjust, inequitable and unconstitutional for the same reasons and on the same grounds. Again this Board's equalization mandate requires that it follow the Supreme Court in setting aside those 2004/2005 valuations and establishing valuations for those properties at their 2002-2003 constitutional levels.

**C. The 2005/2006 tax year**

For the 2005/2006 tax year, the Washoe County Assessor again used the valuations of the 2002 reappraisal that the Nevada Supreme Court twice determined were null, void, unjust, inequitable and unconstitutional. For the 2005/2006 tax year, the Assessor applied an 8% "factor" to increase those null and void valuations. For approximately 900 parcels whose taxpayer owners were parties to the 2005/2006 case, the Carson City District Court vacated the Assessor's 2002 reappraisal valuations, established new valuations at the 2002-2003 constitutional level, and applied the 8% factor to those 2002-2003 level valuations. Again, for the 2005-2006 tax year, the Court decision was limited to the properties of some 900+ individual taxpayers who challenged their valuations, leaving a little more than 8000 residential properties in Incline Village/Crystal Bay with valuations which were again unjust, inequitable and unconstitutional and out of equalization. This Board's equalization mandate requires that it order the valuations of those approximately 7000 properties vacated, reset to their constitutional 2002/2003 levels and adjusted in the same way as the properties of the individual taxpayers who obtained relief for the 2005/2006 tax year.

**D. The 2006/2007 tax year**

As noted above, equalization of valuations for the 2006/2007 tax year for all residential real properties at Incline Village and Crystal Bay has been implemented. The Washoe County Assessor's 2006-2007 valuations have been set aside and valuations have been established at the constitutional 2002-2003 levels. *See Village League; Otto I; Otto II.*

**E. The 2007/2008 tax year**

By the time that the approximately 900 individual valuation cases for the 2007/2008 tax year came before this State Board of Equalization, both the *Bakst* and *Barta*

decisions had been issued. Understanding that the Assessor's valuations were unconstitutional, null and void because they were based on the unconstitutional 2002 reappraisal, this Board set aside the Assessor's valuations, reset the base valuations back to constitutional 2002-2003 levels, and then applied to those 2002-2003 levels the factors for the intervening years: 8% (2005/2006), 2% (2006-2007) and 15% (2007-2008).<sup>3</sup> Again this Board's equalization mandate requires that it set aside the Assessor's 2007-2008 valuations of the remaining approximately 8000 residential properties at Incline Village/Crystal Bay, establish base valuations for all those properties at constitutional 2002-2003 levels and adjust those valuations in the same way as the properties of the individual taxpayers who obtained relief for the 2007/2008 tax year.

### III. EVIDENCE

The evidence supporting Incline Village/Crystal Bay taxpayer grievances is already in the records of this State Board of Equalization and consists of the following:

- (1) The administrative record in the individual valuation cases brought for the 2003/2004, 2004/2005, 2005/2006, 2006/2007, and 2007/2008 tax years by Incline Village/Crystal Bay taxpayers,
- (2) The administrative records prepared by the Department on behalf of the Board for the judicial review cases in the courts for all five tax years,
- (3) The eleven volumes of record on appeal in the *Bakst* case
- (4) The thirty-eight volumes of record on appeal in the *Barta* case.
- (5) The Tahoe Study

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<sup>3</sup> The 15% factor for 2007/2008 applied only to some properties at Incline Village/Crystal Bay. Other properties had a factor of 1, which meant no change from the previous year. Taxpayers have challenged the constitutionality of the methods used to determine the factors as well as the constitutionality of applying the factor to adjust a different base year. Those challenges remain in the court system pending determination.



(6) The findings and rulings of the Supreme Court in *Bakst*, *Barta*, *Village League*, *Otto I* and *Otto II*.

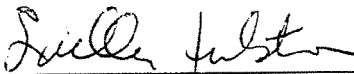
Since this massive record evidence is either a matter of public record or already in the Board's possession, taxpayers have not provided unnecessary duplicated materials. Taxpayers request that the Board make the evidence in its record available at the time of the hearing in this matter.

#### IV. ARGUMENT

Every taxpayer has the right to a uniform and equal rate of assessment and taxation guaranteed by Article 10, Section 1 of the Nevada Constitution. As set forth by the Supreme Court in *Bakst* and *Barta*, a property value determined using unauthorized, unconstitutional, non-uniform methods is necessarily unjust and inequitable. This Board's equalization function serves to effectuate the Constitutional mandate of equal and uniform taxation. In this instance, the Supreme Court has determined more than once that the 2002 mass reappraisal of Incline Village/Crystal Bay residential properties was based on unauthorized methodologies and resulted in inequitable, unjust and unconstitutional valuations. Under the 5-year reappraisal cycle, that unconstitutional mass reappraisal contaminated residential property valuations at Incline Village/Crystal Bay for each of the 2003/2004, 2004/2005, 2005/2006, 2006/2007 and 2007/2008 tax years. The law anticipates that not every taxpayer will seek individual relief from unconstitutional taxation. In such circumstances, the State Board of Equalization is assigned both the power and the ultimate responsibility for equal, uniform and constitutional valuation. This Board met that responsibility for the 2006/2007 tax year. Under the decisions of the Supreme Court, the Writ of Mandamus underlying this proceeding, the statutes, and this Board's own precedent, this Board must complete the equalization process for the 2003/2004, 2004/2005, 2005/2006 and 2006/2007 tax years, set aside the indisputably unconstitutional property valuations for those years for Incline Village/Crystal Bay residential properties and the taxpayer

owners of those properties, establish valuations at constitutional levels and put an end to this long-standing dispute.

Respectfully submitted this 13th day of September, 2012.

A handwritten signature in cursive script, appearing to read "Suellen Fulstone", written over a horizontal line.

Suellen Fulstone  
Snell & Wilmer  
6100 Neil Road, Suite 555  
Reno, Nevada 89511

Attorneys for Village League to Save Incline Assets  
and Incline Village/Crystal Bay Residential  
Property Owner/Taxpayers

STATE BOARD OF EQUALIZATION

STATE OF NEVADA

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PUBLIC HEARING

AGENDA ITEM L (Writ of Mandamus Hearing)

Tuesday, September 18, 2012

Nevada Legislative Building, Room 3137

Carson City, Nevada

REPORTED BY:

CAPITOL REPORTERS  
Certified Court Reporters  
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A P P E A R A N C E S

The Board:	TONY WREN, Chairman
	DENNIS MESERVY, Member
	AILEEN MARTIN, Member
	ANTHONY MARNELL, III, Member
For the Board:	Dawn Buoncristiani, Deputy Attorney General
	Terry Rubald, Chief of the Div. of Assessment Standards
	Anita Moore, Coordinator for the Board
	Keri Gransbery, Tax Examiner

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I N D E X

AGENDA ITEMS:	PAGE
L. For Possible Action: Pursuant to the Writ of Mandamus filed on August 21, 2012, Village League to Save Incline Assets, Inc. v. State Board of Equalization, et al, the State Board will hear and determine grievances of property owner taxpayers regarding the equalization of real property valuations in Nevada for the 2003-2004 tax year through each subsequent tax year to and including 2010-2011 and will raise, lower or leave unchanged the taxable value of any property for the purpose of equalization pursuant to NAC 361.650 through NAC 361.667, as applicable.	5

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H. William Brooks	18
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Michael Queen	25
Eureka County	24

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1 CARSON CITY, NEVADA, TUESDAY, SEPTEMBER 18, 2012, 1:07 P.M.

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3

4 CHAIRMAN WREN: Good afternoon.

5 This is the time and place for the State Board  
6 of Equalization. Today is September 18th. We have had a  
7 full agenda yesterday and today.

8 This is the time we have set aside for Item  
9 Number L of our agenda.

10 Dawn, if I could get you to read into the  
11 record the mandate, please.

12 MS. BUONCRISTIANI: Yes, Chairman Wren, there  
13 is a Writ of Mandate from Judge Flanagan, dated  
14 August 21st, 2012, in which it states:

15 "To the Nevada State Board of Equalization,  
16 acting by and through the Chairman and Members of said  
17 Board," which is the applicable part, and I'm looking at  
18 Section 1, which is why we're here today.

19 "The Nevada State Board of Equalization, the  
20 Board, shall take such actions as are required to notice  
21 and hold public hearing or hearings as may be necessary to  
22 hear and determine the grievances of property owner  
23 taxpayers regarding the failure or lack of equalization of  
24 real property valuations throughout the State of Nevada  
25 for the '03-'04 tax year and each subsequent tax year to

1 and including the 2010-2011 tax year and to raise, lower,  
2 or leave unchanged the taxable value of any property for  
3 the purpose of equalization."

4 And there are other sections that I will read  
5 at a later date [sic] that if -- or if the Board does take  
6 some action today that would apply, but this hearing is  
7 being held in compliance with the 60 days required by  
8 Section 2.

9 CHAIRMAN WREN: Okay. And I'll remind  
10 everybody that what this mandate is, is for us to take  
11 testimony from the taxpayers from the State of Nevada out  
12 of all 17 counties for anybody who wants to, that have  
13 grievances of taxes regarding equalization, and that is  
14 the testimony that we would like to hear.

15 I've said at many previous meetings over the  
16 last couple years. We're quite aware that property values  
17 and the economy has declined significantly over the years.  
18 We're also aware of the Supreme Court rulings on certain  
19 cases for certain years. I'll remind you the Supreme  
20 Court has not ruled on every case for every year. So I'd  
21 encourage you not to indicate that they have.

22 Just so we get some idea how we're going to do  
23 this, how many people in the room, alone, that's in Carson  
24 City, plan to testify today?

25 (Show of hands)



1 CHAIRMAN WREN: Okay. Uh, yeah. If you'd  
2 look at the other room for me, and see how many over there  
3 plan to testify. I only saw about half a dozen hands go  
4 up here. Uh, who is on the -- let me state this, first of  
5 all, a couple things so you know.

6 This is being recorded by a court reporter,  
7 Carrie. She can only type one person at a time, and we're  
8 broadcasting this not only here in Carson City, we're down  
9 in Las Vegas, we're out in Elko. I think there might be  
10 somebody on the phone. I'm going to ask them if they are  
11 right now.

12 I'm going to ask you, when you come forward to  
13 address us, state your name, speak clearly, speak slowly,  
14 and only one person speak at a time.

15 Since the whole state or a lot of the state is  
16 here, and I'm the Chairman, if I start talking, everybody  
17 has to quit. Okay. That's the only way we're going to  
18 have control, and I'm going to tell you right upfront, I'm  
19 taking that control if need be.

20 Also, I understand that, you know, there's a  
21 lot of emotions involved in this. I know that you're  
22 going to be real happy about what certain people say,  
23 either out there or other places. Don't get boisterous.  
24 Don't do a bunch of clapping. Let us get the information  
25 so we can see what needs to happen.

1 Do we have anybody on the telephone? If we  
2 do, please identify yourself.

3 (Proceedings paused briefly)

4 CHAIRMAN WREN: Okay. I'm assuming we don't  
5 have anybody on the telephone.

6 If you hear a beeping sound come over the  
7 sound system, that means somebody has called in, and I  
8 might have to contend with that when we do.

9 (Discussion off the record)

10 CHAIRMAN WREN: Is that on the TV?

11 MS. BUONCRISTIANI: Well, those video  
12 conferenced rooms, do they have the ability to testify  
13 from there?

14 MS. RUBALD: Yes.

15 MS. BUONCRISTIANI: So we need to check and  
16 see if there's anyone there.

17 CHAIRMAN WREN: Okay. Well, I think what  
18 we'll do, because just looking at the screens I don't  
19 think we have anywhere near this amount of people.

20 Again, I'm going to remind you that this  
21 mandate is for the entire State of Nevada. It is to give  
22 every taxpayer in the State of Nevada the opportunity to  
23 be heard about their grievances on equalization.

24 The state has noticed entire state through  
25 media, that this meeting was being held today, and we will

1 hear the grievances today, and may or may -- may or may  
2 not make any decisions today. The only decision we may  
3 make today is whether or not to hold different meetings or  
4 do something different, given the information.

5 So, having said that, I think what I'll do,  
6 Terry, is have you go through. We've got 17 counties, and  
7 I want to make sure, given the mandate, that anybody in  
8 the State of Nevada that has a grievance has the ability  
9 to be heard.

10 So what we'll do is go through the counties.  
11 I don't know exactly who you have where, but everybody in  
12 the State of Nevada, each county has had the opportunity  
13 to be present either here personally, or via telephone, or  
14 via the conference, and I'm assuming you guys can see TVs  
15 behind me.

16 It will -- one screen will always be in Las  
17 Vegas. One screen will always be here, and I think the  
18 other one is in Elko. So whoever is speaking, the camera  
19 will go to that -- that person.

20 So, Terry, having said that, if you would,  
21 just start with the counties and let's go through.

22 Oh, let me say this: Given the amount of  
23 people that we have right now, I'm going to give everybody  
24 five minutes to speak, okay, so I can get through as many  
25 as I can. Give us the facts and the details, okay, that

1 we need.

2 MS. RUBALD: Mr. Chairman, this is actually  
3 being broadcast in eight different locations: In Battle  
4 Mountain, Caliente, Elko, Ely, Eureka, Lovelock, Pahrump,  
5 Winnemucca, and a ninth location in Las Vegas.

6 So folks who may be in those various  
7 locations, as you said, to the left-hand screen -- or the  
8 right-hand screen is always Las Vegas, and whoever is  
9 speaking from one -- from any of the other eight  
10 locations, the camera will go to that location.

11 So right now you're only seeing one location.  
12 I'm not sure which one that is, but if there's someone in  
13 one of the other locations, the camera will start up and  
14 connect us.

15 So I did also want to say for the record that  
16 this was noticed not only on our website but in 21  
17 newspapers throughout the state. There were also some  
18 individual notices, particularly for the Village League.

19 Having said that, I would like to ask if there  
20 are any persons who are residents of Carson City to come  
21 forward. And I believe most of the folks here in Carson  
22 City, in this room, are probably residents of Washoe  
23 County.

24 So we will get to you, but if there are  
25 residents of Carson City who wish to come forward to bring

1 evidence of inequity, please do so now.

2 (Proceedings paused briefly)

3 MS. RUBALD: Mr. Chairman, I don't see anyone  
4 coming forward from Carson City.

5 Therefore the next county I'd like to call:  
6 Is in any resident of Churchill County who would like to  
7 come forward and bring evidence of inequity?

8 (Proceedings paused briefly)

9 MS. RUBALD: Okay. I don't see anyone coming  
10 forward from Churchill County.

11 (Proceedings paused briefly)

12 MS. RUBALD: The next county is Clark County.  
13 If there is anyone from Clark County who would like to  
14 come forward and bring evidence?

15 Mr. McKean.

16 MR. McKEAN: Thank you, Members of the Board  
17 and Chairman Wren. My name is Bill McKean. I'm with the  
18 law firm of Lionel, Sawyer and Collins.

19 And in response to the notice requesting  
20 grievances regarding equalization issues affecting  
21 2003-2011 tax years, I do have a specific classification  
22 issue, or a specific issue that I think does affect a  
23 specific classification of taxpayers, and I have some  
24 specific relief that has been requested.

25 I did file a written petition that has the

1 details of this issue. The taxpayer in this case is the  
2 City Hall LLC that purchased the former City Hall parcel  
3 in Las Vegas.

4 In prior tax years that parcel was exempt from  
5 taxation because it was owned by an exempt taxpayer or an  
6 exempt entity, and the assessor for that parcel did not  
7 follow the regulations and statutes in setting a  
8 valuation.

9 What they did is basically put a place-keeper  
10 value, and the way the assessor described it was a permit  
11 value, the -- the amount of the permit that was issued  
12 back in 1973, so that historical construction costs  
13 reflected on the permit.

14 Here, the taxpayer purchased the property  
15 after the roll for the 2012 tax year closed and discovered  
16 that valuation that was not done in compliance with  
17 regulations and statutes. No value appeared on the tax  
18 roll in December 2012, so the value wasn't published or  
19 made available.

20 According to the Assessor's Office in Clark  
21 County, this taxpayer simply has no right to appeal an  
22 illegal and improper valuation, because the property was  
23 acquired after the 2012 tax rolls were published, even  
24 though the value was not on that tax roll.

25 If this practice is consistent with what other

1 counties do, then there -- there well could be other  
2 taxpayers who purchased property that was exempt, and it  
3 comes out of -- out of exemption. The assessors have not  
4 established values for those properties appropriately.

5 So a taxpayer gets that property and at least  
6 if there's any part of the taxpayer -- unless they buy it  
7 right before the rolls are published, unable to discover  
8 that value, even though it's not on the roll, they  
9 wouldn't have an ability to -- to appeal for the tax year.

10 Based on the facts in this case, the taxpayer  
11 is simply requesting an opportunity to go before the  
12 county board and an opportunity to go before the state  
13 board once an appropriate value has been established.

14 So there's -- you know, at a minimum, this  
15 Board should order the assessor to not assess a tax based  
16 on a place-keeper value, but there should be a value  
17 that's -- that is applied to that property that's based on  
18 statutes and regulations, improvements to be based on  
19 Marshall and Swift costs, appropriate depreciated, and  
20 land should be based comparable sales, not on a permit  
21 value from 1973.

22 So, at minimum, this Board should order the  
23 Clark County Assessor to -- to a set up an appropriate  
24 value for that parcel and any similarly situated parcels,  
25 any other exempt property that would be valued using a

1 place-keeper value.

2 And the Board should also rule that this  
3 taxpayer should have an opportunity to appeal in  
4 January of 2013, so that it can appeal that valuation in  
5 the upcoming appeal cycle, because, as it stands, this  
6 taxpayer has had no ability to appeal the valuation that  
7 has been set for the current tax year and on which taxes  
8 have been assessed at this time.

9 So, in summary, two requests again: Order the  
10 Clark County Assessor to set an appropriate value for the  
11 property and to give the taxpayer an opportunity to appeal  
12 that valuation.

13 If there's any questions, I'm -- would be  
14 happy to answer them.

15 CHAIRMAN WREN: Is there a specific tax year  
16 that -- that you attempted to appeal that couldn't?

17 MR. McKEAN: The taxpayer became aware of this  
18 in approximately April -- actually I would say later, in  
19 August, when the tax bills were received for the current  
20 tax year. That's for the 2011-2012 tax year.

21 But it appears that the taxpayer, based on  
22 what the assessor has told us, that the valuation has been  
23 going on for years and years, since the property was  
24 originally constructed.

25 The improper tax has been assigned to the



1 property for all those tax years. So I think it does  
2 affect what's at issue here, the 2003-2011 time period,  
3 and if it were corrected for those time periods, then we  
4 would have a lawful basis for evaluation for the current  
5 tax year.

6 CHAIRMAN WREN: Correct. Yeah. That's kind  
7 of interesting, because, you know, I knew your case of  
8 coming. And so everybody knows, we do have all your  
9 documentation and have either reviewed it or will review  
10 it as it's been quite a bit.

11 But one of the comments that I made in the --  
12 earlier this morning -- I don't believe you were here --  
13 is that it was my assumption -- so you know, I'm the  
14 appraiser on this Board and deal with this in my  
15 day-to-day job all the time also.

16 And I was always under the assumption the  
17 assessor put an assessment for the property, both through  
18 land improvements, the way they're supposed to, and then  
19 if it -- if it was exempt, it's just exempt.

20 But that assessment is there, and that's what  
21 you're asking us, to make sure that all assessors are  
22 adhering to that principle.

23 MR. McKEAN: That's correct. So that when a  
24 property comes -- becomes non-exempt, there's an  
25 appropriate valuation set, not a historical value that

1 doesn't reflect the current rate, the regulations and  
2 statutes.

3 CHAIRMAN WREN: Well, and even before that  
4 came to my mind is if I was buying that property, I would  
5 want to know what my taxes were going to be when I bought  
6 it.

7 MR. McKEAN: That's correct.

8 CHAIRMAN WREN: Okay. Any other questions?

9 All right. Thank you very much, sir.

10 MR. McKEAN: Thank you.

11 CHAIRMAN WREN: Terry?

12 MS. RUBALD: Mr. Chairman, also from Clark  
13 County, we received a call from Louise Motorelli, who owns  
14 a residential home, and she has appeared before this body  
15 before. She could not appear today due to illness, but  
16 just so you know, her record has been made part of your  
17 record and her issue is there.

18 CHAIRMAN WREN: Okay, good. Thank you.

19 MS. RUBALD: The next county, unless there's  
20 anyone else -- was there anyone in Las Vegas who -- or any  
21 of the other locations that has property in Clark County  
22 that would like to come forward?

23 (Proceedings paused briefly)

24 MS. RUBALD: I don't see anyone, sir.

25 The next county then is Douglas County.

1 Is there anyone from Douglas County who would  
2 like to come forward?

3 Mr. Brooks?

4 MR. BROOKS: Mr. Chairman, Members of the  
5 Board, I have a handout that I'd like to supplement my  
6 record that I've provided to you with.

7 CHAIRMAN WREN: Identify yourself first.

8 MR. BROOKS: Yes, sir. My name is H. William  
9 Brooks. I'm a life-long resident of Genoa, Nevada.

10 Eight years ago, in 2003 and '4 I bought this  
11 massive disparity of valuations to the attention of the  
12 Douglas County Assessor, who advised me he was bound by  
13 the directives of the State Department of Taxation.

14 I then went to the Director of State  
15 Department of Taxation who told me he was bound by the  
16 laws passed by the State Legislature.

17 Then I went to the Legislative Committee for  
18 Local Government Taxes and Finance, who appointed an  
19 advisory committee made up of city and county bureaucrats,  
20 who advised the Legislative Committee not to pursue the  
21 matter, which they promptly ratified.

22 Now, eight years later, you've been mandated  
23 by the State Supreme Court and the District Court to  
24 rectify, quote, again "failure or lack of equalization of  
25 real property valuation throughout the state."

1           Therefore I again submit an example of an  
2   immense disparity of property valuations within the town  
3   the Genoa, where a 2.62-acre parcel, zoned commercial,  
4   with 500 feet of highway frontage is valued at \$27, paying  
5   45 cents per year in taxes. That's the equivalent of one  
6   of these postage stamps.

7           Across the highway is a 1.43-acre parcel,  
8   46 percent smaller, also with no improvements, and the  
9   same zoning and highway frontage, which is valued at  
10  \$45,200, paying \$1,154.49 per year in taxes.

11           I hope you see the unequal valuation here,  
12  which eclipses even that of the Incline Village  
13  disparities which the courts have ruled were substantial.

14           Eight years later I am still mystified as to  
15  why such an enormous disparity has been able to go on for  
16  so long, and again ask for an explanation, and hopefully  
17  what remediation steps will be taken to rectify this  
18  situation when you report back to the Second District  
19  Court in six months.

20           I'm going to be clear here. What drives me  
21  crazy is for a politician or a bureaucrat to be able to  
22  say, with some justification, "Gee, Bill, if only you had  
23  said something, I would have done."

24           Well, I've now said something, and I hope that  
25  you will also do something.

1                   Lastly, I would like to commend Ms. Anita  
2 Moore of your staff for her professionally handling this  
3 process, on my behalf.

4                   CHAIRMAN WREN: All right. Thank you very  
5 much, sir.

6                   MS. RUBALD: Mr. Chairman?

7                   CHAIRMAN WREN: Yes.

8                   MS. RUBALD: If I may, ask: This -- these  
9 properties, at least one was classified agricultural; is  
10 that correct?

11                  MR. BROOKS: Yes, and that was many, many  
12 years ago. It -- as the previous person who spoke, the  
13 attorney pointed out, this has not been revisited in eight  
14 years, to my knowledge.

15                  MS. RUBALD: Okay. And just so you know, the  
16 record -- we're supplementing the record with the  
17 agricultural studies that was performed eight years ago.

18                  CHAIRMAN WREN: Okay.

19                  MR. BROOKS: And I would like to mention one  
20 other thing on this subject, Mr. Chairman, is that this  
21 parcel, as with the comparable parcels, is -- as I just  
22 gave you in the handout, zoned commercial. The land use  
23 is commercial.

24                  And within the -- it's within the town of  
25 Genoa and the county ordinance says you cannot run animals

1 on commercial property.

2 CHAIRMAN WREN: Okay. Dennis?

3 MEMBER MESERVY: I was just curious. Do you  
4 have an interest in either of these properties that you  
5 mentioned?

6 MR. BROOKS: I'm right across the highway on  
7 the north end, and when I write my taxes -- pay my taxes  
8 next week, I'm going to have -- I'm going to look across  
9 that highway and see 45 cents a year and my \$300-plus  
10 quarterly payment.

11 MEMBER MESERVY: Yes. So I just want to make  
12 sure you're --

13 MR. BROOKS: I appreciate that.

14 MEMBER MESERVY: -- more than the stamp worth.  
15 Thank you for your sharing that with us.

16 CHAIRMAN WREN: So we'll -- we will look at  
17 the record a little bit closer, but you're not -- you're  
18 not saying that the assessor in your county has  
19 misassessed those properties, but what you're talking  
20 about is they apparently have some type of deferments or  
21 something that is causing them to pay a different tax than  
22 what they're assessed, their -- their full assessment. Is  
23 that correct?

24 MR. BROOKS: The button line is 45 cents a  
25 year. For me, it's \$1300.

1                   CHAIRMAN WREN: I like the 45 cents myself,  
2                   too. Maybe --

3                   MR. BROOKS: I would -- I would ask the --

4                   CHAIRMAN WREN: I might move to Douglas County  
5                   now.

6                   MR. BROOKS: I would ask this Broad to please  
7                   lower mine to a similar.

8                   CHAIRMAN WREN: That's what you call  
9                   equalization, but I just want to make sure it's not the  
10                  assessment that you're -- that you're looking at. It is  
11                  whatever the deferments or why their taxes are -- why  
12                  they're paying the taxes they're paying, correct?

13                  MR. BROOKS: And that is -- would be an  
14                  indication that the whole town might want to be looked at.

15                  CHAIRMAN WREN: Okay. Very good. Thank you  
16                  very much.

17                  Okay, Terry?

18                  MS. RUBALD: Is there anyone else from Douglas  
19                  County, either here in Carson City or any other location  
20                  that has property in Douglas that wishes to speak?

21                  (Proceedings paused briefly)

22                  MS. RUBALD: Seeing none, Mr. Chairman, we'll  
23                  go on to Elko County.

24                  Is there anyone in Elko County or has property  
25                  in Elko County that wishes to speak?

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(Proceedings paused briefly)

CHAIRMAN WREN: Nobody in Elko. Before you go to the next county -- Carrie?

THE REPORTER: Uh-huh?

CHAIRMAN WREN: What county are you from?

THE REPORTER: Me?

CHAIRMAN WREN: Yes.

THE REPORTER: I'm over in Lyon.

CHAIRMAN WREN: Are you?

THE REPORTER: I'm in Lyon.

CHAIRMAN WREN: Okay. Didn't you want to say something to somebody?

THE REPORTER: Oh, my step-dad's out there. Hello. He's never seen me report. I do work, Daddy!

CHAIRMAN WREN: We're the kind of an organization, we just want to make sure that, you know, dad knows she's actually working.

So, go ahead, Terry.

MS. RUBALD: Going on to the next county, I believe we have someone here to speak that has property in Esmeralda County.

Is that correct?

MS. MOORE: That gentleman has left the building.

MS. RUBALD: Oh, he's left the building?



1 MS. MOORE: Uh-huh.  
2 MS. RUBALD: What about Mr. Queen?  
3 UNIDENTIFIED SPEAKER: He chose not to speak.  
4 CHAIRMAN WREN: Just when we got to see Elvis,  
5 and he's gone again.  
6 MS. MOORE: He -- he chose not to speak today.  
7 CHAIRMAN WREN: All right. Go ahead.  
8 MS. RUBALD: Is there anyone who has property  
9 in Eureka County who wishes to speak?  
10 MR. MEARS: Terry, this is Michael Mears,  
11 Eureka County Assessor, and there is no taxpayers present.  
12 MS. RUBALD: Thank you, Michael. I appreciate  
13 that.  
14 Is there anyone in Humboldt County, who has  
15 property in Humboldt County who wishes to speak?  
16 MR. JOHNSON: Terry, Jeff Johnson, Humboldt  
17 County Assessor. There is no tax paying public here at  
18 this moment.  
19 UNIDENTIFIED SPEAKER: Can you hear me?  
20 MS. RUBALD: Thank you, Jeff, but I hear -- I  
21 hear someone on the phone.  
22 (Teleconference feedback and echos)  
23 CHAIRMAN WREN: There's a five-second delay.  
24 So wait.  
25 Okay. So everybody knows what just happened

1 is when somebody speaks from one of the other counties  
2 there is at least a five-minute delay.

3 (Discussion off the record)

4 MR. QUEEN: This is Mr. Queen of Esmeralda  
5 County. I'll wait for you to come on the phone.

6 (Teleconference echoes)

7 MS. RUBALD: Just a moment, Mr. Queen. We're  
8 having difficulties.

9 Would you call the folks and tell us what to  
10 do about the feedback?

11 MR. QUEEN: Let me turn my computer down, so I  
12 can hear you. Would you say that again, please?

13 MS. RUBALD: Mr. Queen, we're getting a lot of  
14 feedback. It could be because your computer is on.

15 MR. QUEEN: No, I just turned it off.

16 MS. RUBALD: Okay. That's great. So why  
17 don't you go forward and -- and tell us about your  
18 situation.

19 MR. QUEEN: Yes.

20 THE REPORTER: Could I get his full spelling  
21 again?

22 MS. RUBALD: Would you introduce yourself,  
23 Mr. Queen?

24 MR. QUEEN: Yes, my name is Dehnert Queen, and  
25 Paul Rupp and I are Esmeralda County, Silver Peak. We

1 took the time and expense necessary to go through the  
2 process to appeal his two properties, and we went through  
3 the process all the way up to the State Board, but the  
4 process was consistent with not getting answers.

5 And in talking with other people, apparently  
6 county assessors, probably state-wide, cannot reveal how  
7 they go about calculating the tax.

8 And so I'm a -- I'm a retired computer  
9 professional, and I spent literally hundreds and hundreds  
10 of hours back engineering how the County of Esmeralda  
11 calculates their tax.

12 And essentially I determined that the card  
13 that is sent out every year, has nothing to do,  
14 whatsoever, with the calculations of the tax and the final  
15 bill that comes in July.

16 In fact, we found that in the years past the  
17 values changed, and I put together a package that shows  
18 from 1998 to 2010 what the tax increase averaged  
19 17 percent per year, but none of the numbers that are used  
20 to define the tax by the Board are representative of the  
21 facts.

22 Essentially the process is a fraud, and what  
23 we did then was we came up with an alternative system that  
24 we call, now today, a 2012 fee simple property tax system  
25 that will replace the existing system that is currently

1 operating in Nevada.

2 And the way it works is that it carries the  
3 property tax at cost -- literally at cost, whatever you  
4 actually paid for it, or the cost of construction, and  
5 instead of being calculated by the county, the individual  
6 parcel owner carries the information on their personal  
7 computer, or an accountant, and when it comes time for the  
8 tax payment, they take five or ten minutes and calculate  
9 the tax, send in the report with the attached check.

10 And what this will do is make it so that  
11 essentially the -- the process from the County Board of  
12 Equalization, through the state is a fraud, there's really  
13 no reason for this department any more.

14 And it will make it so that people who own  
15 their properties have control of their properties, and  
16 essentially the county comes to the taxpayer to get the  
17 money instead of coming and reaching in the pocket of  
18 parcel owners and taking what they want.

19 Because I also determined that the value of  
20 the tax is comes from what the county wants to come up  
21 with for revenue, and they just apply whatever they want  
22 to apply when they do the recalculation every five years  
23 they add things to the market -- market price, and that's  
24 the key point.

25 The actual market value that is used by the