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Joey Orduna Hastings

Clerk of the Court

Transaction # 3602406

1 CODE 4085

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

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

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is:

19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:

a. File with the Clerk of the Court, whose address is shown below, a formal written  
21 answer to the complaint or petition, along with the appropriate filing fees, in  
22 accordance with the rules of the Court, and;

b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
23 is shown below.

2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
24 enter a judgment against you for the relief demanded in the complaint or petition.

25 Dated this 12 day of March, 2013

26 Issued on behalf of Plaintiff(s):

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

27 Name: Suellen Fulstone

By: [Signature] Deputy Clerk

28 Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

Phone Number: (775) 785-5440

# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snel & Wilmer L.L.P.

50 West Liberty Street

Suite 510

Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on City Hall LLC, Registered Agent, 311 South Division Street, Carson City, NV 89703.

I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 12:05 pm, I:

SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Alena Duggan as Secretary, pursuant to NRS 14.020 as a person of suitable age and discretion at the address of the Registered Agent's office.

Said service was made at the address of: Registered Agent, 311 South Division Street, Carson City, NV 89703

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

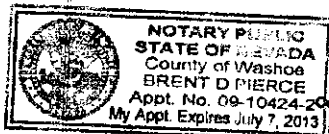
SIGNED and SWORN TO before me on the 19th  
day of March, 2013 by the affiant who  
is personally known to me.

  
NOTARY PUBLIC

  
Nicholas DiFraia  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
Las Vegas, NV 89101  
(702) 877-0200  
Our Job Serial Number: 2013000471

Service Fee: \$38.50



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

\_\_\_\_\_  
(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

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Clerk of the Court

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6 IN AND FOR THE COUNTY OF WASHOE

7 VILLAGE LEAGUE TO SAVE INCLINE

8 ASSETS, INC., et al.,

Petitioner(s)/Plaintiff(s),

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15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is: \_\_\_\_\_

- 19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:  
21 a. File with the Clerk of the Court, whose address is shown below, a **formal written**  
22 **answer** to the complaint or petition, along with the appropriate filing fees, in  
23 accordance with the rules of the Court, and;  
24 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
25 is shown below.
- 26 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
27 enter a judgment against you for the relief demanded in the complaint or petition.

28 Dated this 12 day of March, 2012.

Issued on behalf of Plaintiff(s):

Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

By: [Signature]  
Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

**AFFIDAVIT OF SERVICE**

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snel & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on Carson City Assessor,  
201 North Carson Street, Suite 6, Carson City, NV 89701.

I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 11:52 am, I:

SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion  
to Consolidate Cases to Caron Machado as Personal Property Appraiser.

Said service was made at the address of: 201 North Carson Street, Suite 6, Carson City, NV 89701.

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the  
proceeding in which this affidavit is made.

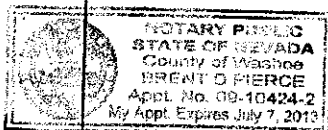
SIGNED and SWORN TO before me on the 15th  
day of March 2013 by the affiant who  
is personally known to me.

  
NOTARY PUBLIC

  
Nicholas DiFraia  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522



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-OR-



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A specific state or federal law, to wit:

(State specific state or federal law)

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For the administration of a public program

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For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

**FILED**

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3612435

1 2610  
DAVID C. CREEKMAN  
2 Chief Deputy District Attorney  
Nevada State Bar Number 4580  
3 P. O. Box 30083  
Reno, NV 89520-3083  
4 (775) 337-5700  
ATTORNEYS FOR WASHOE COUNTY  
5

6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

7 **IN AND FOR THE COUNTY OF WASHOE**

8 \* \* \*

9 VILLAGE LEAGUE TO SAVE INCLINE  
ASSETS, INC., a Nevada non-profit  
10 corporation, on behalf of its  
members, and others similarly  
11 situated,

Case No. CV03-06922

12 Plaintiffs,

Dept. No. 7

13 vs.

14 THE STATE OF NEVADA, on relation  
of the STATE BOARD OF  
15 EQUALIZATION; WASHOE COUNTY; and  
BILL BERRUM, WASHOE COUNTY  
16 TREASURER,

17 Defendants.  
18 \_\_\_\_\_/

19 NOTICE OF NON-AVERSION TO REQUESTED STAY AND  
20 RESPONSE TO OBJECTIONS

21 Defendants Washoe County and Washoe County Treasurer  
22 (collectively "Washoe"), by their attorneys, Richard A Gammick,  
23 Washoe County District Attorney and David C. Creekman, Chief  
24 Deputy District Attorney, herein provide this Court with their  
25 Notice of Non-Aversion to Requested Stay and Response to  
26 Objections. This document is based upon the following Statement

1 of Points and Authorities.

2 **STATEMENT OF POINTS AND AUTHORITIES**

3 **I. INTRODUCTION**

4 The Plaintiffs have moved for a stay of portions of the  
5 State Board of Equalization's (SBOE) Report and Order #12-001  
6 and have objected to the same Report and Order of the SBOE filed  
7 in this case. Rather than repeat the history of this case, a  
8 history which is repeatedly well documented in nearly 10 years  
9 worth of Court records, the Washoe County Defendants merely  
10 advise the Court of their non-aversion with the Plaintiffs'  
11 request for a stay and further respond to the objections. In  
12 essence, the Plaintiffs contend that the State Board of  
13 Equalization, in ordering the reappraisal of Incline Village and  
14 Crystal Bay properties for the tax years in question in this  
15 case, has acted without authority and in derogation of the  
16 constitutional rights of the Plaintiffs.

17 **II. WASHOE COUNTY IS NOT ADVERSE TO THE PLAINTIFFS' REQUEST FOR**  
18 **A STAY PENDING RESOLUTION OF QUESTIONS SURROUNDING THIS**  
19 **COURT'S JURISDICTION TO RESPOND TO PLAINTIFFS' OBJECTIONS**  
**TO THE STATE BOARD OF EQUALIZATION REPORT AND ORDER**

20 Washoe County is not adverse to the stay requested by the  
21 Plaintiffs, but does question the peculiarity, and propriety, of  
22 a partial stay of the SBOE's Order, given the nature and extent  
23 of Plaintiffs' Objections to foundational elements of the SBOE's  
24 authority to act, in any way, in this matter. If, as argued by  
25 the Plaintiffs, the SBOE is illegally formulated, how can any  
26 portion of the SBOE's Order be valid.



1    **III. WASHOE COUNTY CONCURS WITH THE LEGAL ANALYSIS PROVIDED BY**  
2    **THE SBOE IN THE "STATE'S RESPONSE TO PLAINTIFFS' OBJECTIONS**  
3    **TO STATE BOARD OF EQUALIZATION REPORT AND ORDER"**

3        In addition to no aversion to the stay requested by the  
4    Plaintiffs in this matter, and to the extent the Court is of the  
5    belief it has jurisdiction to even consider the Plaintiffs'  
6    objections at this time, Washoe County concurs with the State of  
7    Nevada's legal analysis in response to the Plaintiffs'  
8    Objections. Washoe County further believes the issues raised by  
9    the Plaintiffs may require further attention from the Court, as  
10   set forth below.

11   **IV. THE ISSUES RAISED BY PETITIONERS MAY NOT BE RIPE FOR**  
12   **JUDICIAL DETERMINATION**

13        The SBOE has not acted with finality. As such, the issues  
14    raised by the Petitioners may not be ripe for judicial  
15    determination. A case is ripe for review when "the degree to  
16    which the harm alleged by the party seeking review is  
17    sufficiently concrete, rather than remote or hypothetical, [and]  
18    yield[s] a justiciable controversy." Herbst Gaming, Inc. v.  
19   Sec'y of State, 122 Nev. 877, 887-88, 141 P.3d 1224, 1230-31  
20   (2006). Here, the SBOE has issued the equivalent of a  
21   collateral order. It has not yet completed its work. It may  
22   ultimately decide in favor of the Petitioners, or it may not.  
23   Until such time as the SBOE has issued a final decision, in  
24   accord with its mandate, this matter of ripeness should be of  
25   concern to this Court, if it substantively responds to the  
26   Plaintiffs' objections, all of which may be premature.

1       Because the SBOE has not yet acted with finality, there is  
2 no concrete application of state law. The issues raised by the  
3 Plaintiffs are not yet ripe for review. The reluctance of  
4 courts to entertain cases not yet ripe is especially prevalent  
5 in the context of federal court jurisdiction, but that caselaw  
6 is illustrative of the importance of ripeness in furtherance of  
7 the separation-of-powers relationship between different branches  
8 of government. For instance, after a state commission had  
9 determined that a local union should be subject to the sanction  
10 that it could not collect dues from its casino employee members,  
11 but that it should not invoke the further statutory sanction of  
12 prohibiting the union from administering any pension or welfare  
13 funds, there was no ripe challenge to the pension fund provision  
14 of the statute. "Because the Commission never imposed this  
15 sanction ..., we are presented with no concrete application of  
16 state law. The issue is hence not ripe for review ...." Brown v.  
17 Hotel and Restaurant Employees and Bartenders Intern. Union  
18 Local 54, 468 U.S. 491, 511-513 (1984). In other cases, a state  
19 should be given the opportunity to develop programs providing  
20 for educationally deprived children in private schools before a  
21 decision is issued on compliance with federal statutory and  
22 constitutional requirements. Wheeler v. Barrera, 417 U.S. 402  
23 (1974), federal courts should not determine the interstate  
24 commerce character of a declaratory judgment plaintiff's  
25 business before determining what, if anything, the state intends  
26 to do to regulate the business, Public Service Commission of

1 Utah v. Wycoff Co., Inc., 344 U.S. 237 (1952) and the "assistant  
2 zoning technician" on duty in the zoning office advised the  
3 plaintiff to speak with the city director of zoning because her  
4 job did not include accepting building plans over the counter.  
5 Rather than consult the director, the plaintiff left and brought  
6 suit to challenge the constitutionality of a zoning ordinance  
7 the plaintiff interpreted to prohibit an adult book and video  
8 business anywhere in the city. The action was not ripe. "A  
9 challenge to the application of a city ordinance does not  
10 automatically mature at the zoning counter. ... [A] city official  
11 with sufficient authority must have rendered a decision ...."  
12 Ripeness doctrine protects administrative agencies from judicial  
13 interference until an administrative decision has been  
14 formalized and its effects felt. A mere anticipated belief that  
15 city officials would interpret an uncertain ordinance in a way  
16 that would violate the plaintiff's First Amendment rights  
17 establishes only a potential dispute, not a ripe case or  
18 controversy. Digital Properties, Inc. v. City of Plantation, 121  
19 F.3d 586 (11th Cir. 1997).

20       However, at least in the federal court context, sometimes  
21 under the "collateral order doctrine," federal courts allow for  
22 interlocutory review of certain non-final orders remanding a  
23 matter to an administrative agency. See, e.g., Occidental  
24 Petroleum Corp. v. SEC, 873 F.2d 325, 329 (D.C.Cir.1989);  
25 *Charles A. Wright et al., Federal Practice and Procedure:*  
26 *Jurisdiction* § 3911 (1992). These Plaintiffs essentially urge

1 this court to adopt the collateral order doctrine, as a way  
2 around the ripeness doctrine, and to apply it to this case. This  
3 Court may want to decline this invitation because interlocutory  
4 appeals cause delay, expense and disruption. Stringfellow v.  
5 Concerned Neighbors in Action, 480 U.S. 370, 380 (1987).  
6 Consideration of interlocutory appeals often results in  
7 piecemeal litigation. Hallicrafters Co. v. Moore, 102 Nev. 526,  
8 728 P.2d 441 (1986). Nevada's Supreme Court has stated that  
9 "adopting the collateral order doctrine would require this court  
10 to extensively screen appeals from interlocutory orders to  
11 determine whether this court has jurisdiction. Jurisdiction  
12 lines would become unfocused and uncertain. This in turn could  
13 result in a proliferation of premature appeals. These burdens  
14 would outweigh any possible benefits that could result from  
15 adoption of the collateral order doctrine." Nevada Taxicab  
16 Authority v. Greenspun, 109 Nev. 1022, 862 P.2d 423 (1993).

17 **V. THIS CASE INVOLVES A MANDAMUS ACTION IN WHICH THE COURT HAS**  
18 **ORDERED ORDER A DUTY TO BE PERFORMED --- IT CANNOT COMPEL**  
**THE MANNER OF ITS PERFORMANCE**

19 Although mandamus can compel the exercise of discretion, it  
20 cannot control or interfere with the manner in which the  
21 discretion is exercised or demand a particular result or  
22 determination. Sunset Drive Corp. v. City of Redlands, 73  
23 Cal.App. 4th, 215, 86 Cal.Rptr.2d 209 (4th Dist. 1999); Williams  
24 v. James, 684 So.2d 868 (Fla.App.2d Dist. 1996); Tamaroff v.  
25 Cowen, 270 Ga. 415, 511 S.E.2d 159 (1999); Bellon v. Monroe  
26 County, 577 N.W.2d 877 (Iowa Ct. App. 1998); Berman v. Board of

1 Registration in Medicine, 355 Mass. 358, 244 N.E.2d 553 (1969);  
2 McCarten v. Sanderson, 111 Mont. 407, 109 P.2d 1108 (1941);  
3 State ex rel. Affiliated Const. Trades Foundation v. Vieweg, 205  
4 W.Va. 687, 520 S.E.2d 854 (1999); Wisconsin Pharmaceutical  
5 Ass'n. v. Lee, 264 Wis. 325, 58 N.W.2d 700 (1953).

6 As stated, mandamus is unavailable to control discretionary  
7 acts. Yet the Plaintiffs in this case, having already obtained  
8 a Writ, seek the Court's assistance in controlling the  
9 discretion by which the SBOE performs its duties. As stated by  
10 West Virginia's Supreme Court in State ex rel. Centerbury v.  
11 County Court, 151 W.Va. 1013, 158 S.E.2d 151 (1967), the  
12 separation of powers doctrine, like the one embedded in Nevada's  
13 Constitution at Article 3, prevents courts from passing judgment  
14 on administrative matters barring a specific challenge rooted in  
15 grounds of arbitrariness or capriciousness.

16 **VI. THE STATE BOARD OF EQUALIZATION IS CLOAKED WITH**  
17 **EXPRESSLY-STATED POWERS, ALONG WITH IMPLIED POWERS, TO**  
18 **EFFECTUATE ITS EXPRESSLY-STATED POWERS**

19 As a general rule, in addition to the powers expressly  
20 conferred on them by organic or legislative enactments,  
21 governmental officials and bodies, in the absence of restricting  
22 limitations of public policy or express prohibitions, have such  
23 implied powers as are necessarily inferred or implied from, or  
24 incident to, the express powers granted, or duties imposed on,  
25 them. This rule has been adopted in Nevada, where the Supreme  
26 Court has stated that although an administrative agency's powers  
are generally limited to the powers set forth by statute,

1 "certain powers may be implied even though they were not  
2 expressly granted by statute, when those powers are necessary to  
3 the agency's performance of its enumerated duties." City of  
4 Henderson v. Kilgore, 122 Nev. 331, 334, 131 P.3d 11, 13 (2006).  
5 For implied authority to exist, the implicitly authorized act  
6 must be essential to carrying out an express duty. Id. at 331,  
7 131 P.3d at 14.

8 In this case, the State Board of Equalization was ordered  
9 to "equalize" certain property for certain tax years under its  
10 duty to do so at NRS 361.395, lowering, raising or leaving alone  
11 the taxable value of the property. In their deliberations, the  
12 State Board determined that new valuations were necessary in  
13 order to perform this equalization function. The State Board  
14 stated that:

15 The Washoe County Assessor is directed to reappraise all  
16 residential properties located in Incline Village and  
17 Crystal Bay to which an unconstitutional methodology was  
18 applied to derive taxable value during the tax years 2003 -  
19 2004, 2004 - 2005 , and 2005 - 2006. The reappraisal must  
20 be conducted using methodologies consistent with Nevada  
21 Revised Statutes and regulations approved by the Nevada Tax  
22 Commission in existence during each of the fiscal years  
23 being reappraised. The reappraisal must result in a  
24 taxable value for land for each affected property for the  
25 tax years 2003 - 2004, 2004 - 2005, and 2005 - 2006. State  
26 Board of Equalization Order 12-001, page 9.

22 Nothing within the statutes prohibits the State Board from  
23 ordering a reappraisal of property in Nevada as a pre-requisite  
24 to performing its equalization function. In fact, it is  
25 consistent with the Supreme Court's long-ago recognition of the  
26 legitimacy of bifurcating valuation responsibilities for tax

1 purposes in Nevada. In Sawyer v. Dooley, 21 Nev. 390, 32 P. 437  
2 (1893), the Court made it clear that:

3 all property, whether assessed by the board or by the  
4 county assessors, must be assessed at its actual cash  
5 value, and there is no reason why this value may not be as  
6 accurately determined by several different men and boards  
7 as by one. In fact, it might sometimes be done much  
8 better, as one man, although an expert upon the value of  
9 horses and farms, might know but little of railroads or  
other property. If not, this would be an equally good  
argument against the system of separate county assessors  
and boards, and require all the property in the state to be  
assessed and equalized by one man or one board. All that  
is required is a uniformity of taxes, and not a uniformity  
in the manner of assessing or collecting them. Id.

10 The State Board acted reasonably, and rationally, in ordering  
11 the reappraisal, although the Petitioners would have the Court  
12 believe that the only solution to this situation is to roll back  
13 all affected property values to their 2002 levels.

14 **VIII. PLAINTIFFS COMPLAIN THAT THE TAX STATUTES PROVIDE THE SBOE**  
15 **WITH NO AUTHORITY TO ORDER REAPPRAISAL, YET THOSE SAME**  
16 **STATUTES SIMILARLY PROVIDE THE SBOE NO WITH AUTHORITY TO**  
**"HEAR AND DETERMINE THE GRIEVANCES OF PROPERTY OWNER**  
**TAXPAYERS" REGARDING EQUALIZATION**

17 Equalization is obligated by NRS 361.395. That statute, in  
18 relevant part, establishes that:

19 During the annual session of the State Board of  
20 Equalization beginning on the fourth Monday in March of  
each year, the State Board of Equalization shall:  
21 (a) Equalize property valuations in the State.  
22 (b) Review the tax rolls of the various counties as  
corrected by the county boards of equalization thereof and  
23 raise or lower, equalizing and establishing the taxable  
value of the property, for the purpose of the valuations  
therein established by all the county assessors and county  
24 boards of equalization and the Nevada Tax Commission, of  
any class or piece of property in whole or in part in any  
25 county, including those classes of property enumerated in  
NRS 361.320.

26 It was the Nevada Supreme Court, in its Order Affirming in

1 Part, Reversing in Part and Remanding this matter back to this  
2 Court, which imposed the requirement of a hearing allowing the  
3 property owner taxpayers to air their grievances regarding the  
4 failure, or lack, of equalization. The Supreme Court's Order  
5 references the need for the SBOE to "hold a public hearing"  
6 during which taxpayers may so grieve. These Washoe County  
7 parties respectfully submit the plain language of NRS chapter  
8 361 does not obligate a hearing or hearings regarding  
9 equalization and that nothing within NRS chapter 361 obligates  
10 the SBOE to provide an opportunity to hear taxpayer grievances.  
11 Instead, the obligation to act in such a public manner and to  
12 hear public comments arises pursuant to NRS chapter 241,  
13 Nevada's Open Meeting Law, which requires that meetings of the  
14 SBOE be open, and that they include opportunities for public  
15 comment.

16 The point here is that nothing in NRS chapter 361 obligates  
17 the SBOE to act so publicly, nor to take grievances from  
18 taxpayers, yet they are now doing so, for other reasons, just as  
19 the SBOE is now requiring the revaluation of these properties,  
20 for other reasons and under reasonably and properly implied  
21 powers from other parts of Nevada law.

22 **IX. THE QUANDARY IN WHICH THE COURT IS PLACED BY THE**  
23 **PLAINTIFFS' OBJECTIONS WOULD LIKELY NOT BE SO OBJECTIONABLE**  
24 **TO THE PLAINTIFFS IF THE REAPPRAISALS ULTIMATELY RESULT IN**  
**REDUCED VALUATIONS**

25 A central problem with the Petitioners' objections is they  
26 do not know what the outcome of the SBOE-ordered reappraisals



1 will be. Neither do this Court nor the Washoe County Assessor  
2 who will be performing the reappraisals know the ultimate  
3 outcome of those reappraisals.

4 Had the SBOE rolled back values (as apparently desired by  
5 the Plaintiffs), Washoe County could just as easily argue that  
6 the SBOE's individualized focus, based on certain taxpayers'  
7 individualized valuation challenges to tax assessments only  
8 within a portion of Washoe County, is precisely the focus which  
9 was invalidated by the Supreme Court in this very case in the  
10 Supreme Court's March 19, 2009 Order. In that Order, the  
11 Supreme Court stated that such challenges:

12 should have been raised before the county board ... the  
13 parties could have raised their constitutional challenges  
14 to the County Assessor's methods, including whether those  
15 methods were properly applied to the properties at issue  
16 despite their alleged nonstandardization statewide.

17 Precisely the same issue as to how to equalize within a  
18 county was before the SBOE in 2007 in a separate dispute. In  
19 that matter, certain Incline Village and Crystal Bay taxpayers  
20 went directly to the SBOE with a petition for relief from the  
21 county board's failure to equalize the assessed value of their  
22 properties. Those taxpayers, like the ones in this case,  
23 similarly skipped the obligatory trip to the county board of  
24 equalization. The SBOE properly determined that it lacked  
25 jurisdiction because the taxpayers had failed to first petition  
26 to the county board, as required by NRS 361.360. The Nevada  
Supreme Court approved of that SBOE's action, stating that "the  
record before the district court and this court shows that the

1 State Board refused to equalize property valuations because the  
2 Taxpayers failed to adhere to the administrative procedures for  
3 review." Marvin v. Fitch, 126 Nev. Adv. Op. 18, 232 P.3d 425  
4 (2010).

5 **X. CONCLUSION**

6 Although Washoe County believes this matter may not be ripe  
7 for determination as desired by the Plaintiffs, Washoe County  
8 concurs with the SBOE's positions taken in response to the  
9 Plaintiffs' objections. Additionally, Washoe County lodges its  
10 further concerns, as set forth previously, and reserves the  
11 right to lodge further objections in this case, depending upon  
12 the ultimate outcome of the SBOE's performance of its duty under  
13 the previously-issued Writ.

14 AFFIRMATION PURSUANT TO NRS 239B.030

15 The undersigned do hereby affirm that the preceding  
16 document does not contain the social security number of any  
17 person.

18 Dated this 22nd day of March, 2013.

19 RICHARD A. GAMMICK  
20 District Attorney

21 By: /s/ DAVID C. CREEKMAN  
22 DAVID C. CREEKMAN  
23 Chief Deputy District Attorney  
24 ATTORNEYS FOR WASHOE COUNTY  
25 AND WASHOE COUNTY TREASURER  
26

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I hereby certify that on March 22, 2013, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

SUELLEN FULSTONE, ESQ. for VILLAGE LEAGUE TO SAVE INCLINE ASSETS, INC.

DAWN BUONCRISTIANI, ESQ. for STATE BOARD OF EQUALIZATION

Dated this 22nd day of March, 2013.

/s/ MICHELLE FOSTER  
Michelle Foster

1 CODE 4085

2  
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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE

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

Petitioner(s)/Plaintiff(s).

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is: \_\_\_\_\_

- 19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:
- 21 a. File with the Clerk of the Court, whose address is shown below, a **formal written**  
22 **answer** to the complaint or petition, along with the appropriate filing fees, in  
23 accordance with the rules of the Court, and;
  - 24 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
25 is shown below.
- 26 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
27 enter a judgment against you for the relief demanded in the complaint or petition.

28 Dated this 12 day of March, 2013

Issued on behalf of Plaintiff(s):

29 Name: Suellen Fulstone  
30 Address: 50 W. Liberty St., Ste. 510  
31 Reno, NV 89501  
32 Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT.

By: [Signature]  
Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

**DECLARATION OF PERSONAL SERVICE**

(To be filled out and signed by the person who served the Defendant or Respondent)

STATE OF Nevada

COUNTY OF Lincoln

I, SETH CHASE DIRKS #1010 declare:  
(Name of person who completed service)

1. That I am not a party to this action and I am over 18 years of age.
2. That I personally served a copy of the Summons and the following documents:

Petition For Judicial Review  
Motion To Consolidate Cases

upon ARLA PRESTWICH / Clerk, at the following  
(Name of Respondent/Defendant who was served)

address: 181 MAIN ST FLORENCE, NV 89043

on the 18 day of MARCH, 20 13.  
(Month) (Year)

This document does not contain the Social Security Number of any Person.

I declare, under penalty of perjury under the law of then State of Nevada, that the foregoing is true and correct.

[Signature] #1040  
(Signature of person who completed service)

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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

SUMMONS

(Title of Document)

filed in case number: \_\_\_\_\_

☒ Document does not contain the social security number of any person

-OR-

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-

☐ For the administration of a public program

-or-

☐ For an application for a federal or state grant

-or-

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: March 25, 2013

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

Electronically

03-26-2013:01:31:29 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3617314

1 CODE 4085

2  
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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE

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

Petitioner(s)/Plaintiff(s).

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU  
14 WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.  
15 READ THE INFORMATION BELOW VERY CAREFULLY.

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is:

19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:

a. File with the Clerk of the Court, whose address is shown below, a formal written  
21 answer to the complaint or petition, along with the appropriate filing fees, in  
22 accordance with the rules of the Court, and;

b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
23 is shown below.

24 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
25 enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 12 day of March, 2013.

26 Issued on behalf of Plaintiff(s):

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

27 Name: Suellen Fulstone

By: [Signature]

28 Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

**DECLARATION OF PERSONAL SERVICE**

(To be filled out and signed by the person who served the Defendant or Respondent)

STATE OF Nevada )

COUNTY OF Humboldt )

I, Deputy Victor Castaneda, declare:  
(Name of person who completed service)

1. That I am not a party to this action and I am over 18 years of age.
2. That I personally served a copy of the Summons and the following documents:

Petition

Motion to Consolidate Cases

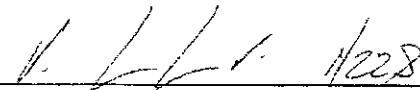
upon Jeff Johnson, at the following  
(Name of Respondent/Defendant who was served)

address: 50 W. Fifth St., Winnemucca, NV

on the 20 day of March, 20 13.  
(Month) (Year)

This document does not contain the Social Security Number of any Person.

I declare, under penalty of perjury under the law of then State of Nevada, that the foregoing is true and correct.

  
(Signature of person who completed service)

**Humboldt County Sheriff's Office**  
**50 W. Fifth Street**  
**Winnemucca, NV 89445**  
**(775) 623-6419**



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

\_\_\_\_\_  
(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: March 26, 2013

/s/ Suellen Fulstone

\_\_\_\_\_  
(Signature)

Suellen Fulstone

\_\_\_\_\_  
(Print Name)

Petitioners

\_\_\_\_\_  
(Attorney for)

FILED

Electronically

03-27-2013:03:50:24 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3620843

1 CODE 4085

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

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

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is:

- 19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:  
21 a. File with the Clerk of the Court, whose address is shown below, a **formal written**  
22 **answer** to the complaint or petition, along with the appropriate filing fees, in  
23 accordance with the rules of the Court, and;  
24 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
25 is shown below.
- 26 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
27 enter a judgment against you for the relief demanded in the complaint or petition.

28 Dated this 18 day of March, 2013

Issued on behalf of Plaintiff(s):

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

By: [Signature]  
Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501



# LANDER COUNTY SHERIFF'S OFFICE

Post Office Box 1625  
Battle Mountain, Nevada 89820  
(775) 635-1100 FAX (775) 635-2577



## Return of Service

RIMS Number: 7880 Notes: \_\_\_\_\_  
Case Number: CV13-00522  
Scan Number: \_\_\_\_\_ Court Date: \_\_\_\_\_ Defendant: State of Nevada  
Date Recorded: 03/20/13  
Court: 2nd Judicial District Received From: Suellen Fulstone

Plaintiff: Village League to Save Incline Assets ~ vs ~ Defendant: State of Nevada

Document(s) Served: Summons, Petition and Motion to Consolidate Cases

Party To be Served: Lura Duvall, Lander County Assessor  
315 S. Humboldt Street  
Battle Mountain, NV 89820

Other Party or  
Address Served:

Date Execution Mailed: \_\_\_\_\_ Date of Expiration: \_\_\_\_\_

I served the  
party named:

PERSONALLY

POSTED: \_\_\_\_\_

MVD/UNSERVED

OTHER: COMPETENT MEMBER OF HOUSHOLD (18 YOA +)

MAILED - CERTIFIED: \_\_\_\_\_

Date: 3/25/13 Time: 0847AM Address: Assessors Office 315 S Humboldt

I, the undersigned do hereby swear under pains and penalties of perjury that I served the able listed person

Serving Employee: (Print) Joe Sumner

Employee Signature: [Signature] Date: 3/25/13

### Unsuccessful Service Attempts:

Badge # & Initials

Date: 3/24/13 Time: 11:52 am Address: 315 S. Humboldt St. 32/AD  
Date: \_\_\_\_\_ Time: \_\_\_\_\_ Address: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_ Address: \_\_\_\_\_  
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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: March 27, 2013

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

Electronically

04-02-2013:02:02:36 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3632494

1 CODE 4085

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

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

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is:

- 19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:  
21 a. File with the Clerk of the Court, whose address is shown below, a **formal written**  
22 **answer** to the complaint or petition, along with the appropriate filing fees, in  
23 accordance with the rules of the Court, and;  
24 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
25 is shown below.
- 26 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
27 enter a judgment against you for the relief demanded in the complaint or petition.

28 Dated this 12 day of March, 20 13

Issued on behalf of Plaintiff(s):

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

Name: Suellen Fulstone

By: [Signature]

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

Phone Number: (775) 785-5440

**DECLARATION OF PERSONAL SERVICE**

(To be filled out and signed by the person who served the Defendant or Respondent)

STATE OF NEVADA )

COUNTY OF MINERAL )

I, CARY V. SCHAAT, declare:  
(Name of person who completed service)

1. That I am not a party to this action and I am over 18 years of age.
2. That I personally served a copy of the Summons and the following documents:

MINERAL CO. ASSESSOR

upon DORTHY FOWLER, at the following  
(Name of Respondent/Defendant who was served)

address: 1 ST ST. HAWTHORNE, NV.

on the 1<sup>ST</sup> day of APRIL, 20 13.  
(Month) (Year)

This document does not contain the Social Security Number of any Person.

I declare, under penalty of perjury under the law of then State of Nevada, that the foregoing is true and correct.

Cary V. Schaat  
(Signature of person who completed service)

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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

\_\_\_\_\_  
(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: April 2, 2013

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

Electronically

04-02-2013:12:41:28 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3632090

1 CODE 4085

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

7 VILLAGE LEAGUE TO SAVE INCLINE

8 ASSETS, INC., et al.,

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
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15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
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The object of this action is:

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a. File with the Clerk of the Court, whose address is shown below, a formal written  
21 answer to the complaint or petition, along with the appropriate filing fees, in  
22 accordance with the rules of the Court, and;

b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
23 is shown below.

24 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
25 enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 12 day of March, 2013

26 Issued on behalf of Plaintiff(s):

27 Name: Suellen Fulstone

28 Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

By: [Signature]

Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501



**DECLARATION OF PERSONAL SERVICE**

(To be filled out and signed by the person who served the Defendant or Respondent)

STATE OF Nevada )  
COUNTY OF Eureka )

I, Maureen Torres, declare:  
(Name of person who completed service)

1. That I am not a party to this action and I am over 18 years of age.
2. That I personally served a copy of the Summons and the following documents:

Motion To Consolidate Cases + Petition  
For Judicial Review

upon Mike Mears, at the following  
(Name of Respondent/Defendant who was served)

address: Assessor's Office, S. Main Street,  
Eureka NV 89314.

on the 28<sup>th</sup> day of March, 20 13.  
(Month) (Year)

This document does not contain the Social Security Number of any Person.

I declare, under penalty of perjury under the law of then State of Nevada, that the foregoing is true and correct.

Maureen Torres  
(Signature of person who completed service)

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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: April 2, 2013

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

Electronically

04-03-2013:02:11:25 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3635754

1 CODE 4085

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

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

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU  
14 WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.  
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16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

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- 19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
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23 accordance with the rules of the Court, and;  
24 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
25 is shown below.
- 26 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
27 enter a judgment against you for the relief demanded in the complaint or petition.

28 Dated this 12 day of March, 2013

Issued on behalf of Plaintiff(s):

Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

By: [Signature]  
Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snell & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 22nd day of March, 2013 at 10:09 am to be served on Clark County Assessor, 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89106.

I, Angela Hodges, being duly sworn, depose and say that on the 25th day of March, 2013 at 3:18 pm, I:

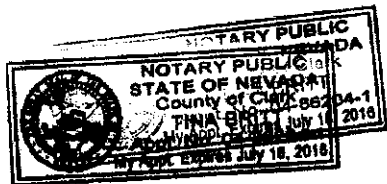
SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Michele Shafe as Clark County Assessor.

Said service was made at the address of: 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89155

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

SIGNED and SWORN TO before me on the 28  
day of March, 2013 by the affiant who  
is personally known to me.

NOTARY PUBLIC



Angela Hodges  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
Las Vegas, NV 89101  
(702) 877-0200  
Our Job Serial Number: 2013000535

Service Fee: \$47.50

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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522

☒ Document does not contain the social security number of any person

-OR-

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-

☐ For the administration of a public program

-or-

☐ For an application for a federal or state grant

-or-

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: April 3, 2013

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

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

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**2300**  
**CATHERINE CORTEZ MASTO**  
Attorney General  
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Deputy Attorney General  
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*Attorneys for the State Board of Equalization*

**IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF WASHOE**

VILLAGE LEAGUE TO SAVE INCLINE ASSETS, INC., a Nevada non-profit corporation, as authorized representative of the owners of more than 1300 residential properties at Incline Village/Crystal Bay; MARYANNE INGEMANSON, trustee of Trustee of the Larry D. and Maryanne B. Ingemanson Trust; KATHY NELSON, Trustee of The Kathy Nelson Trust; ANDREW WHYMAN; on behalf of themselves and others similarly situated,

Petitioners,

vs.

THE STATE OF NEVADA, on relation of the STATE BOARD OF EQUALIZATION; WASHOE COUNTY; TAMMI DAVID, Washoe County Treasurer; JOSH WILSON, Washoe County Assessor; LOUISE H. MODARELLI; WILLIAM BROOKS; CITY HALL, LLC; PAUL RUPP; DAVE DAWLEY, Carson City Assessor; NORMA GREEN, Churchill County Assessor; MICHELE SHAFE, Clark County Assessor; DOUGLAS SONNEMANN, Douglas County Assessor; KATRINKA RUSSELL, Elko County Assessor; RUTH LEE, Esmeralda County Assessor; MIKE MEARS, Eureka County Assessor; JEFF JOHNSON, Humboldt County Assessor; LURA DUVALL, Lander County Assessor; MELANIE McBRIDE, Lincoln County Assessor; LINDA WHALIN, Lyon County Assessor; DOROTHY FLOWLER, Mineral County Assessor; SHIRLEY MATSON, Nye County Assessor; CELESTE HAMILTON, Pershing County Assessor; JANA SNEDDON, Storey County Assessor; ROBERT BISHOP, White Pine County Assessor,

Respondents.

**Case No. CV13-00522**

**Dept. No. 3**

**STATE'S BOARD'S MOTION TO  
DISMISS PETITION FOR JUDICIAL  
REVIEW**

**FILED**

Electronically

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3637500

1                   **STATE'S BOARD'S MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

2                   Respondent State of Nevada ex rel. the State Board of Equalization (State Board)  
3 through its counsel Catherine Cortez Masto, Attorney General, by Dawn Buoncristiani,  
4 Deputy Attorney General, submits State Board's Motion to Dismiss Petition for Judicial  
5 Review (Motion). The State Board moves this Court to dismiss the Petition for Judicial  
6 Review (Petition) because there is no basis in law to appeal an equalization order of the  
7 State Board of Equalization. This Motion is based upon WDCR 12, the pleadings and  
8 papers on file herein, and the following Points and Authorities.

9                   **AFFIRMATION PURSUANT TO NRS 239B.030**

10                  The undersigned hereby affirms that this document does not contain the social  
11 security number of any person.

12                  Dated: April 4, 2013.

13                                   CATHERINE CORTEZ MASTO  
14                                   Attorney General

15                                   By: *Dawn Buoncristiani*  
16                                   DAWN BUONCRISTIANI  
17                                   Deputy Attorney General  
18                                   Nevada State Bar No. 7771  
19                                   100 N. Carson Street  
20                                   Carson City, Nevada 89701-4717  
21                                   (775) 684-1219  
22                                   Attorneys for the State Board of Equalization  
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**POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Petitioners seek to have this Court review the State Board's decision wherein the State Board issued an Equalization Order. See Petition, Exhibit 1. Petitioners' Petition must be dismissed because the State Board's action was a legislative action not an adjudicatory action. There was no contested case pursuant to NRS 233B.130. Further, the right to appeal must be provided by statute and NRS 361.395, the statute governing State Board equalization decisions, does not provide a right to appeal an equalization action by the State Board. The statute does not provide a remedy for a person to dispute an equalization decision of the State Board. The Nevada Legislature could easily have provided such a right to a "person" if it had intended to do so. NRS 361.395. However, as the Legislature did not so provide, Petitioners' Petition should be dismissed.

**II. FACTS**

This case has a long history dating back to 2003. However, the State Board will only provide the facts that address the State Board's equalization action. A Writ of Mandamus was issued on August 21, 2012 in Case No. CV03-06922. The Writ directed the State Board to hold public hearings to "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, . . ." See Petition, Exhibit 2, p. 1. The State Board held public hearings on September 18, 2012, November 5, 2012, and December 3, 2012. See Petition, Exhibit 1, pp. 4-5.

In response to the Writ directing the State Board to hold its first public hearing "not more than 60 days after the date of the writ's issuance. . . ." the State Board met on September 18, 2012, to hear taxpayer grievances.<sup>1</sup> See Petition, Exhibit 1, p. 2; Exhibit 2 pp. 1-2. The State Board elected to "cause published notices" of the equalization hearing

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<sup>1</sup> The State Board held its first meeting within 60 days after the date of the issuance of the Writ on August 21, 2012, as required by the Writ. See Writ, p. 2.



1 "to be made in the press".<sup>2</sup> NRS 361.380. The notice was placed in 21 newspapers across  
2 the State. See Petition, Exhibit 1, p. 2. Notice of Hearing was sent to Petitioners through  
3 attorney, Suellen Fulstone. See Petition, Exhibit 1, p. 2.

4 On September 18, 2012, the State Board hearing in response to the Writ was video-  
5 conferenced between the Carson City Legislative Building and the Las Vegas Legislative  
6 Building as well as eight other locations including Battle Mountain, Caliente, Elko, Ely,  
7 Eureka, Pahrump, and Winnemucca. See Petition, Exhibit 1, p. 2. The hearing was  
8 available for live viewing via the internet at the Legislative website: <http://leg.state.nv.us>.  
9 The hearing was also available by teleconferencing through a call-in number. See Petition,  
10 Exhibit 1, p. 2.

11 At the State Board hearing on September 18, 2012, property owners from four  
12 Nevada counties submitted grievances. Three property owners appeared in person and  
13 through teleconferencing. See Petition, Exhibit 1, pp. 3-6. Two property owners from Clark  
14 County submitted grievances. The first Clark County property owner was Louise H.  
15 Modarelli (Mordarelli). Mordarelli's grievance was dismissed because such claim was  
16 identical to her individual contested case appeal. Her individual appeal was heard by the  
17 Clark County Board of Equalization (County Board) which reduced the taxable value of her  
18 property. Modarelli did not timely appeal the County Board's decision to the State Board. In  
19 such previous hearing pursuant to NRS 361.360, the State Board dismissed Mordarelli's  
20 appeal for failure to timely appeal. In this matter, the State Board dismissed Mordarelli's  
21 claim because her claim was for her individual property valuation and there was no  
22 equalization component to such claim. See Exhibit 1- State Board of Equalization – State of  
23 Nevada Agenda Item L5 – Writ of Mandamus Hearing Transcripts, November 5, 2012, pp.  
24 6-11.<sup>3</sup>

25 The second Clark County property owner was City Hall, LLC (City). City made a  
26 claim regarding the taxable value of its property after an exemption from taxation was

27 <sup>2</sup> Published notices were made through the Nevada Press Association. See Petition, Exhibit 1, p. 2.

28 <sup>3</sup> While Petitioners provide a partial transcript for this hearing in its Petition, Exhibit 3, State Board is providing the entire transcript for November 5, 2012.

1 removed when the property was purchased by City. City wanted the State Board to make  
2 sure the assessor: (1) correctly assessed a property pursuant to the applicable statutes and  
3 regulations; and, (2) then exempted such value if an exemption was appropriate. City also  
4 wanted to be able to appeal the taxable value of the property in January of 2013, so that it  
5 could appeal that current tax year valuation in the upcoming appeal cycle. See Petition,  
6 Exhibit 1, p. 3.

7 The State Board dismissed City's individual grievance because the State Board does  
8 not have the authority to grant a property owner the right to appeal a property tax in a year  
9 other than the year established pursuant to NRS Chapter 361. No timely appeal was filed  
10 for the subject property by the appeal deadline of January 17, 2012. According to public  
11 records, City did not own the property until April 4, 2012. The State Board directed the  
12 Department of Taxation (Department) to investigate the issue regarding the proper valuation  
13 of a property the year after such property is no longer tax exempt. NAC 361.663. The issue  
14 is to be "part of a broader performance appraisal question to be applied across all counties."  
15 See Petition, Exhibit 1, pp. 3-4; Exhibit 1, pp. 12-15.

16 One property owner submitted a grievance from Douglas County. H. William Brooks  
17 (Brooks) complained that he was paying a higher tax on his property than the tax paid on  
18 other properties in Genoa. Brooks disputed the classification of agricultural property and  
19 how agricultural property is valued. See Exhibit 1, p. 27. The Douglas County assessor  
20 responded with a review of four parcels explaining why the differences in valuation were a  
21 result of various statutory valuation requirements. See Petition, Exhibit 1, p. 5. The State  
22 Board directed the Department to make the disputed agricultural issues the subject of a  
23 future performance audit: the Department "would look at how assessors are qualifying  
24 properties for the agricultural" designation for property valuation. See Exhibit 1, p. 28.

25 One property owner from Esmeralda County submitted a grievance. Paul Rupp, a  
26 property owner, and Michael Queen explained how they would like to see property tax laws  
27 changed. The State Board took no action on this matter finding it had no authority to  
28 change property tax laws. The Department offered to provide training to the Esmeralda

1 County Board of Equalization on general procedures for its hearings. See Exhibit 1, p. 38.

2 One group of Washoe County property owners submitted an equalization grievance.  
3 Such property owners from Incline Village and Crystal Bay (Incline) were represented by  
4 Suellen Fulstone. Incline stated there were some 1300 property owners whose interests  
5 were represented at the hearing; however, the claim was for equalization of all residential  
6 property in Incline. See Petition, Exhibit 1, p. 6.

7 Incline's position was [t]he [Nevada] Supreme Court (Supreme Court) has  
8 determined that the 2002 appraisal was unlawful and that the valuations reached in that  
9 appraisal were null, void, and unconstitutional. Equalization under the constitution requires  
10 uniform and equal taxation, and requires that all of the valuations of residential property at  
11 Incline Village and Crystal Bay be set for those years at the 2002-2003 constitutional levels.  
12 See Petition, Exhibit 1, p. 6. Pursuant to *State Board of Equalization, et al. v. Bakst, et al.*,  
13 122 Nev. 1403, 1408, 148 P.3d 717 (2006) four methods were determined to be invalid and  
14 unconstitutional: adjustments for view, adjustments for time, adjustments for teardowns,  
15 and adjustments for beach type. See Petition, Exhibit 1, p. 6.

16 For relief, Incline requested that after setting residential property land values at the  
17 2002-2003 level, a factor, as approved by the Nevada Tax Commission, be applied which  
18 would result in a total taxable value for each property. See Exhibit 1, p. 56. At the  
19 November 5, 2012 hearing, Incline testified that the tax years under dispute are 2003- 2004,  
20 2004-05, and 2005-06 and that tax year 2007-2008 was "not at issue here." See Exhibit 1,  
21 pp. 49, 67-68, 90.

22 On November 5, 2012, the State Board held a hearing at which four county  
23 assessors individually responded to the grievances of taxpayers residing within the county  
24 in which each assessor appraises property.<sup>4</sup> See Petition, Exhibit 1, pp. 3-7. The Washoe  
25 County Assessor (Assessor) responded to Incline's grievances. The Assessor testified that  
26 not all of the Incline residential properties had one of the invalid methodologies applied to  
27 arrive at taxable value. See Exhibit 1, pp. 39, 43. Incline disagreed testifying that one of

28 <sup>4</sup> However, all 17 assessors received a notice for the hearing. See Petition, Exhibit 1, p. 1.

1 the invalid methods was used on all residential properties in Incline. See Exhibit 1, p. 46.  
2 When the Chairman asked for the specific information or evidence that the methods were  
3 used on all Incline properties, Incline responded "[y]ou have all of that information in the  
4 records of this Board for those years." See Exhibit 1, p. 49. Later, Incline pointed to the  
5 record again to indicate support for a general equalization down for all properties in Incline.  
6 See Exhibit 1, p. 68.

7 The Department, the state agency that maintains State Board records, testified that  
8 the records Incline requested to be placed in front of the State Board included only  
9 information relating to taxable values for properties which were appealed to the State Board  
10 in past years. The records did not contain information about other properties under  
11 consideration for equalization at Incline. NRS 361.375(11). Incline stated that the record  
12 would provide "more information, in terms of what was done at Incline for those years."  
13 See Exhibit 1, pp. 68-69. State Board members indicated an interest in information relating  
14 to those properties that were not previously appealed because the Writ addresses general  
15 equalization, **not individual appeals**. See Exhibit 1, pp. 68-69.

16 Responding to an inquiry from the Chairman, the Department referred the State  
17 Board to NAC 361.652 which defines equalized property. "Equalized property valuations'  
18 means to ensure that the property in this State is assessed uniformly in accordance with the  
19 methods of appraisal and at the level of assessment required by law." NAC 361.652;  
20 NRS 361.333. The Department testified that the State Board may need to "explore what  
21 happens when you remove those [invalid] methodologies." After the value was removed,  
22 would the properties be valued at the level of assessment required by law? NAC 361.652;  
23 NRS 361.333. See Exhibit 1, pp. 55-56.

24 The State Board expressed concern that it did not have enough information on  
25 exactly which properties the invalid appraisal methods were applied. See Exhibit 1, pp. 58-  
26 59, 61-62. The Incline properties which had the invalid methodologies applied to arrive at a  
27 taxable value should be identified. See Exhibit 1, pp. 75-76. The State Board considered  
28 Incline's request for relief: set the base value at the 2002-2003 taxable value and apply

1 Nevada Tax Commission factors each year forward to develop a final taxable value for each  
2 Incline property. See Exhibit 1, pp. 88-90. When asked by the State Board, the Assessor  
3 responded that he could identify residential parcels which had had one of the invalid  
4 methodologies applied to arrive at taxable value. See Exhibit 1, p. 93.

5 The State Board passed a motion directing the Assessor to identify the Incline  
6 properties which had one of the invalid methodologies applied to it in order to arrive at the  
7 taxable value for the land. See Exhibit 1, pp. 100-101. The Assessor was to then reduce  
8 taxable value to the 2002-2003 level and apply the Nevada Tax Commission factor to each  
9 year forward from 2003-2004, 2004-2005 and 2005-2006 to result in a taxable value for  
10 such property. See Exhibit 1, pp. 100-101. The Assessor was to report back to the State  
11 Board to review the Assessor's work at another hearing to determine if the State Board  
12 agreed with the taxable values or if the State Board needed to continue to deliberate  
13 regarding its final action on this matter. See Exhibit 1, p. 113. The Department suggested  
14 that a sales ratio study be performed on the final taxable values to determine if the level of  
15 assessment was consistent with NRS 361.333. NAC 361.652. See Exhibit 1, pp. 98-100.

16 On December 3, 2012, the State Board held a hearing by video conference to  
17 receive information from the Assessor as requested at the hearing on November 5, 2012.  
18 See Petition, Exhibit 1, p. 3. The information included revised valuations of properties  
19 located in Incline Village and Crystal Bay for the 2003-2004, 2004-2005, and 2005-2006 tax  
20 years pursuant to the direction of the State Board at a hearing held on November 5, 2012.  
21 See Exhibit 2 - State Board of Equalization Transcript of Proceedings Public Meeting,  
22 Monday, December 3, 2012, p. 5.<sup>5</sup>

23 The Assessor reported that applying the State Board's directions to value property in  
24 Incline/Crystal Bay as directed at the November meeting would result in reduction in value  
25 to most parcels (land) and an increase in value to some parcels. See Exhibit 2, p. 6. The  
26 decrease in value was \$698,000,000 for tax year 2003-2004; \$657,000,000 for tax year  
27

28 <sup>5</sup> While Petitioners provide a partial transcript for this hearing in its Petition, Exhibit 3, State Board is providing the entire transcript for December 3, 2012.

1 2004-2005; and \$564,000,000 for tax year 2005-2006. See Exhibit 2, p. 6.

2 The State Board Chairman inquired about "the percentage increase . . . during that  
3 period and/or if you had utilized other adjusting techniques in your reappraisal would your  
4 value still have been similar to what you actually had on them in 2003-2004?" The  
5 Assessor responded "yes." See Exhibit 2, pp. 8, 59.

6 Another State Board member inquired if the Assessor was using the same methods  
7 that assessors in other counties were using. See Exhibit 2, p. 13. The Assessor deferred to  
8 the Department. See Exhibit 2, p. 13. The Department replied that "all of the assessors  
9 make adjustments to value to reflect the effect of a property characteristic that has  
10 significance in the local market. They might not make view [sic] adjustments or beach  
11 adjustments or time adjustments. But they do make adjustments that are relevant to their  
12 market." See Exhibit 2, pp. 16, 24; Exhibit 1, p. 57.

13 The Department responded that the results of a performance audit indicated no  
14 exceptions for Washoe County appraisals which meant there were no problems found in  
15 Washoe County's procedures for performing appraisals.<sup>6</sup> See Exhibit 2, p. 14. Although the  
16 Performance Audit was approved by the Nevada Tax Commission on March 9, 2012, it is  
17 relevant to prior assessment years because the methodologies discussed in the  
18 Performance Audit "are the same types of methodologies that had been used in the prior  
19 years." See Exhibit 2, p. 14.

20 The Department recommended that if any taxable values that were developed using  
21 the unconstitutional methodologies are revised that a ratio study be performed to ensure the  
22 level of assessment is at the same level as the rest of Washoe County. In other words,  
23 Incline properties will "have the same relationship to taxable value as all other properties in  
24 the county." See Exhibit 2, p. 24. The Department quoted NAC 361.652: "equalized  
25 property valuation means to ensure that the property in this state is assessed uniformly in  
26 accordance with the methods of appraisal and at the level of assessment required by law."  
27 See Exhibit 2, p. 24-25. Even if a method is struck down by the Supreme Court," those

28 <sup>6</sup> The Department indicated it reviewed sales in Washoe County as far back as 2006.

1 properties still have to reach the parameters that are outlined in NRS 361.333, which is for  
2 land, . . . The level of assessment has to be between 32 and 36 percent of the taxable value.  
3 And taxable value for land is defined as market value." See Exhibit 2, p. 25. NRS 361.025.  
4 For purposes of equalization "similarly-situated properties are treated similarly and they  
5 should all arrive at the statistical level of assessment and an equal amount." See Exhibit 2,  
6 p. 26. For that reason, the Department suggested a sales ratio study to assure the Incline  
7 properties are equalized. See Exhibit 2, p. 27.

8 Incline responded to the Assessor's testimony. See Exhibit 2, p. 27. Although Incline  
9 pointed out that the taxable value of land "is based on comparable sales of vacant land. . . ."  
10 Incline maintained in a taxable value system like Nevada's, not based on market value, "the  
11 uniformity of regulations and uniformity of assessors in following those regulations is the  
12 only basis for assuring constitutional valuation." See Exhibit 2, p. 27. Incline acknowledged  
13 the regulations to value land have been extensively developed since the earlier set of  
14 regulations became effective in 2004 and then in 2009.<sup>7</sup> See Exhibit 2, p. 30.

15 It was Incline's position that looking at the Department's procedural audit that goes  
16 back as far as 2006, does not "advance the issue" before the State Board. See Exhibit 2, p.  
17 30. Incline argued that "for purposes of the board's decision here those values [tax year  
18 2002] have been deemed to be constitutional by the Supreme Court and as the basis---  
19 because they weren't unchallenged and become the basis for resetting the unconstitutional  
20 valuations of 2000 – as determined by the courts of 2003-2004." See Exhibit 2, p. 32.  
21 Incline stated and the Department agreed there were no equalization regulations until 2010.  
22 See Exhibit 2, pp. 34-35.

23 However, the Department indicated there was a regulation "in place for what  
24 methodologies that the assessors could use." See LCB File No. RO31-03. See Exhibit 2, p.  
25 34. Incline argued "you can't fix unconstitutional valuation by ratio studies. You can't fix  
26 unconstitutional valuation by factoring. You can't fix valuation done pursuant to  
27 unconstitutional methodologies." See Exhibit 2 pp. 36-37, 55. It is the duty and obligation  
28

<sup>7</sup> The additional land regulations became effective June, 17, 2008. See LCB File R166-07.

1 of the State Board to fix the valuations created pursuant to unconstitutional methodologies  
2 by resetting the values at 2002-2003 valuations. See Exhibit 2, pp. 36-37, 55. The  
3 Supreme Court does not "allow a do-over" and has held that equalization should be the  
4 State Board's predominant concern. Exhibit 2, pp. 39, 43. The remedy is the valuations  
5 must go back to 2002. See Exhibit 2, pp. 39, 55.

6 In response to Incline's comments, the State Board Chairman was concerned about  
7 equalization because looking at the actual valuation numbers returned by the Assessor, "it  
8 throws it out of equalization and it's not fair and equitable values for 03-04, . . ." See Exhibit  
9 2, pp. 40, 58.

10 David Creekman responded on behalf of the Washoe County parties, the Washoe  
11 County Board of County Commissioners and the Washoe County Treasurer (County). See  
12 Exhibit 2, p. 50. County was concerned that there has "been no analysis of valuation  
13 methods used elsewhere within the State of Nevada. See Exhibit 2, p. 50-51. County  
14 agreed with the Department's definition of equalizing properties. In response to a State  
15 Board member's question, County responded that NAC 361.652 defines "equalized property  
16 values" and that is why the term "value" does not appear within the definition itself. See  
17 Exhibit 2, p. 51. County argued the statutory duty of the State Board had not been modified  
18 in decades and it provides the meaning to a constitutional guarantee of a uniform and equal  
19 rate of assessment and taxation. See Exhibit 2, p. 52. County, therefore, concurred with  
20 the Department that the State Board should perform a ratio study to assure the valuations  
21 comply within the range provided by statute. See Exhibit 2, p. 52. County went on that  
22 since the State Board had noticed the hearing pursuant to NAC 361.650 through NAC  
23 361.667 the State Board must apply the 2010 regulations. Applying such regulations, the  
24 State Board has four alternative options. The State Board may: (1) do nothing; (2) refer this  
25 matter to the Nevada Tax Commission; (3) order a reappraisal; or (4) adjust values up or  
26 down pursuant to a ratio study. See Exhibit 2, p. 53.

27 Incline opposed County's arguments arguing the "definition of equalization and how  
28 you equalize for purposes of this proceeding is in the Supreme Court decisions." The level



1 of assessment in NAC 361.652 is thirty-five percent (35%) and the reference to level of  
2 assessment is not a reference to valuation. See Exhibit 2, p. 54. Incline stated it is not  
3 necessary to look at methods applied throughout Nevada, but to determine the grievances  
4 presented by Incline. See Exhibit 2, p. 55.

5 The Department responded that NAC 361.652 is not isolated from other definitions  
6 and regulations about equalization. Level of assessment is not just a mathematical thing  
7 but the Department looks for "the quality and uniformity of assessment through statistical  
8 analysis." See Exhibit 2, p. 56. The Department stated if removal of the unconstitutional  
9 methods results in valuations that are too low or too high, then part of the equalization  
10 process is to correct such unjust valuations. See Exhibit 2, p. 57. NAC 361.652.

11 The Department pointed out that the regulations in LCB File No. RO31-03, adopted  
12 on August 4, 2004, codify each of the methods that were formerly held unconstitutional by  
13 the Supreme Court. See Exhibit 2, p. 57; Exhibit – 2.

14 The Chairman closed the hearing and the State Board discussed the Incline issues  
15 and options. One member stated the right option is to reappraise the properties whose  
16 taxable value was determined by applying one of the methods held to be unconstitutional at  
17 the time. Reappraisal would be fair across the board. See Exhibit 2, pp. 60-64. However,  
18 this is in conflict with Incline's opinion that reappraisal is not an option pursuant to Supreme  
19 Court decisions and the remedy is to return valuations to the 2002 tax year level. See  
20 Exhibit 2, pp. 60-63, 65. Another member disagreed stating that the values should remain  
21 unchanged because lowering the values is in conflict with the market values of land going  
22 up at that time. See Exhibit 2, pp. 64-65. Equalization of valuation is the issue. See  
23 Transcript, p. 69. Another member stated that the values should not remain the same  
24 because the values were developed applying unconstitutional methods and the Supreme  
25 Court has closed the door to other options. See Transcript, pp. 67-68.

26 In response, the member stated the Supreme Court may have stated that reappraisal  
27 is not an option, but we have a Writ that states "to raise, lower or leave unchanged and so  
28 it's your [State Board's] call." Just following the Supreme Court cases is not applying the

1 State Board's discretion to raise, lower or leave unchanged taxable values. See Exhibit 2,  
2 p. 70.

3 Another member asked legal counsel for the State Board "I've heard Ms. Fulstone's  
4 testimony that's [reappraise] something we can't do because the Supreme Court told us we  
5 can't. What can we or can't we do as a board?" Legal counsel agreed with the member  
6 who referenced the Writ that leaves the State Board's options open to "raise, lower or leave  
7 unchanged the taxable value of any property for the purpose of equalization." See Petition,  
8 Exhibit 2, p. 1; Exhibit 2, p. 71. Such member struggled with the solution of lowering  
9 valuations 1.9 billion dollars in Washoe County creating a level of assessment that is not in  
10 conformance with the law. NRS 361.333. Reappraisal would get the values right by  
11 applying regulations that were correct at the time of the tax years at issue. See Exhibit 2, p.  
12 72. The other State Board members agreed. See Exhibit 2, pp. 73-75.

13 By motion, the State Board voted unanimously to direct the Assessor of Washoe  
14 County to "reappraise all properties for the...03-04, 04-05, and 05-06...in those three tax  
15 years that were unconstitutionally appraised or identified as unconstitutionally appraised  
16 and to determine the new taxable value. And in the event that any of those valuations  
17 increase, to assure that we comply with NRS 363.395(2) (sic)." NRS 361.395(2). See  
18 Exhibit 2, p. 76. Further, "whatever the results are from the Washoe County assessor's  
19 office that Terry [Department] prepare a sales ratio study on those to determine if they're at  
20 the level of assessment required by law." NAC 361.652; NRS 361.333. See Exhibit 2, p.  
21 77. The State Board also unanimously passed a motion to give the Assessor twelve (12)  
22 months to complete the reappraisal. See Exhibit 2, pp. 78-79.

23 Statewide equalization was the final item the State Board considered. See Exhibit 2,  
24 p. 79. State Board members took no further action based on the Taxpayers' testimony and  
25 information that had come before the State Board in the three equalization hearings on  
26 September 18, 2012, November 5, 2012, and December 3, 2012. See Exhibit 2, pp. 79-81.

27 ///

28 ///

1 **III. APPLICABLE LAW**

2 **NRS 361.395 Equalization of property values and review of tax rolls by**  
3 **State Board of Equalization; notice of proposed increase in valuation.**

4 1. During the annual session of the State Board of Equalization beginning on  
5 the fourth Monday in March of each year, the State Board of Equalization  
6 shall:

7 (a) Equalize property valuations in the State.

8 (b) Review the tax rolls of the various counties as corrected by the county  
9 boards of equalization thereof and raise or lower, equalizing and establishing  
10 the taxable value of the property, for the purpose of the valuations therein  
11 established by all the county assessors and county boards of equalization and  
12 the Nevada Tax Commission, of any class or piece of property in whole or in  
13 part in any county, including those classes of property enumerated in NRS  
14 361.320.

15 2. If the State Board of Equalization proposes to increase the valuation of any  
16 property on the assessment roll, it shall give 10 days' notice to interested  
17 persons by registered or certified mail or by personal service. The notice must  
18 state the time when and place where the person may appear and submit proof  
19 concerning the valuation of the property. A person waives the notice  
20 requirement if he or she personally appears before the Board and is notified of  
21 the proposed increase in valuation.

22 **IV. LEGAL ARGUMENTS**

23 **A. The State Board's Equalization Decision was a Legislative Action**  
24 **of General Applicability, Not an Adjudicatory Action Based on**  
25 **Evidentiary Input of Particular Individuals Describing Specific**  
26 **Situations or Instances; State Board's Equalization Decision is not**  
27 **Subject to Review Pursuant to a Petition to Judicial Review.**

28 The State Board's decision was a legislative action of general applicability, not an  
adjudicatory action based on evidentiary input of particular individuals describing specific  
situations or instances; hence such decision is not appealable pursuant to a petition for  
judicial review. There is a "recognized distinction in administrative law between proceedings  
for the purpose of promulgating policy-type rules or standards, on the one hand, and  
proceedings designed to adjudicate disputed facts in particular cases on the other." *U.S. v.*  
*Florida East Coast Ry. Co.*, 410 U.S. 224, 245-246 (1973).

The following explains the difference between an adjudicatory function and a  
legislative function. A "governmental agency serves in an adjudicatory capacity when it  
determines the rights, duties and obligations of specific individuals as created by past

1 transactions or occurrences." *Board of Sup'rs of Linn County v. Department of Revenue*,  
2 263 N.W.2d 227, 239 (Iowa 1978) (citations omitted). "Quasi-judicial proceedings are  
3 designed to adjudicate disputed facts in a particular case. Quasi-judicial hearings concern  
4 agency decisions that affect a small number of persons on individual grounds based on a  
5 particular set of disputed facts that have been adjudicated." *East St. Louis School Dist. No.*  
6 *189 Bd. of Educ. v. East St. Louis School Dist. No. 189 Financial Oversight Panel*, 811  
7 N.E.2d 692, 697-698 (Ill. App. 5 Dist., 2004) (citations omitted). Adjudicatory functions are  
8 those in which "the government's action affecting an individual (is) determined by facts  
9 peculiar to the individual case. . ." *Horn v. County of Ventura*, 156 Cal.Rptr. 718, 722 (Cal.,  
10 1979) (citations omitted). Adjudicatory decisions differ from "legislative" decisions which  
11 involve the adoption of a "broad, generally applicable rule of conduct on the basis of general  
12 public policy." *Id.* (internal quotations omitted).

13 Quasi-legislative proceedings are designed to promulgate policy-type rules or  
14 standards and involve general facts affecting everyone. *American Federation of State,*  
15 *County and Mun. Employees, Council 31, AFL-CIO v. Department of Cent. Management*  
16 *Services*, 681 N.E.2d 998, 1005-1006 (Ill.App. 1 Dist., 1997) (citation omitted). "No  
17 individual rights are at stake in a quasi-legislative proceeding." *Id.* at 1006 (citation omitted).  
18 "A hearing conducted in a quasi-legislative proceeding is intended to be an information-  
19 gathering forum in pursuit of legislative facts, rather than an adversarial adjudication of the  
20 rights of the individual." *East St. Louis School Dist. No. 189 Bd. of Educ.*, 811 N.E.2d at  
21 698 (citations omitted).

22 In *Bi-Metallic Inv. Co. v. State Bd. of Equalization*, 239 U.S. 441 (1915), the Court  
23 opined that an equalization action was a legislative action in that it was "a general  
24 determination dealing only with the principle upon which all the assessments in a county  
25 had been laid."<sup>8</sup> The *Bi-Metallic* case has "assumed major importance in administrative law  
26 as foundation for the differing treatment given legislative functions as opposed to  
27 adjudicative or quasi-judicial responsibilities." *Board of Sup'rs of Linn County*, 263 N.W.2d

28 <sup>8</sup> Appellants appealed an equalization order that increased "the valuation of all taxable property in  
Denver 40 per cent."

1 at 239. The *Linn* court found that the state agency functioned legislatively when it equalized  
2 "property values on a statewide basis. *Id.* at 239.

3 Here, the State Board did not adjudicate specific facts. See Petition, Exhibit 1, pp. 1-  
4 10. The State Board made a decision of general applicability directing the Washoe County  
5 Assessor "to reappraise all residential properties located in Incline Village and Crystal Bay  
6 to which an unconstitutional methodology was applied to derive taxable value during the tax  
7 years 2003-2004, 2004-2005, and 2005-2006." See Petition, Exhibit 1, p. 9. NAC 361.665.  
8 The State Board also directed the Department of Taxation to conduct a ratio study to  
9 determine if the reappraised taxable values "meet the level of assessment required by  
10 law;..." See Petition, Exhibit 1, p. 9. NAC 361.658; NAC 361.662.

11 Since the State Board's equalization action was a legislative action, such action is not  
12 subject to review pursuant to a petition for judicial review pursuant to NRS Chapter 233B.  
13 The facts of this matter are similar to those in *May County Department Stores* in which the  
14 court held the equalization order was not reviewable under the administrative procedure act.

15 The first question which confronts us is whether the validity of  
16 the order of the Commission increasing valuations in St. Louis  
17 County, on July 6, 1955, may properly be considered in this  
18 action. We have determined that it may not. Equalization  
19 between counties was a duty expressly imposed upon the  
20 Commission by the mandate of § 138.390 [to classify and  
21 equalize property]. That order of the Commission did not  
22 constitute a 'contested case' within the meaning of § 536.100  
23 [Administrative Procedure and Review] providing for judicial  
24 review of administrative decisions in such matters; § 536.010  
25 defines a 'contested case' as a 'proceeding \* \* \* in which legal  
26 rights, duties or privileges of specific parties are required by  
27 statute to be determined after hearing.' In matters thus  
28 reviewable under Chapter 536, notice to the parties affected is  
expressly provided for (§ 536.090), and the petition for review  
must be filed within 30 days after the mailing or delivery of  
notice. It would be wholly impracticable for the Commission to  
give notice of a blanket increase to all owners of real estate in 26  
counties, or even in St. Louis County. The order here affected  
counties and classes of taxpayers, and not 'specific parties'; and  
it was not a subject of contest, within the usual understanding of  
that term. We hold that the equalization order of July 6, 1955,  
was not a decision of which a review is contemplated under §  
536.100 [Administrative Procedure and Review].

*May Dept. Stores Co. v. State Tax Commission*, 308 S.W.2d 748, 756 (Mo.1958).

1 See also, *Woolfolk v. Board of Fire and Police Com'rs of Village of Robbins*, 398 N.E.2d  
2 226, 229, (Ill.App. 1 Dist., 1979) ("The Administrative Review Act provides for judicial review  
3 of the final decisions of administrative agencies. . . . It cannot be used to provide for review  
4 of legislative acts of legislative bodies."). The matter before this Court is similar to the *May*  
5 *Department Stores* case because the Equalization Order affected classes of taxpayers.  
6 See Petition, Exhibit 1, p. 9. The equalization hearings before the State Board were not  
7 contested cases; therefore, the State Board's decision is not subject to review pursuant to a  
8 petition for judicial review.

9 **B. This Court Lacks Jurisdiction over the Matter Because the Decision to**  
10 **Equalize was Not Based on a Contested Case or Contested Cases Pursuant**  
11 **to NRS 233B.130.**

12 The State Board has been granted the authority by the Nevada Legislature to  
13 equalize property valuations. NRS 361.395. As discussed in Section II above, the State  
14 Board met three times during the year 2012 to equalize property valuations. Petitioners  
15 now attempt to appeal such decision; however, the hearings were not contested cases  
16 pursuant to NRS 233B.130. The court in *Emmet County v. State Tax Commission*, 244  
17 N.W.2d 909, 912 (Mich. 1976) opined that there is no contested case in an equalization  
18 hearing.

19 The act [Administrative Procedure Act] refers to a 'contested  
20 case'. Who are the contestants in state equalization  
21 proceedings? Apparently, the argument is that they are the  
22 counties and the State Tax Commission. While they may  
become adversaries in subsequent litigation in the Court of  
Appeals or this Court, it stretches the concept of a 'contested  
case' to denominate the commission an adversary during a  
proceeding before it.

23 Id. The Michigan Administrative Procedure Act did not apply to statewide equalization  
24 proceedings. Id. Similarly, the equalization hearings before the State Board were not  
25 contested cases. The Department of Taxation, Assessor and property owners testified  
26 providing information for the State Board to consider for any equalization order it might  
27 make. See Petition, Exhibit 1, pp. 1-10.

28 NRS 233B.130 provides for judicial review of an agency decision to a party who is

1 aggrieved by a decision in a *contested case*. "Contested case" is defined in NRS 233B.032  
2 as a "proceeding, including but not restricted to rate making and licensing, in which the legal  
3 rights, duties or privileges of a party are **required by law** to be determined by an agency  
4 **after an opportunity for hearing**, or in which an administrative penalty may be imposed."  
5 (Emphasis added.) Only when a petition for judicial review is filed from a contested case will  
6 the court have jurisdiction. In *Private Investigator's Licensing Board v. Atherley*, 98 Nev.  
7 514, 515, 654 P.2d 1019, 1020 (1982), the Nevada Supreme Court held:

8 "We must determine initially whether the district court had  
9 jurisdiction in this case. Pursuant to the Nevada Administrative  
10 Procedure Act (NRS Chapter 233B), not every administrative  
11 decision is reviewable. Instead, the district court has jurisdiction  
12 to review only "contested cases" in licensing matters. NRS  
13 233B.130. A "contested case" is defined as a proceeding in  
14 which the rights of a party are required by law to be determined  
15 after an opportunity for a hearing. NRS 233B.032; see also  
16 NRS 233B.127(1).

17 The procedures relating to process server licenses are  
18 contained in NRS Chapter 648. The statutes do not require  
19 notice and an opportunity for hearing prior to the Board's  
20 determination on an application for such a license. Thus, the  
21 Board's denial was not the result of a 'contested case,' and  
22 judicial review under the Administrative Procedure Act was not  
23 available. *Southwest Gas Corp. v. Public Serv. Comm'n*, 92  
24 Nev. 48, 546 P.2d 219 (1976); see *Capitol Hill Restoration Soc.,*  
25 *Inc. v. Moore*, 410 A.2d 184 (D.C. App. 1979); *McAuliffe v.*  
26 *Carlson*, 303 A.2d 746 (Conn. C.P. 1973).

27 Moreover, in *Citizens for Honest & Responsible Gov't v. Secretary of State*, 116 Nev.  
28 939, 951-52, 11 P.3d 121, 129 (2000), the Nevada Supreme Court in addressing *Atherley*,  
supra, strictly construed the definition of "contested case."

[T]his court strictly construed these requirements and held that  
because the statutes controlling the Private Investigator's  
Licensing Board did not require "notice and an opportunity for  
hearing" before the Board made application determinations, the  
Board's decisions were not "contested cases" for purposes of  
APA.

In *Citizens*, the Court stated that because the statutes controlling the Secretary of  
State's review of a recall petition did not require a hearing to provide petitioners an  
"opportunity to present evidence in support of their case" pursuant to Chapter 293, there

1 was no "contested case" within the meaning of NRS 233B.032.<sup>9</sup> *Id.*

2 As in the *Citizens* cases, no individual notice and opportunity for a hearing to provide  
3 Petitioners an opportunity to present evidence in support of an individual case is required by  
4 law under NRS 361.395 before or after the equalization decision.<sup>10</sup> NAC 361.666; NAC  
5 361.667. In contrast, there are specific notice, hearing and evidentiary requirements  
6 contained in NRS Chapter 361 and NAC Chapter 361 that pertain to appeals to the State  
7 Board from county board of equalization decisions. See NRS 361.360(2); NAC 361.702;  
8 NAC 361.703; NAC 361.714; NAC 361.723; NAC 361.739; NAC 361.741; NAC 361.747.

9 Additionally, NRS 233B.121 provides further support that the State Board's  
10 equalization action is not a "contested case" for purposes of NRS Chapter 233B. For  
11 instance, NRS 233B.121(6) requires that the record in a contested case must include all  
12 intermediate rulings, evidence, proposed findings, and the hearing officer's decision. In this  
13 case, there was no evidentiary hearing before a hearing officer. The State Board received  
14 advice from the Department county assessors, and property owners before rendering its  
15 decision. See Petition, Exhibit 1, pp. 1-10. See also, *State of Nevada v. George's*  
16 *Equipment Company, Inc.*, 105 Nev. 798, 804, 783 P.2d 949, 952-53 (1989) (lack of  
17 evidentiary hearing indicative of lack of contested case). The equalization hearings before  
18 the State Board were not contested cases. The right to appeal the equalization decision  
19 pursuant to a petition for judicial review has not been granted for review of a State Board  
20 equalization decision. NRS 361.395.

21 **C. PETITIONERS' PETITION MUST BE DISMISSED BECAUSE THE RIGHT TO APPEAL**  
22 **HAS NOT BEEN GRANTED BY THE LEGISLATURE; PETITIONERS DO NOT HAVE**  
23 **AUTHORITY FOR BRINGING THIS ACTION BECAUSE NRS 361.395 DOES NOT**  
**PROVIDE FOR SUCH AN ACTION.**

24 The Legislature has not by statute or by rule granted property owner/taxpayers or  
25 persons the right to appeal a State Board equalization decision. In *Kokkos v. Tsalikis*, 91

26 <sup>9</sup> The Court used this narrow and technical analysis of "contested case" despite the fact that NRS  
27 293.12795(3) states that the Secretary of State's decision is a final decision for purposes of Judicial Review.

28 <sup>10</sup> Notice is only required if the State Board "proposes to increase the valuation of any property on the  
assessment roll, . . ." NRS 361.395(2).



1 Nev. 24, 25, 530 P.2d 756, 757 (1975) this Court held that "[W]here no statutory authority to  
2 appeal is granted, no right exists." *Citing State v. Langan*, 29 Nev. 459, 91 P. 737 (1907);  
3 *Davis v. Davis*, 66 Nev. 164, 207 P.2d 240 (1949). See *State Taxicab Authority v.*  
4 *Greenspun*, 109 Nev. 1022, 1024, 1025, 862 P.2d 423, 424 (1993) ("The right to appeal is  
5 statutory; where no statute or court rule provides for an appeal, no right to appeal exists.")  
6 (citing *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 678 P.2d 1152 (1984); *Kokkos v.*  
7 *Tsalikis*, 91 Nev. 24, 530 P.2d 756 (1975)). Therefore, Petitioners have no right to appeal a  
8 State Board equalization decision.

9 The Legislature in NRS Chapter 361 did not provide for appeal of a State Board  
10 equalization decision as it did in NRS 361.410(1) and NRS 361.420(1) for taxpayer/property  
11 owners when individual appeals are heard, contested cases.<sup>11</sup> NRS 361.395. This decision  
12 by the Nevada Legislature is consistent with United State Supreme Court decisions. The  
13 United States Supreme Court has long recognized that the States have broad power to tax.  
14 "The power of taxation which the legislature of a State possesses may be exercised to any  
15 extent upon property within its jurisdiction, except as specially restrained by its own or the  
16 Federal Constitution; and its power of appropriation of the moneys raised is equally  
17 unlimited...." *New Orleans v. Clark*, 95 U.S. 644, 654 (1877). In *Lehnhausen v. Lake Shore*  
18 *Auto Parts Co.*, 410 U.S. 356, 359 (1973), the United State Supreme Court stated:

19 Where taxation is concerned and no specific federal right, apart  
20 from equal protection, is imperiled, the States have large leeway  
21 in making classifications and drawing lines which in their  
22 judgment produce reasonable systems of taxation. As stated in:  
23 *Allied Stores of Ohio v. Bowers*, 358 U.S. 522, 526-527, 79 S.Ct.  
24 437, 440-441, 3 L.Ed.2d 480: "The States have a very wide  
25 discretion in the laying of their taxes. When dealing with their  
26 proper domestic concerns, and not trenching upon the  
prerogatives of the National Government or violating the  
guaranties of the Federal Constitution, the States have the  
**attribute of sovereign powers** in devising their fiscal systems  
to ensure revenue and foster their local interests. Of course, the  
States, in the exercise of their taxing power, are subject to the  
requirements of the Equal Protection Clause of the Fourteenth

27 <sup>11</sup> "No taxpayer may be deprived of any remedy or redress in a court of law relating to the payment of  
28 taxes, but all such actions must be for redress from the findings of the State Board of Equalization..." NRS  
361.410(1). [Emphasis Added.] "Any property owner whose taxes are in excess of the amount which the  
owner claims justly to be due..." NRS 361.420(1).

1 Amendment. But that clause imposes no iron rule of equality,  
2 prohibiting the flexibility and variety that are appropriate to  
reasonable schemes of state taxation.

3 In *Lehnhausen* the United States Supreme Court explained that the States have broad  
4 authority to administer the state revenue system. Accordingly, it is within the authority of the  
5 Legislature to determine if a State Board equalization decision is appealable, and such a  
6 right of appeal is not granted to persons in NRS 361.395.

7 Similarly, in *Lane County v. State of Oregon*, 74 U.S. 71, 77 (1868), the Court states  
8 "[t]he power of taxation is indispensable. It is an essential function of government." The  
9 *Lane* Court goes on discuss the States' power to tax.

10 In respect, however, to property, business, and persons, within  
11 their respective limits, their (the States') power of taxation  
12 remained and remains entire....but with this qualification it is  
13 absolute. The extent to which it shall be exercised, the subjects  
14 upon which it shall be exercised, and the **mode in which it shall**  
15 **be exercised**, are all equally **within the discretion of the**  
16 **legislatures to which the States commit the exercise of the**  
17 **power**. That discretion is restrained only by the will of the people  
18 expressed in the State constitutions or through elections, and by  
19 the condition that it must not be so used as to burden or  
20 embarrass the operations of the national government. There is  
21 nothing in the Constitution which contemplates or authorizes any  
22 direct abridgment of this power by national legislation. To the  
23 extent just indicated it is an complete in the States as the like  
24 power, within the limits of the Constitution, is complete in  
25 Congress. If, therefore, the condition of any State, in the  
26 judgment of its legislature, requires the collection of taxes in  
27 kind, that is to say, by the delivery to the proper officers of a  
28 certain proportion of products, or in gold and silver bullion, or in  
gold and silver coin, it is not easy to see upon what principle the  
national legislature can interfere with the exercise, to that end, **of**  
**this power, original in the States**, and never as yet  
surrendered. [Emphasis Added].

23 Id. at 77 (superseded on other grounds). The *Lane* Court explains that the States' original  
24 power to tax is limited only by the will of the people with the condition the national  
25 government is not burdened. The *Lane* Court explains that this tax scheme, subject to the  
26 aforementioned limits, is entirely within the discretion of the legislature of each state and is  
27 absolute. The Nevada Legislature did not exercise its discretionary sovereign power to  
28 permit Petitioners to appeal a State Board equalization decision. As the Legislature did not

1 provide such a right to property owners/taxpayers and persons, a court should not judicially  
2 create a right of action not provided by the Legislature. See *State, Dep't of Motor Vehicles*  
3 & *Public Safety v. Brown*, 104 Nev. 524, 526, 762 P.2d 882 (1988); *Sierra Pac. Power Co.*  
4 *v. Department of Taxation*, 96 Nev. 295, 298, 607 P.2d 1147 (1980).

5 **V. CONCLUSION**

6 The State Board's equalization action is a legislative function, not an adjudicatory  
7 function. The State Board did not hear contested cases but gathered information upon  
8 which to base its broad based Equalization Order. Neither NRS Chapter 233B nor NRS  
9 361.395 provide a right to appeal a State Board equalization decision. Upon the foregoing  
10 reasoning and authorities, State Board respectfully requests the court dismiss Petitioners'  
11 Petition for Judicial Review.

12 Dated: April 4, 2013.

13 CATHERINE CORTEZ MASTO  
14 Attorney General

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28

## CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on April 4, 2013, I served the foregoing **STATE'S BOARD'S MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW** by depositing for mailing at Carson City, Nevada, a true and correct copy thereof in first class mail, postage prepaid, fully addressed as follows:

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**INDEX OF EXHIBITS TO STATE BOARD'S  
MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

<b>Exhibit No.</b>	<b>Description of Exhibit</b>
1	Transcript of Public Hearing before the State Board of Equalization, Monday, November 5, 2012
2	Transcript of Public Hearing before the State Board of Equalization, Monday December 3, 2012

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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Case No. 63581  
Nov 27 2013 03:47 p.m.  
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**JOINT APPENDIX – VOLUME 5**

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**FILED**

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Clerk of the Court

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13 **IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA**

14 **IN AND FOR THE COUNTY OF WASHOE**

15 VILLAGE LEAGUE TO SAVE INCLINE ASSETS,  
16 INC., a Nevada non-profit corporation, on behalf  
17 of their members, and others similarly situated;  
18 MARYANNE INGEMANSON, trustee of the  
19 LARRY D. AND MARYANNE B. INGEMANSON  
20 TRUST; DEAN R. INGEMANSON, individually  
21 and as trustee of the DEAN R. INGEMANSON  
22 TRUST; J. ROBERT ANDERSON; and LES  
23 BARTA, on behalf of themselves and others  
24 similarly situated,

25 Plaintiffs,

26 vs.

27 THE STATE OF NEVADA, on relation of the  
28 STATE BOARD OF EQUALIZATION; WASHOE  
COUNTY; and BILL BERRUM, WASHOE  
COUNTY TREASURER,

Defendants.

**Case No. CV03-06922**

**Dept. No. 7**

29 **STATE'S RESPONSE TO PLAINTIFFS' OBJECTION TO STATE BOARD OF**  
30 **EQUALIZATION REPORT AND ORDER**

31 Respondent, State of Nevada, ex rel. State Board of Equalization, by and through its  
32 counsel Catherine Cortez Masto, Attorney General, by Dawn Buoncrystiani, Deputy Attorney  
33 General, submits this Response to Plaintiffs' Objection to State Board of Equalization  
34 Report and Order (Response).

35 The State Board of Equalization (State Board) makes this response to Petitioners'

1 allegations contained in its Objection to State Board of Equalization Report and Order  
2 (Objection). The State Board's discretionary actions taken in execution of the Writ of  
3 Mandamus (Writ) will not be repeated within this Response. The State Board's actions  
4 taken in execution of the Writ did not exceed its statutory or regulatory authority.  
5 Petitioners' constitutional rights to due process, equal protection and uniformity of property  
6 taxation were not violated. See Objection, p. 2. The State Board's discretionary actions did  
7 not violate the terms of the Writ. See Objection, p. 2. The State Board's Equalization Order  
8 12-001 should not be vacated and remanded because the State Board acted within its  
9 jurisdiction and in compliance with its statutory and regulatory authority as well as in  
10 compliance with the Writ. See Exhibit 1 - State Board of Equalization's Notice of  
11 Equalization Order.

12 **I. THE STATE BOARD DID NOT EXCEED ITS STATUTORY OR REGULATORY**  
13 **AUTHORITY WHEN IT HELD ITS EQUALIZATION HEARINGS PURSUANT TO THE**  
14 **EQUALIZATION REGULATIONS ESTABLISHED FOR SUCH PURPOSE.**

15 Contrary to Petitioners' allegations, the State Board has authority and procedures to  
16 equalize statewide pursuant to NRS 361.395 and NAC 361.650 through NAC 361.669;  
17 hence, the State Board's execution of the Writ is not void. See Objection, pp. 3-17. Prior to  
18 *State Bd. of Equalization v. Bakst, et al.*, 122 Nev. 1403, 1413, 1417, 148 P.3d 717 (2006)  
19 and *State Bd. of Equalization v. Barta*, 124 Nev. 612, 626, 188 P.3d 1092, 1102 (2008) the  
20 State Board heard individual cases and equalized property on the basis of the evidence  
21 received during individual hearings while the Nevada Tax Commission (NTC) equalized  
22 statewide. NRS 361.375 through NRS 361.435; NRS 361.333. When the State Board  
23 acted to equalization, such action was limited to a relatively small number of properties.  
24 This interpretation regarding the limited duty of the State Board to equalize statewide arose  
25 pursuant to Legislative action as evidenced by the following explanation. The State Board  
26 acted for decades pursuant to this limited authority.

27 The following is a review of the development of the duty of the State Board to  
28 equalize and review tax rolls pursuant to NRS 361.395, and the development of NRS  
361.333 which provides for the assessment ratio study as a means to equalize between

1 counties. This review addresses several of Petitioners' issues by establishing that the  
2 current assessment and equalization system was based on relevant observations, study,  
3 and then action by the Nevada Legislature. See Objection, pp. 7-13, 17-25.

4 To provide a frame of reference for the evolution of the duty of the State Board to  
5 equalize, the current form of NRS 361.395 is provided. Such section provides the only  
6 statutory authority for the State Board to equalize statewide as directed by the Nevada  
7 (Supreme Court). *Bakst*, 122 Nev. at 1413, 1417; *Barta*, 124 Nev. at 626.

8 **NRS 361.395 Equalization of property values and review of tax**  
9 **rolls by State Board of Equalization;**

10 1. During the annual session of the State Board of Equalization  
11 beginning on the fourth Monday in March of each year, the State Board of  
12 Equalization shall:

13 (a) Equalize property valuations in the State.

14 (b) Review the tax rolls of the various counties as corrected by the  
15 county boards of equalization thereof and raise or lower, equalizing and  
16 establishing the taxable value of the property, **for the purpose of the**  
17 **valuations** therein established by all the county assessors and county boards  
18 of equalization and the Nevada Tax Commission, of any class or piece of  
19 property in whole or in part in any county, including those classes of property  
20 enumerated in NRS 361.320. [Emphasis Added].

21 [Part 4:177:1917; A 1929, 341; 1939, 279; 1953, 576] + [Part 6:177:1917; A  
22 1929, 341; 1933, 248; 1939, 279; 1943, 81; 1953, 576]—(NRS A 1977, 605;  
23 1981, 799; 1983, 1196; 1987, 294; 1993, 96)

24 In 1917, the Nevada Tax Commission (NTC) and the State Board were established.  
25 Act of March 23, 1917, ch. 177, § 1, 1917 Nev. Stat. 328, 332. The NTC valued certain  
26 classes of property in a January session. Act of March 23, 1917, ch. 177, § 4, 1917 Nev.  
27 Stat. 328. In August the NTC and the county assessors sat as the state board of  
28 equalization (state board). At this meeting the state board reviewed the tax rolls of the  
various counties as corrected by county boards of equalization . . . to raise or lower **for the**  
**purpose of state equalization** the valuations therein established by county assessors and  
county boards of equalization . . . which shall be equalized by the said state board; and in  
equalizing the assessment of said property it shall be the duty of said state board of  
equalization to so raise or lower such valuation as to produce an aggregate assessment of

1 all property within the state. . . sufficient when the state tax levy is applied thereto to  
2 produce the revenues required from taxation as shown in the budget of estimated state  
3 expenses provide for. . . *provided however*, if said state board of equalization shall fail to  
4 perform the duties enumerated in this section, the Nevada tax commission may make such  
5 equalization as will be necessary. *Id.* at § 6, pp. 332-333.<sup>1</sup> [Emphasis Added].

6 Any person whose assessment valuation had been raised could "complain" to the  
7 NTC before the third Monday in October and the NTC could correct "any inequality or error.  
8 . ." *Id.* at p. 333. On October 1, the NTC, "for the purpose of state equalization" could raise  
9 or lower any valuations that it had established in January "to conform with the equalization  
10 of assessments effected by the state board of equalization." *Id.* at p. 333.

11 Therefore, in 1917 the State Board reviewed tax rolls that were based on full cash  
12 value raising and lowering values that created the assessed value of such properties.<sup>2</sup> The  
13 assessors from each county were there to assure no property was valued too high or too  
14 low. The State Board was to assure there would be enough assessed value to support the  
15 expenses in the state budget. The NTC heard appeals by property tax owners who thought  
16 the resulting assessed values were too high. Unlike today, the tax rolls provided enough  
17 information to equalize. NRS 361.025.

18 In 1929 the substantive provisions relating to NRS 361.395 remained the same with  
19 some changes to the time lines. Act of March 29, 1929, ch. 188, § 4, 1929 Nev. Stat. 341; §  
20 6, 1929 Nev. Stat. 343.

21 In 1933 the county assessors were no longer a part of the state board. Only the  
22 members of the NTC made up the membership of the state board. State board duties  
23 remained the same as those quoted in the 1917 statute above. With a showing on  
24 complaint, individual taxpayer appeals were still made to the NTC. Act of March 25, 1933,  
25 ch. 176, § 6, 1933 Nev. Stat. 248-249.

26 In 1939 the NTC still valued property. Act of March 25, 1939, ch. 179, § 5, 1939 Nev.

27  
28 <sup>1</sup> Nevada was on a full cash value system. *Id.* 336.

<sup>2</sup> Assessed value is now 35% of taxable value. NRS 361.225.

1 Stat. 281. However, the state board now reviewed the tax rolls submitted by the assessors  
2 as well as heard individual taxpayer appeals.<sup>3</sup> Act of March 25, 1939, ch. 179, § 4, 1939  
3 Nev. Stat. 279; § 6, 1939 Nev. Stat. 282, 283.<sup>4</sup> Further, the purpose of the review was for  
4 the "purpose of valuations," not for the "purpose of state equalization" as the 1917 version  
5 provided. *Id.* Act of March 23, 1917, ch. 177, § 1, 1917 Nev. Stat. 322-333. The NTC no  
6 longer heard appeals nor was it permitted to raise or lower state board valuations unless  
7 property was escaping taxation. Act of March 25, 1939, ch. 179, § 7, 1939 Nev. Stat. 284.

8 In 1943 and 1953 no significant changes were made to sections of the 1917 Act  
9 relating to NRS 361.395. Act of March 5, 1943, ch. 59, § 1, 1943 Nev. Stat. 82. Act of  
10 March 28, 1953 ch. 336, § 1, 1953 Nev. Stat. 577, 579.

11 In 1960 a book (Report) was published which was authored by the Nevada  
12 Legislature Tax Study Group (Group). This Group researched the fiscal affairs of the State  
13 of Nevada pursuant to the 1959 Act. The "report presents a thorough and critical overall  
14 review of the methods used in financing state and local government in Nevada." R. A.  
15 Zubrow, et al., *Financing State and Local Government in Nevada*, (1960). Among other  
16 things, the report discussed the state of property tax at that time and made corresponding  
17 recommendations for improvement.

18 The Report recognized that historically, there was a "[l]ow level of assessment on a  
19 highly variable and inequitable basis. . . ." *Id.* at p. 175. The 1917 Act creating the state  
20 board resulted in substantial improvements that "more than doubled" assessed valuations  
21 and secured more equal and uniform assessments. *Id.* at pp. 175-176. The NTC and the  
22 Assessment Standards Division were credited with having more power for "direct state  
23 valuation and assessment" as compared to other states in 1960, calling them "key agencies  
24 in the operation of the property tax system." *Id.* at p. 179.

25 The state board, which consisted of the members of the NTC, had "full authority to  
26

27 <sup>3</sup> The assessor submitted a segregation of property report which reflected the property assessments  
28 on the tax roll. Act of March 25, 1939, ch. 179, § 6, 1939 Nev. Stat. 282.

<sup>4</sup> The language from both of these sections remains much like it is today: "equalize property valuations  
in the State. . . Review the tax rolls of the various counties . . .". NRS 361.395.

1 equalize assessed valuations upon the complaint of taxpayers or on its own initiative. . .  
2 reviewing the tax rolls and raising or lowering values to equalize to full cash value." *Id.* at p.  
3 187.

4 The Report noted that the assessment ratio study established by the 1955 Act had  
5 "significant implications with respect to the problem of equalizing the assessed valuations of  
6 property." *Id.* at p. 221. Assessment ratio studies were "designed to discover variations in  
7 levels of assessment from one county to another, from one class of property to another, and  
8 within the same class." *Id.* **An assessment ratio study "provides the best single guide**  
9 **to determining the facts regarding inequities in the assessment process."** *Id.*  
10 (Emphasis Added). The assessment ratio study provided the data to indicate corrective  
11 measures that must be taken. *Id.* An equalization program required each county to adjust  
12 to required ratios of assessment.<sup>5</sup> The assessment ratio study also provided a valuable tool  
13 to equalize within the counties. *Id.* at p. 227. Hence, in 1960 the state board, which was  
14 the NTC, would be aware of any equalization issues by virtue of its review of the  
15 assessment ratio study as the NTC.

16 In 1967 NRS 361.395 appeared as it does today with no significant differences.  
17 However, NRS 361.333 was adopted in 1967 to provide for the assessment ratio study,  
18 "[a]n exterior equalization force. . ." Act of April 10, 1967, ch. 322, § 13, 1967 Nev. Stat.  
19 893. NRS 361.333 provided requirements to assure all property in the state had been  
20 assessed at "35% of its full cash value as required by law." *Id.* The NTC was to order an  
21 increase or decrease of any assessed valuation for any class of property that was more  
22 than or less than 35% of full cash value as designated in the segregation **tax roll** filed with  
23 the secretary of the state board of equalization pursuant to NRS 361.90.<sup>6</sup> *Id.* at p. 894.  
24 Under certain conditions for those properties out of equalization, the county board of

25 <sup>5</sup> The current version of NRS 361.333 provides assessed value fall between 32 to 36 percent of  
26 taxable value.

27 <sup>6</sup> If the NTC found "underassessment or overassessment which in the aggregate amounts to more  
28 than 5 percent of the total assessed valuation of the county, . . ." the NTC could order the board of county  
commissioners to employ an appraiser to determine if such was the case with the board of county  
commissioners ordering the assessor to make the adjustment, if necessary. Act of April 10, 1967, ch. 322, §  
13, 1967 Nev. Stat. 894.

1 commissioners was to order the assessor to make necessary adjustments to 35% of full  
2 cash value. *Id.* There was no provision for an individual appeal of general equalization  
3 decisions. *Id.*

4 In 1973, 1975, 1979, 1981, and 1989 the tax roll language remained in NRS 361.333  
5 with taxable value substituted for full cash value in 1981. Act of April 11, 1973, ch. 264, § 3,  
6 1973 Nev. Stat. 330. Act of April 10, 1975, ch. 746, § 63, 1975 Nev. Stat. 1662. Act of  
7 March 17, 1979, ch. 62, § 10, 1979 Nev. Stat. 82. Act of June 1, 1981, ch. 427, § 14, 1981  
8 Nev. Stat. 795. Act of June 17, 1989, ch. 380, § 1, 1989 Nev. Stat. 809.

9 In 1991, ten years after the move from a full cash value to a taxable value system,  
10 the tax roll language, which relates to the NTC, was removed from NRS 361.333 and has  
11 remained out. Act of June 7, 1991, ch. 281, § 1, 1991 Nev. Stat. 700. Act of May 3, 1999,  
12 ch. 81, § 1, 1999 Nev. Stat. 178. The tax roll language in NRS 361.395 which relates to the  
13 State Board has remained in NRS 361.395.

14 Returning to the history of NRS 361.395, in 1975 the State Board was created as an  
15 independent board. Its members were no longer the same as the NTC. The legislative  
16 history reveals the purpose of the state board was twofold: to hear the appeals of taxpayers  
17 whose property was locally assessed and those appeals that were centrally assessed. See  
18 *Hearing on A. B. 317 Before the Assembly Committee on Taxation*, 1975 Leg., 58<sup>th</sup> Sess. 4-  
19 5 (March 11, 1975). At a March 13, 1975 hearing of the same Committee, the ratio study  
20 was discussed and identified as the means to achieve "intercounty equality". See *Hearing*  
21 *on A. B. 317 Before the Assembly Committee on Taxation*, 1975 Leg., 58<sup>th</sup> Sess. 2 (March  
22 13, 1975). The Department of Assessment Standards was a "watch dog" over the counties  
23 performing a ratio study to assure "all property is assessed at 35% of the fair market value."  
24 See *Hearing on A. B. 317 Before the Assembly Committee on Taxation*, 1975 Leg., 58<sup>th</sup>  
25 Sess. 2 (March 11, 1975).

26 Hence, prior to the Nevada Supreme Court decisions in *Bakst*, 122 Nev. at 1413,  
27 1417 and *Barta*, 124 Nev at 626, since at least 1967, pursuant to the statutory scheme, it is  
28 the NTC that has reviewed the assessment ratio study and raised or lowered assessment

1 values to equalize among the counties. NRS 361.333. The NTC has dealt with intercounty  
2 equalization while the State Board continued to hear individual appeals until the recent  
3 Supreme Court cases.

4 In 1977, NRS 361.395 appeared as it does today with no significant differences. Act  
5 of May 3, 1977, ch. 317, § 1, 1977 Nev. Stat. 606. In 1981, although there was a major shift  
6 in the way property was valued, there was no substantive change in NRS 361.395.<sup>7</sup> Act of  
7 June 1, 1981, ch. 427, § 18, 1981 Nev. Stat. 799. In 1983, 1987 and 1993 NRS 361.395  
8 appeared as it does today with no significant differences. Act of May 24, 1983, ch. 454, § 6,  
9 1983 Nev. Stat. 1196. Act of May 6, 1987, ch. 127, § 4, 1987 Nev. Stat. 294. Act of April  
10 14, 1993, ch. 55, § 12, 1993 Nev. Stat. 96.

11 Summarizing the foregoing, the NTC and the assessors sat as the state board in  
12 1917 to review the tax rolls. While equalizing property values, the state board was to raise  
13 or lower the valuations to result in a total state assessment that produced the revenue  
14 required to meet the state budget expenses. The NTC heard taxpayer appeals as well as  
15 adjusted assessments if the state board did not perform the foregoing review of the tax rolls.  
16 Later the state board started hearing individual appeals of valuation while the NTC certified  
17 valuations on centrally assessed property and oversaw the entire revenue system. In 1955  
18 the department of assessment standards began to provide an assessment ratio study to the  
19 NTC as a means of achieving statewide equalization. The NTC was responsible for  
20 equalization among the counties. NRS 361.333. The tax roll language from the 1917 Act  
21 remained in NRS 361.395, but the state board still only heard individual appeals.

22 The words in *Harrison v. Northern Trust Co.*, 317 U.S. 476, 479 (1943) are relevant  
23 when interpreting NRS 361.395. "But words are inexact tools at best and for that reason  
24 there is wisely no rule of law forbidding resort to explanatory legislative history no matter  
25 how 'clear the words may appear on' superficial examination."<sup>8</sup> Therefore, "the legislative  
26 purpose (as reflected in the legislative history) was [is] used to ascribe an intent with respect  
27

<sup>7</sup> The standard of valuation moved from full cash value to taxable value.

<sup>8</sup> The plain meaning rule has limitations in tax cases. *Statutes and Statutory Construction*, 386 (6<sup>th</sup> ed. 2003).



1 to the specific facts at issue." Norman J. Singer, et al., *Statutes and Statutory Construction*,  
2 386 (6<sup>th</sup> ed. 2003). *Harrison* is an example of legislative history used to support a broader  
3 purpose analysis when an "[a]pplication of the literal language" of  
4 NRS 361.395 "would dictate a result inconsistent with the architecture of" NRS Chapter 361  
5 which sets up the property tax system. *Id.* at 383.

6 After examining the words of NRS 361.395 and the legislative history, it becomes  
7 evident that review of the tax rolls for the purpose of valuations/equalization by the State  
8 Board could no longer produce the results that it did in 1917. The tax rolls do not provide  
9 the information that is necessary to value property nor to equalize. See Exhibit 2 – Sample  
10 of Churchill County Tax Roll. As the foregoing review of the legislative history of NRS  
11 361.395 reflects, the Legislative intent was that NRS 361.395 provide a means to determine  
12 that property is valued in a uniform and equal manner. A review of the current format of the  
13 tax rolls does not provide the reviewer with enough information to adjust or to correct  
14 taxable value or to equalization. See Exhibit 2. Therefore, the broader purpose analysis  
15 from *Harrison* was applied so that the purpose of the language in NRS 361.395 was not  
16 rendered nugatory or ineffectual.

17 The other sections of NRS Chapter 361, consistent with legislative history, provided  
18 the State Board with the means to value property and achieve correct taxable values and  
19 equalization through hearing individual taxpayer appeals, and comparing taxable value to  
20 full cash value NRS 361.360; NRS 361.400; NRS 361.227. *Imperial Palace, Inc. v. Dep't. of*  
21 *Taxation, et al.*, 108 Nev. 1060, 843 P.2d 813 (1992). The foregoing historical overview  
22 supported the State Board's position that after it was separated from the NTC, the State  
23 Board did not equalize statewide. NRS 361.395 provided for equalization but not for the  
24 procedures to equalize statewide. As supported by the historical overview of equalization,  
25 the State Board has no other statutory or regulatory direction to equalize statewide than  
26 through the procedures and remedies provide by the lawfully adopted regulations provided  
27 in NAC 361.650 through NAC 361.669 (equalization regulations).

28 When the Supreme Court indicated that NRS 361.395 had a broader application than

1 was previously thought, the State Board lawfully adopted such procedures and remedies for  
2 equalization purposes to provide the mechanism for such broad equalization actions. NAC  
3 361.650 through NAC 361.669. *Bakst*, 122 Nev. at 1413, 1417; and *Barta*, 124 Nev at 626;  
4 NRS 361.375(9). See Exhibit 3 – Notice of State Board Regulation Workshops.

5 Petitioner incorrectly alleges when the State Board acted pursuant to these  
6 regulations the State Board acted outside its equalization authority granted by NRS  
7 361.395, NRS 361.375(9) and the equalization regulations and its actions should be void.<sup>9</sup>  
8 See Objection, pp. 1-17. Contrary to Petitioners' allegation, the equalization regulations  
9 were lawfully, uniformly, and equally applied retroactively to the equalization cases before  
10 the State Board because such regulations provide procedures and remedies and do not cut  
11 off any of Petitioners' substantive rights as alleged. See Objection, pp. 14-16. The general  
12 rule is that a newly enacted statute will not apply to ongoing proceedings. See *Valdez v.*  
13 *Employers Ins. Co. of Nevada*, 123 Nev. 170, 179-180, 162 P.3d 148, 154 (2007) (Newly  
14 enacted statutes "apply prospectively unless the Legislature clearly indicates that they  
15 should apply retroactively or the Legislature's intent cannot otherwise be met.") (citation  
16 omitted).

17 But, "[t]his general rule does not apply to statutes that do not change substantive  
18 rights and instead relate solely to remedies and procedure, however; in these instances, a  
19 statute will be applied to any cases pending when it is enacted." *Valdez*, 123 Nev. at 179-  
20 180 (citation omitted). See also, *Madera v. State Indus. Ins. System*, 114 Nev. 253, 258,  
21 956 P.2d 117, 120 (1998) ("the general rule against retrospective construction of a statute  
22 does not apply to statutes relating merely to remedies and modes of procedure").

23 These rules of statutory construction apply to regulations as well as statutes. See  
24 *Meridian Gold Co. v. State ex rel. Department of Taxation*, 119 Nev. 630, 633, 81 P.3d 516,  
25 518 (2003) ("Rules of statutory construction apply to administrative regulations."). Hence,  
26 the equalization regulations have the force of law and must be followed. See *State Bd. of*  
27

28 <sup>9</sup> Petitioner incorrectly states that Nevada's property tax system does not provide for reappraisal of  
property already appraised. See Objection, p. 11. See NRS 361.333(5)(c). NRS 361.333 is the section by  
which the Nevada Tax Commission equalizes among counties.

1 *Equalization v. Sierra Pac. Power Co.*, 97 Nev. 461, 464, 634 P.2d 461, 463 (1981) ("A  
2 properly adopted substantive rule establishes a standard of conduct which has the force of  
3 law."').<sup>10</sup>

4 The equalization regulations lawfully and correctly applied to this case which was  
5 pending when the equalization regulations were enacted, codified. See *Friel v. Cessna*  
6 *Aircraft Co.*, 751 F.2d 1037, 1039 (C.A.Cal., 1985) (no danger in applying statute [regulation]  
7 retroactively where statutes [regulations] merely affect remedies or procedures."). The  
8 equalization regulations merely provided the State Board with procedures and remedies to  
9 address general equalization issues. The equalization regulations provide the modes of  
10 procedure to hear equalization issues and the remedies to follow when the State Board  
11 determines action is necessary. Applying its discretion and following the equalization  
12 regulations with the procedures and remedies available, the State Board voted to direct the  
13 Washoe County Assessor (Assessor) to reappraise residential land in Incline Village and  
14 Crystal Bay. See Exhibit 1, p. 9. NAC 361.665. The Assessor was directed to reappraise  
15 those parcels where one of the methods was applied which had been declared  
16 unconstitutional by *Bakst*. See Exhibit 1, p. 9. The State Board's actions were lawful  
17 because the foregoing rules of statutory construction apply to the equalization regulations  
18 as well as statutes. See *Hallowell v. Commons*, 239 U.S. 506, 508-509, (1916) (the change  
19 in the statute took "away no substantive right" but simply changed the procedure of who  
20 would hear appeals which procedure "applies with the same force to all cases. . . in a statute  
21 that. . . was intended to apply to all, . . .").<sup>11</sup>

22 Similarly in this case, retroactive application of the equalization regulations is, not  
23 only legally correct, but it provides uniformity and equality because the State Board, for  
24 reasons explained above, previously had no standard by which it could equalize large areas

25  
26 <sup>10</sup> The equalization regulations were properly adopted as R153-09 and became effective on October 1,  
27 2010. The State Board properly adopted the equalization regulations by the Legislative authority given to it  
pursuant to NRS 361.375(9). Hence, when the State Board followed the equalization procedures it acted  
legally and its actions are not void. See Objection, pp. 13-14.

28 <sup>11</sup> Contrary to Petitioners' allegation, NRS 361.395 provides broad authority for the State Board to  
equalize and the equalization regulations did not exceed such broad authority. See Objection, p. 10. NRS  
361.375.

1 of the state. If the State Board acted with no equalization regulations, a property owner  
2 could easily reference the *Bakst* and *Barta* cases claiming an unconstitutional lack of  
3 uniformity and equality because the State Board action could lead to a change of property  
4 assessments without the guidance of regulations to provide uniformity and equality.  
5 *Bakst*, 122 Nev. at 1413, 1417; *Barta*, 124 Nev. at 626.

6           **II. PETITIONER IS JUDICIALLY ESTOPPED FROM MAINTAINING TWO**  
7           **CONFLICTING POSITIONS BY STATING THE STATE BOARD CANNOT LAWFULLY**  
8           **APPLY THE EQUALIZATION REGULATIONS TO EQUALIZE PROPERTY VALUATIONS IN**  
9           **NEVADA WHEN PETITIONER PREVIOUSLY PREVAILED ON A CONFLICTING POSITION**  
10           **THAT VALUING PROPERTY WITHOUT AN APPLICABLE REGULATION WAS**  
11           **UNCONSTITUTIONAL.**

12           Petitioners should be judicially estopped from arguing that the State Board may not  
13 apply its lawfully adopted equalization regulations to equalize property valuations reviewed  
14 in the hearings held pursuant to the Writ. See Objection, pp. 14-16. Petitioners should be  
15 judicially estopped because Petitioners prevailed on a conflicting position in the *Bakst* and  
16 *Barta* cases when Petitioners argued that appraisal methods that were not the result of  
17 properly codified regulations were not constitutional methods that would result in uniform  
18 and equal valuations. *Bakst*, 122 Nev. at 1413; *Barta*, 124 Nev. 625. "[W]here a party  
19 assumes a certain position in a legal proceeding, and succeeds in maintaining that position,  
20 he may not thereafter, simply because his interests have changed, assume a contrary  
21 position, especially if it be to the prejudice of the party who has acquiesced in the position  
22 formerly taken by him." *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) quoting *Davis*  
23 *v. Wakelee*, 156 U.S. 680, 689, 15 S.Ct. 555, 39 L.Ed. 578 (1895).

24           Petitioners have taken totally inconsistent positions. In *Southern California Edison*,  
25 the Court held the Department was judicially estopped from taking a position in court which  
26 was contrary to the one the Department had taken earlier in the case. *Southern California*  
27 *Edison v. First Judicial Dist. Court of State of Nevada*, 255 P.3d 231, 237 (2011). The  
28 Department was judicially estopped from taking inconsistent positions. *Id.* Judicial estoppel  
is an equitable doctrine that may be applied to a particular case at the court's discretion. *Id.*

///

1 See, *Otis v. Arbella Mut. Ins. Co.*, 824 N.E.2d 23, 30 (Mass.,2005).

2 Judicial estoppel may apply when (1) the same party has taken two positions;  
3 (2) the positions were taken in judicial or quasi-judicial administrative  
4 proceedings; (3) the party was successful in asserting the first position...; (4)  
5 the two positions are totally inconsistent; and (5) the first position was not  
taken as a result of ignorance, fraud, or mistake. (Internal quotations omitted)  
(citation omitted).

6 *Southern California Edison*, 255 P.3d at 237. Judicial estoppel applies in this case. First,  
7 Petitioner has taken two conflicting positions. Petitioners prevailed before the Supreme  
8 Court on their argument that appraisal methods that are not codified into regulations are  
9 unconstitutional resulting in values that are not uniform and equal. *Barta*, 124 Nev. 612;  
10 *Bakst*, 122 Nev. at 1413. In contrast, Petitioner now argues before this Court that the State  
11 Board may not apply its lawfully codified equalization regulations providing procedures and  
12 remedies to equalize the value of certain properties in Incline Village and Crystal Bay. See  
13 Objection, pp. 14-16. In the first position Petitioners objected because there were no  
14 regulations to appraise property to arrive at taxable value and in the second position  
15 Petitioners object to the application of the lawfully adopted regulations applied in the  
16 equalization hearing to arrive at taxable value. Both are methods or procedures to arrive at  
17 taxable value. Second, the Petitioners' positions have been taken before the Supreme  
18 Court and this Court. Third, Petitioners ultimately prevailed in their first position in a judicial  
19 proceeding before the Supreme Court. *Bakst*, 122 Nev. at 1413.

20 Fourth, the two positions are totally inconsistent because in the first case the taxable  
21 values were not constitutional because they were developed without the application of  
22 properly codified regulations. In contrast, Petitioners now argue that the State Board may  
23 not determine the taxable values of the very same properties by equalizing such values  
24 through the procedures and remedies available through the equalization regulations. Both  
25 appraisal methods and equalization procedures result in taxable value. The methods of  
26 appraisal and equalization regulations provide the procedures to arrive at taxable value.  
27 Petitioners' two positions are mutually exclusive because Petitioners successfully argued  
28 taxable values developed by appraisal must be provided by regulation while now arguing

1 taxable values developed through equalization must be achieved without the equalization  
2 regulations.<sup>12</sup> See *Otis*, 824 N.E.2d at 29 (party judicially estopped when the position being  
3 asserted in the current litigation was directly inconsistent or mutually exclusive of the  
4 position made in a previous proceeding).

5 Fifth, the initial position was not taken as a result of ignorance, fraud, or mistake  
6 because Petitioners are represented by an attorney who is bound by the rules of ethics to  
7 be competent to represent Petitioners' interests.<sup>13</sup> See Nevada Rule of Professional  
8 Conduct 1.1. Hence, Petitioners are judicially estopped from taking a position mutually  
9 exclusive of the position taken in front of the Supreme Court when Petitioners argued the  
10 the procedures to appraise property must be lawfully codified regulations in order to obtain  
11 uniform and equal values. *Bakst*, 122 Nev. at 1473; *Barta*, 124 Nev. 625.

12 The *Southern California Edison* Court stated: "Judicial estoppel applies to protect the  
13 judiciary's integrity and prevents a party from taking inconsistent positions by intentional  
14 wrongdoing or an attempt to obtain an unfair advantage." *Southern California Edison*, 255  
15 Nev. at 237 (internal quotations omitted) (citations omitted). In considering whether there is  
16 an attempt to obtain an unfair advantage, the court in *Otis*, observed that if the second and  
17 third elements in *Southern California Edison* are present then:

18 as a practical matter, where the first two components have been satisfied, this third  
19 factor [unfair advantage] is virtually certain to be present, as judicial acceptance of a  
20 party's position will ordinarily redound to the benefit of that party. [A]fter all, it is  
unlikely that a party will advance a particular position unless that position benefits its  
cause.

21 *Otis*, 824 N.E.2d at 30 (internal quotes omitted) (citation omitted). Here it is unlikely  
22 Petitioners would reverse their position unless Petitioners' inconsistent position  
23

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24 <sup>12</sup> As previously discussed in Section I, the Legislature did not contemplate that the current State  
25 Board would equalize statewide; therefore, there are no statutes to provide the State Board with direction  
through procedures to follow to equalize statewide. After the *Bakst* and *Barta* cases the State Board lawfully  
promulgated the equalization regulations.

26 <sup>13</sup> [T]he creation of the attorney-client relationship imposes upon the lawyer the obligation to represent  
27 his client with "such skill, prudence, and diligence as lawyers of ordinary skill and capacity commonly possess  
and exercise in the performance of the tasks which they undertake. . . . The duty encompasses both a  
28 knowledge of law and an obligation of diligent research and informed judgment." *Wright v. Williams*, Cal.Rptr.  
194, 99 (Cal.App. 1975) (citations omitted).

1 benefits their cause or is an advantage to its case. The Supreme Court accepted  
2 Petitioners' initial position. Should this Court accept Petitioners' later inconsistent  
3 position, the perception is created that either the Supreme Court or this Court was  
4 misled. *Id.* at 29. See also, *New Hampshire*, 532 U.S. at 751. Petitioners should be  
5 judicially estopped from taking this inconsistent position and the application of the  
6 equalization regulations should be recognized as valid procedures and remedies for  
7 the State Board to follow in order for property owners throughout the state to be  
8 treated uniformly and equally.

9 **III. CONTRARY TO PETITIONERS' ARGUMENTS REGARDING THE CODIFIED APPRAISAL**  
10 **METHODS AVAILABLE DURING THE DISPUTED TAX YEARS, SUCH APPRAISAL**  
11 **METHODS ARE CONSISTENT WITH THE REQUIREMENTS OF THE BAKST AND BARTA**  
12 **CASES AND SUCH METHODS ARE CONSTITUTIONAL BECAUSE SUCH METHODS**  
13 **WERE APPLIED TO THE REST OF THE STATE TO VALUE PROPERTY.**

14 When the State Board ordered reappraisal of the Incline Village and Crystal Bay  
15 properties, the constitutional and, hence, codified statutes and regulations to be applied,  
16 were those applied to properties in the rest of the state. See Exhibit 1, p. 9. Therefore, the  
17 facts in this case are distinguishable from those in *Bakst* where the Court found the Incline  
18 Village and Crystal Bay property owners were treated differently than those in Douglas  
19 County, the rest of Washoe County, and the State. *Bakst*, 122 Nev. at 1405-1406, n.38. In  
20 this matter, the properly codified appraisal statutes and regulations that were applied to the  
21 rest of the State will be applied to the Incline Village and Crystal Bay properties.

22 Any inadequacy in such statutes or regulations, as alleged by Petitioners, would apply  
23 uniformly and equally across the State. See Objection, pp. 20-25. Petitioners will be  
24 treated like other property owners throughout the State who are similarly situated. The  
25 assessment will be constitutional pursuant *Bakst* and *Barta* for reasons discussed above  
26 when appraisal methods are codified. Such uniform and equal treatment will result in a  
27 constitutional assessment.

28 As a result taxation will, in fact, bear equally on all such property owners and  
properties in Incline Village and Crystal Bay. There will be no unconstitutional assessment  
or taxation of the Incline Village and Crystal Bay properties because such properties will be

1 appraised just like those that were similarly situated.<sup>14</sup> See *Weyer v. Twentieth Century Fox*  
2 *Film Corp.*, 198 F.3d 1104, 1116 (9<sup>th</sup> Cir. 2000) citing, *Parker v. Metropolitan Life Ins. Co.*,  
3 121 F.3d 1006, 1015-1016 (6<sup>th</sup> Cir. 1997) (en banc). See also, *Alexander v. Choate*, 469  
4 U.S. 287, 302 (1985); *Ford v. Schering Plough Corp.*, 145 F.3d 601, 608 (3d Cir. 1998) (no  
5 discrimination where individuals claiming discrimination are treated equally with others  
6 similarly situated); Accordingly, application of the codified statutes and regulations during  
7 the disputed tax years will result in all properties being treated similarly regardless of any  
8 inadequacies Petitioners allege with such statutes and regulations during the disputed tax  
9 years.<sup>15</sup> See Objection, pp. 20-25. Hence, uniformity and equality will be achieved.<sup>16</sup>

10 **IV. PETITIONERS' DUE PROCESS AND EQUAL PROTECTION RIGHTS ARE NOT**  
11 **VIOLATED BECAUSE PETITIONERS' MAY APPEAR AND TESTIFY AT THE NAC**  
12 **361.665 HEARING WHEN THE ASSESSOR REPORTS BACK TO THE STATE BOARD ON**  
13 **THE REAPPRAISAL AND TO THE EXTENT THAT THE ASSESSMENT MAY BE INCREASED**  
14 **PETITIONERS' SHALL RECEIVE NOTICE BY REGISTERED OR CERTIFIED MAIL OR BY**  
15 **PERSONAL SERVICE.**

16 Contrary to Petitioners' allegation regarding a violation of due process, Petitioners  
17 have appeared and spoken at three State Board hearings on equalization so far. See  
18 Exhibit 1, pp. 6-7. See Objection, pp. 9-13, 17-20. After the Assessor reappraises the  
19 identified parcels, at least one additional hearing will be held at which Petitioners may be  
20 heard. NAC 361.653; NAC 361.665; NAC 361.667. *Bi-metallic Inv. Co. v. State Bd. of*  
21 *Equalization*, 239 U.S. 441, 445 (1915).

22 <sup>14</sup> Petitioners agree by allegation that equalization "means making sure that similarly situated  
23 taxpayers are treated the same." Nev. Atty. Gen. Opin. No. 99-32 (September 13, 1999). See Amended  
24 Complaint/Petition for Writ of Mandamus, p. 6.

25 <sup>15</sup> Petitioner allegations that the State Board's reliance on the Assessor's reappraisal of the property are  
26 without merit. See Objection, p. 12. The Assessor may reassess the properties with the applicable statutes  
27 and regulations available at the time and such reassessment results in nondiscriminatory uniform  
28 assessments which "enjoy a presumption of validity." *Kindsfater v. Butte County*, 458 N.W.2d 347, 349, 351  
(S.D., 1990). The first assessment is "cured by the valid reassessment." *Id.* at 351.

<sup>16</sup> Petitioner discusses a "consensus model" and what the lack of a consensus model means without  
reference to any authority and such argument should not be considered by this Court. See Objection, p. 22.  
See *Montes v. State*, 95 Nev. 891, 897-898, 603 P.2d 1069, 1074 (1979) ("Since appellant has cited no  
authorities in support of his positions, we [Supreme Court] need not consider them."). This Court should not  
consider Petitioners' arguments. These same rules apply to other statements by Petitioner in the Objection  
that are unsupported by citation to authority or reference to the record. See generally, Objection.



1 Pursuant to NRS 361.395, if any of the properties are reappraised at a higher taxable  
2 value, the property owner shall be notified by "registered or certified mail or by personal  
3 service." Accordingly, Petitioners' due process rights have not been violated and will not be  
4 violated.

5 However, Petitioners still allege that somehow a reappraisal violates Petitioners' due  
6 process and equal protection rights.<sup>17</sup> See Objection, p. 17. To the contrary, the lawfully  
7 adopted equalization regulations provide, not only, Petitioners but the rest of the property  
8 owners in the State of Nevada, with a uniform and equal means to equalize property  
9 valuations consistent with the *Bakst* and *Barta* cases. Otherwise, the equalization process  
10 without expressly stated procedures could be haphazardly applied in the hopes of achieving  
11 uniformity and equalization. Petitioners forget that other taxpayers from various counties  
12 came forward complaining of equalization issues and were heard pursuant to the  
13 equalization regulations. Applying such equalization procedures provided the uniformity  
14 and equality required by the Nevada Constitution, *Bakst* case and *Barta* case. Nev. Const.  
15 Art. 10, Section 1; *Bakst*, 122 Nev. at 1413, 1417, ("the Constitution clearly and  
16 unambiguously requires that the methods used for assessing taxes throughout the state  
17 must be 'uniform.'"); *Barta*, 124 Nev. at 626.

18 **IV. THE STATE BOARD HAS COMPLIED WITH THIS COURT'S WRIT OF MANDAMUS BY**  
19 **LAWFULLY EXERCISING ITS DISCRETION TO FOLLOW ITS EQUALIZATION**  
20 **REGULATIONS IN ORDER TO EQUALIZE PROPERTY IN THE STATE; IN THIS MATTER**  
21 **SUCH DISCRETION RESULTED IN THE STATE BOARD LAWFULLY ORDERING A**  
22 **REAPPRAISAL OF CERTAIN INCLINE VILLAGE AND CRYSTAL BAY PROPERTIES.**

23 The State Board has a duty to equalize property valuations across the State. *Barta*,  
24 124 Nev. 619. This Court pursuant to the Writ ordered the State Board to equalize  
25 statewide for certain past tax years. See Writ. The State Board complied with the Writ and

26 <sup>17</sup> Contrary to Petitioners' allegations, the State Board complied with the Writ. *Bi-metallic Inv. Co. v.*  
27 *State Bd. of Equalization*, 239 U.S. 441, 445 (1915). Petitioners allege the State Board did not go far enough  
28 in attempting to find if condominium properties were constitutionally valued. See Objection, pp. 23-24. Such  
assumption puts the burden on the State Board to find unconstitutional values which is inconsistent with the  
Writ which provided for taxpayers to bring grievances regarding equalization. The burden was on the  
Taxpayers not the State Board to provide evidence of a lack of equalization. See Writ, p. 1. The State Board  
acted on all grievances brought by taxpayers. See Exhibit 1. Additionally, the State Board addressed the  
expressed grievances of taxpayers by asking the Assessor to look at all residential property in Incline Village  
and Crystal Bay to determine which properties had one of the unconstitutional methods applied to arrive at  
taxable value. See Exhibit 1, p. 7.

1 exercised its discretion as reported in its Report on Execution of Writ (Report). See Report  
2 and Exhibit 1.

3 The Writ enforced the duty of the State Board to equalize statewide pursuant to NRS  
4 361.395. See Writ. The Writ can "require the exercise of discretion, it will not serve to  
5 control the discretion." *Gragson v. Toco*, 90 Nev. 131, 133, 520 P.2d 616, 617 (1974).  
6 What Petitioners request is that this Court require the State Board to exercise its discretion  
7 in a particular manner. See Objection, pp. 5-7. Ultimately what Petitioners want is what is  
8 reflected in its prayer for relief: "to equalize the land portion of residential real property at  
9 Incline Village and Crystal Bay to 2002-2003 values. . ." and to "direct the payment of  
10 refunds. . ." See Amended Complaint/Petition for Writ of Mandamus, p. 7. This Court is  
11 without the authority to so order. See *State v. Boerlin*, 30 Nev. 473, 98 P. 402 (1908) (in an  
12 equalization action "mandamus lies to compel commissioners to consider a petition to  
13 reduce a tax levy, but not to control exercise of their discretion in making a levy. . .").

14 Contrary to Petitioners' allegation, the State Board should also be accorded latitude  
15 in its discretion executing equalization pursuant to NRS 361.395 even if the equalization  
16 regulations do not apply retroactively. See Objection, p. 9. See *Grant County v. State Bd.*  
17 *of Equalization and Assessment*, 63 N.W.2d 459, 467 (Neb.1954) (When "statute does not  
18 require any particular method of procedure to be followed by the State Board in equalizing  
19 the assessment of range and grazing lands between the various counties. It [state board]  
20 may adopt any reasonable method for that purpose."). See also, *Boyd County v. State Bd.*  
21 *of Equalization and Assessment*, 296 N.W. 152, 156 -157 (Neb. 1941) ("The statute . . .  
22 does not require any particular kind nor standard of evidence. The method to be used is left  
23 to the discretion of the state board. No formal hearing is required. In addition to the  
24 evidence mentioned in the record, the State Board may take into consideration matters  
25 within the general knowledge of its members." (citation omitted)).

26 Petitioners cite to a public utility rule to limit the State Board's authority to act. See  
27 Objection, p. 9. However, such is not necessary when there is more specific case law to  
28 provide the extent of the State Board's discretion and authority to act. A district court

1 should not foreclose the exercise of the State Board's independent judgment on matters  
2 within its competence. *Washoe County v. John A. Dermody, Inc.*, 99 Nev. 608, 612, 668  
3 P.2d 280, 282 (1983). "This is particularly true in light of the circumstances of the instant  
4 case, given that there is a specific statutory requirement that the State Board be composed  
5 of members with a particular expertise in valuing property." *Imperial Palace, Inc.*, 108 Nev.  
6 at 1069-1070.

7 Accordingly, the State Board exercised its discretion and determined that reappraisal  
8 was the proper means to equalize the Incline Village and Crystal Bay properties. See  
9 Exhibit 1, p. 9. The State Board correctly applied its equalization regulations to arrive at this  
10 decision. However, even if the equalization regulations were not correctly applied, under  
11 *Grant County and Boyd*, the State Board adopted a reasonable method for the purpose of  
12 equalization statewide; therefore, the State Board properly acted within its authority and  
13 discretion. See Objection, pp. 9-10. See *Carpenter v. State Bd. of Equalization and*  
14 *Assessment*, 134 N.W.2d 272, 283 (Neb.1965) ("The Board alone is vested with this  
15 [equalization] power and may exercise wide latitude of judgment and discretion. In order to  
16 reverse the order of the Board, we would be required to hold the Board utterly failed to  
17 follow a reasonable course of action and that its decision was illegal, arbitrary, and  
18 capricious.").

19 Reappraisal was a reasonable remedy. See *Coan v. Board of Assessors of Beverly*,  
20 211 N.E.2d 50, 52 - 53 (Mass.1965) (revaluation appropriate where illegal and  
21 discriminatory practices alleged); See also, *McNayr v. State ex rel. Dupont Plaza Center,*  
22 *Inc.*, 166 So.2d 142, 143, 145 (Fla.1964) (reassessment is appropriate remedy where  
23 improper "method of fixing the valuation of property" was found to be discriminatory).  
24 Reappraisal is a reasonable remedy because it provides for intercounty equalization  
25 statewide. See *Village of Ridgfield Park v. Bergen County Bd. of Taxation*, 157 A.2d 829,  
26 835 (N.J. 1960) (Reappraisal remedies inequality statewide because "[t]he taxpayers of a  
27 municipality which understates the total value of its taxable personal property thus profits at  
28 the expense of the taxpayers of other municipalities."). If Incline Village and Crystal Bay

1 were not reappraised and the taxable values were just returned to the 2002-2003 tax year,  
2 such values may create an inequity with the rest of the State. See Objection, Exhibit 1,  
3 December 3, p. 72. Accordingly, the State Board followed a reasonable course of action as  
4 it determined the remedy to equalize Incline Village and Crystal Bay with the rest of Washoe  
5 County and the State. Petitioners' request for relief should be denied. The State Board's  
6 Order should not be set aside and this matter should not be remanded to the State Board.

7 **VI. PETITIONERS' ALLEGATION THAT MEMBER JOHNSON IS NOT QUALIFIED TO SIT ON THE**  
8 **STATE BOARD WHICH MAKES THE STATE BOARD'S ORDER FOR REAPPRAISAL VOID, IS**  
9 **WITHOUT MERIT BECAUSE MEMBER JOHNSON "IS VERSED IN THE VALUATION OF**  
10 **CENTRALLY ASSESSED PROPERTY PURSUANT TO NRS 361.375(2).**

11 Petitioners' allegation that there can be only one appraiser on the State Board is  
12 made without any legal and or other support and need not be considered by this Court.  
13 Petitioners allege: [t]he Legislature purposely limited the Board to one fee appraiser in order  
14 to have the appraisal expertise without having appraisal consideration dominate." See  
15 Objection, p. 13. See *Humane Soc. of Carson City and Ormsby County v. First Nat. Bank of*  
16 *Nevada*, 92 Nev. 474, 478, 553 P.2d 963, 965 (Nev. 1976) (When party cites no authority to  
17 support its contention, Court need not consider it.). See also, *Gilbert v. Warren*, 95 Nev.  
18 296, 300, 594 P.2d 696, 698 - 699 (Nev., 1979) (arguments not supported by authority need  
19 not be considered) (superseded by rule on other grounds); *Barcamerica Intern. USA Trust v.*  
20 *Tyfield Importers, Inc.*, 289 F.3d 589, 593 (C.A.9 (Cal.), 2002) ("the arguments and  
21 statements of counsel are not evidence"). There is no support whatsoever in the Objection  
22 to indicate having more than one fee appraiser would create a domination of the State  
23 Board by appraisers as the State Board complies with its primary duty to equalize property.

24 Petitioners' allegation that Member Johnson is not qualified to sit on the State Board,  
25 is without merit. See Objection, pp. 13-14. Petitioners object to Member Johnson filling the  
26 position of the State Board member who is "versed in valuation of centrally assessed  
27 properties."<sup>18</sup> NRS 361.375(2)(c). Taxable value is developed through appraisal for both

28 <sup>18</sup> Essentially what Petitioners object to is the State Board ordered a reappraisal and the two State  
Board members who understand appraisal most voiced an opinion and support for an action that Petitioners  
did not want. See Objection, p. 13.

1 locally assessed and centrally assessed properties. Centrally assessed properties are  
2 "such classes of property as are enumerated in NRS 361.320, except for private car lines,  
3 together with the apportionment of each county of the assessment." NRS 361.3205. The  
4 Nevada Tax Commission has oversight of the valuation of these centrally assessed  
5 properties. NRS 361.315. NRS 361.318 provides:

6 To enable the Nevada Tax Commission to establish appropriate **valuations** of  
7 property pursuant to subsection 1 of NRS 361.320, each company that uses property  
8 subject to valuation pursuant to subsection 1 of NRS 361.320 shall file with the  
9 Nevada Tax Commission a written report, signed under penalty of perjury, that  
contains such financial and other information as required by the Nevada Tax  
Commission. . . (Emphasis added).

10 NRS 361.375(2)(c) states that a member must be "versed in the valuation of centrally  
11 assessed properties." The fact that Member Johnson has experience in the appraisal of  
12 centrally assessed properties is consistent with NRS 361.375(2)(c). See Exhibit 4 – Email  
13 from Department of Taxation to Annalyn Bo Carrillo, Office of Governor Brian Sandoval,  
14 Boards and Commissions.

15 The Governor of Nevada has lawfully appointed Member Johnson to this position.  
16 NRS 361.375(2)(c). See Exhibit 5 –Letter of Appointment of Member Johnson to State  
17 Board. Member Johnson has lawfully executed the oath of office before a notary. See  
18 Exhibit 6 – Executed Oath of Office.

19 NRS 361.375 provides:

20 1. The State Board of Equalization, consisting of five members appointed by  
21 the Governor, is hereby created. The Governor shall designate one of the  
members to serve as Chair of the Board.

22 2. The Governor shall appoint:

23 (a) One member who is a certified public accountant or a registered  
public accountant.

24 (b) One member who is a property appraiser with a professional  
designation.

25 (c) One member who is versed in the valuation of centrally assessed  
properties.

26 (d) Two members who are versed in business generally.

27 Even though Member Johnson has been found to be qualified for appointment by the  
28 the Governor to sit on the State Board, Petitioners allege Member Johnson is not qualified  
just because his biography on the Department of Taxation website does not mention his

1 qualifications regarding valuation of centrally assessed properties. See Objection, p. 13.  
2 Member Johnson is lawfully and correctly appointed to the State Board.

3       Somehow Petitioners find that having "two fee appraisers [is] in violation of both the  
4 letter and spirit of NRS 361.375." See Objection, p. 13. Petitioners do not explain why  
5 having Member Johnson, who is versed in valuation of centrally assessed property and an  
6 appraiser, leads to disqualification, but having five business men and women on the State  
7 Board does not similarly violate the requirement that there be "[t]wo members who are  
8 versed in business generally." See Objection, Exhibit 5. It is evident that State Board  
9 members each possess more than one qualification for which they may be appointed to the  
10 State Board. Accordingly, the State Board's order for reappraisal of the Village League is  
11 not void. Member Johnson is qualified for the position which is versed in valuation of  
12 centrally assessed properties.

13       The cases Petitioners cite do not support the allegation that the State Board may not  
14 have two fee appraisers under the law of Nevada; therefore, the State Board is deprived of  
15 jurisdiction in this matter. See Objection, p. 13. Such cases may be distinguished from this  
16 matter. In *Vuagniaux v. Department of Professional Regulation*, 802 N.E.2d 1156, 1164,  
17 (Ill., 2003), the board was improperly constituted because the board itself improperly  
18 appointed a member and such appointment was impermissible as the board had no  
19 statutory or constitutional authority to make the appointment. By law the Governor of Illinois  
20 made appointments to such board. *Id.* In this matter, Member Johnson was properly  
21 appointed by the Governor. See Exhibits 5 and 6. The State Board's order is valid and  
22 should be given effect. *Id.*

23       In *Kaemmerer v. St. Clair County Electoral Bd.*, 776 N.E.2d 900, 904, (Ill.App. 5 Dist.,  
24 2002), the court found the legally appointed replacement board members had conflicts of  
25 interest; therefore, they could not sit on the board. Member Johnson has no conflicts of  
26 interest that would prevent him from hearing this matter and Petitioners have alleged none.  
27 See Objection, pp. 13-14. The State Board was not illegally constituted under *Kaemmerer*.

28       *Davis v. Rhode Island Bd. of Regents for Ed.*, 399 A.2d 1247, 1250 (R.I., 1979) is

1 distinguishable from this matter because the court held the board was improperly  
2 constituted because of "the failure of all school committee members to attend each hearing  
3 session. . ." as required by statute.<sup>19</sup> In this matter, the full State Board was present;  
4 however, only a quorum is required for any action to occur. NRS 361.375(9). The State  
5 Board was not illegally constituted under *Davis*.

6 Accordingly, such cases are distinguishable. Petitioners' cases have provided no  
7 authority to support Petitioners' allegations that the State Board was improperly constituted;  
8 therefore, Petitioners' request should be denied. The State Board's decision should not be  
9 set aside as void. See Objection, p. 13. Without supporting authority Petitioners'  
10 arguments should not be considered by this Court. *Humane Soc. of Carson City and*  
11 *Ormsby County*, 92 Nev. at 478; See also, *Gilbert* 95 Nev. at 300; *Barcamerica Intern. USA*  
12 *Trust*, 289 F.3d at 593.

13 Essentially what Petitioners object to is the State Board ordered a reappraisal and  
14 the two State Board members who have expertise in appraisal voiced an opinion and  
15 support for an action that Petitioners did not want. See Objection, p. 13. Petitioners have  
16 provided no authority to suggest that the State Board did anything other than perform under  
17 the direction of the Writ. The State Board was properly constituted and is entitled to act with  
18 discretion to determine the matters before it.

19 A wide latitude of judgment and discretion is vested in the Board. The Board is  
20 not bound by the actual record of the evidence taken before it. No particular  
21 method or procedure must be followed. No particular kind or standard of  
evidence is required. It may act upon the knowledge of its own members as to  
value, on any other information satisfactory to it, . . .

22 *Carpenter v. State Bd. of Equalization and Assessment*, 134 N.W.2d 272, 277 - 278  
23 (Neb.1965) (citations omitted).

#### 24 CONCLUSION

25 Accordingly, the State Board lawfully adopted equalization regulations to follow when  
26 the State Board holds equalization hearings. The State Board has provided legal authority  
27 to support its position that the equalization regulations that provide procedures and  
28

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<sup>19</sup> State Board does not address Petitioners' fourth case because the citation does not produce the  
*Dubaldo* case at 522 A.2d 813 (Conn. 1989).

1 remedies were lawfully followed when the State Board held hearings pursuant to the  
2 direction of the Writ. Contrary to Petitioners' allegations regarding a violation of due process  
3 and equal protection, the equalization regulations provide for a standard to accomplish  
4 uniformity and equality when the State Board sits to hear statewide equalization issues.  
5 The State Board was properly constituted pursuant to NRS 361.375. Petitioners' arguments  
6 without authority to support them regarding the reappraisal of the Incline Village and Crystal  
7 Bay properties should not be considered by the Court. The State Board exercised its  
8 discretion when it made its determination to follow its equalization regulations and ordered a  
9 reappraisal of the land portion of the Incline Village and Crystal Bay properties. Petitioners'  
10 request to set aside the State Board's Order for reappraisal and for remand to the State  
11 Board must be denied.

12 **AFFIRMATION PURSUANT TO NRS 239B.030**

13 The undersigned hereby affirms that this document does not contain the social  
14 security number of any person.

15 Dated: March 11, 2013.

16 CATHERINE CORTEZ MASTO  
Attorney General

17  
18 By: Is/ Dawn Buoncristiani  
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Attorneys for the State Board of Equalization  
23  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE**

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on March 11, 2013, I served the foregoing **STATE'S RESPONSE TO PLAINTIFFS' OBJECTION TO STATE BOARD OF EQUALIZATION REPORT AND ORDER**, by depositing for mailing at Carson City, Nevada, a true and correct copy thereof in first class mail, postage prepaid, fully addressed as follows:

**Suellen Fulstone, Esq.  
Snell & Wilmer L.L.P.  
50 West Liberty Street, Suite 510  
Reno, Nevada 89501**

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

Dated: March 11, 2013.

/s/ Mary C. Wilson  
An Employee of the State of Nevada,  
Office of the Attorney General

**INDEX OF EXHIBITS TO STATE'S RESPONSE TO PLAINTIFFS' OBJECTION  
TO STATE BOARD OF EQUALIZATION REPORT AND ORDER**

<b>Exhibit No.</b>	<b>Description of Exhibit</b>
1	State Board of Equalization's Notice of Equalization Order
2	Sample of Churchill County Tax Roll
3	Notice of State Board Regulation Workshops
4	Email from Department of Taxation to Annalyn Bo Carrillo, Office of Governor Brian Sandoval, Boards and Commissions.
5	Letter of Appointment of Member Johnson to State Board
6	Executed Oath of Office

# EXHIBIT 1

**FILED**  
Electronically  
03-11-2013:04:36:01 PM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3583202

# EXHIBIT 1



## Summary

Hearings Held September 18, 2012, November 5, 2012, and December 3, 2012

### *Notice, Agendas, and Attendance*

This equalization action came before the State Board of Equalization (State Board) as a result of a Writ of Mandamus filed on August 21, 2012, Village League to Save Incline Assets, Inc. v. State Board of Equalization, et al. In case number CV-03-06922, the Second Judicial District Court of the State of Nevada, Department 7, commanded the State Board to take such actions as are required to notice and hold a public hearing or hearings, 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. The first public equalization hearing under the Writ of Mandamus was to be held not more than 60 days after the Writ was issued. See *Record, Writ of Mandamus; Tr. 9-18-12, p. 5, l. 12 through p. 6, l. 8*.

Accordingly, the State Board noticed the public that it would hold an equalization hearing. The notice was placed in 21 newspapers of general circulation throughout the State of Nevada during the week of September 2, 2012, through the Nevada Press Association which has six members that publish daily and 28 members that publish non-daily newspapers. The notice advised that the State Board would hold a public hearing to hear and consider evidence of property owner taxpayers regarding the equalization of real property valuations in Nevada for the period 2003-2004 tax year through 2010-2011 on September 18, 2012 at 1 p.m. in the Legislative Building, Room 3137 in Carson City, Nevada. The notice also advised that video conferencing would be available in Las Vegas, Elko, Winnemucca, Ely, Pahrump, Caliente, Eureka, Battle Mountain, and Lovelock, as well as on the internet. Interested parties could also participate by telephone. See *Tr., 9-18-12, p. 10, ll. 2-18; Record, Affidavit of Publication dated September 11, 2012*. In addition to the published notice, certified hearing notices were sent to Suellen Fulstone, the representative of the Village League to Save Incline Assets, Inc., et al; Richard Gammick, Washoe County District Attorney; and Joshua G. Wilson, Washoe County Assessor.

For the November 5, 2012 hearing, certified notices were sent to all county assessors, as well as the taxpayers or their representatives who presented grievances at the September 18, 2012 hearing. In addition, the State Board posted a notice of hearing on the Department of Taxation's website and sent a general notice to a list of all interested parties maintained by the Department. The notice advised that the purpose of the second hearing was to take information and testimony from county assessors in response to the grievances made by property owner taxpayers regarding the equalization of property valuations in Nevada for the 2003-2004 tax year through 2010-2011. In particular, the State Board requested the Clark, Douglas, Esmeralda, or Washoe County Assessors to respond on the following matters:

- 1.) Classification procedures for agricultural property, with particular information on the classification and valuation of APN 1319-09-02-020 and surrounding properties 1319-09-801-028, 1319-09-702-019, and 119-09-801-004, and in general, the valuation of properties in the Town of Genoa, Douglas County;
- 2.) Valuation procedures used on APN 162-24-811-82 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 (Modareill property in Clark County);
- 3.) Valuation procedures used to value exempt properties and in particular APN 139-34-501-

- 003, owned by City Hall LLC in Clark County;
- 4.) Property tax system in Nevada (Esmeralda County); and
  - 5.) Use of unconstitutional valuation methodologies for properties in Incline Village and Crystal Bay in Washoe County.

The November 5<sup>th</sup> agenda recited that responses were not limited to the itemized topics

For the December 3<sup>rd</sup> hearing, the State Board placed notices in the Reno Gazette Journal and the Incline Bonanza newspapers. In addition, certified notices of the hearing were sent to Suellen Fulstone on behalf of Village League and the Washoe County Assessor, and Washoe County district attorneys for the Washoe County Board of Equalization and Washoe County. A general notice was also sent to the interested parties list of the State Board and placed on the Department of Taxation website. The notice advised that the purpose of the December 3<sup>rd</sup> hearing was 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.

At the September 18, 2012 hearing, 95 persons attended the hearing in Carson City, and 7 persons attended from other areas of the state. Twenty-two persons attended the November 5, 2012 hearing; and 17 persons attended the December 3, 2012 hearing. *See Record, Sign-in sheets.*

At the September 18, 2012 hearing, the State Board called upon taxpayers from each county to come forward to bring evidence of inequity. No taxpayers came forward from Carson City, Churchill, Elko, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey, or White Pine counties. Grievances were received from Clark, Douglas, Esmeralda, and Washoe counties. At the November 5 and December 3, 2012 hearings, responses from assessors were heard, as well as additional remarks from petitioners.

#### **Clark County Grievances and Responses**

##### ***City Hall, LLC Grievance***

The first grievance heard on September 18, 2012 was from City Hall, LLC. City Hall, LLC asserted that the property it purchased had been incorrectly valued for property tax purposes for many years prior to the purchase. Prior to purchase, the property had been exempt. City Hall, LLC asserted that the valuation was based on the 1973 permit value and used as a place holder during the years it was exempt rather than based on the methodologies required by statute and regulation. The taxpayer asked the State Board to order the Clark County Assessor to set up an appropriate value for its parcel and any similarly situated parcels; and to allow the taxpayer an opportunity to appeal the value in January, 2013. *See Tr., 9-18-12, p. 11, l. 16 through p. 14, l. 12.*

##### ***Response to City Hall, LLC grievance***

At the November 5, 2012 hearing, the Department recommended dismissal of the petition of the particular property of City Hall LLC, because the taxpayer requested the value for the 2012-2013 tax year be declared an illegal and unconstitutional valuation methodology. The year in question was outside the scope of this equalization action; the request appeared to be an attempt to file an individual appeal that would otherwise be considered late, and the State Board would be without jurisdiction to hear the appeal. *See Tr., 11-5-12, p. 12, ll. 1-18.*

The Clark County Assessor responded that City Hall LLC did not own the property until 2012 and the grievance was not covered by the Writ issued by the Court. The Assessor also responded that an individual appeal for the current tax year would have been late and questioned whether the State

Board had jurisdiction if this was an individual appeal. See *Tr.*, 11-5-12, p. 13, l. 16 through p. 14, l. 8.

The State Board ordered the Department to schedule a performance audit investigation to determine whether and how county assessors value property that is exempt. See *Tr.*, 11-5-12, p. 12, l. 21 through p. 13, l. 4; p. 14, l. 9 through p. 15, l. 10.

#### *Louise Modarelli Grievance*

Louise Modarelli by telephone call to staff asked the State Board to review the value established for her residential property. Ms. Modarelli had previously appeared before the State Board in case number 11-502, in which she appealed the values established for the years 2007-2012. See *Tr.*, 9-18-12, p. 16, ll. 12-17; *Record*, SBE page 1, case no. 11-502.

#### *Response to Modarelli grievance.*

At the November 5, 2012 hearing, the State Board noted that Ms. Modarelli's appeal had previously appeared on the State Board's agenda in September 2011; the State Board at that time found it was without jurisdiction to hear the appeal because it was late filed to the State Board and because it was for prior years, and the taxpayer did not provide a legal basis for the State Board to take jurisdiction. See *Tr.*, 11-5-12, p. 6, ll. 7-13. In addition, Ms. Modarelli sought relief from payment of penalty and interest for failure to pay the tax from the Nevada Tax Commission and received such relief. See *Tr.*, 11-5-12, p. 6, ll. 14-25.

The State Board requested the Clark County Assessor to provide 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 the subject property. The Clark County Assessor responded by describing how the property was valued; that each lot in the subject property's neighborhood had a land value of \$20,000 per lot and there were no other adjustments to the subject property. The improvement value of \$59,654 was based on replacement cost new less statutory depreciation. The total value of \$79,654 was reduced by the Clark County Board of Equalization to \$50,000. The Clark County Assessor did not find anything in the valuation that was inequitable and recommended dismissal. See *Tr.*, 11-5-12, p. 9, l. 7 through p. 11, l. 1. The Department also recommended dismissal because there was no indication provided by the Taxpayer of inequitable treatment compared to neighboring properties. See *Tr.*, 11-5-12, p. 7, ll. 1-4.

The State Board accepted the Clark County Assessor and the Department's recommendations to dismiss the matter from further consideration for equalization action. See *Tr.*, 11-5-12, p. 11, ll. 2-14.

#### **Douglas County Grievances and Responses**

##### *William Brooks Grievance*

On September 18, 2012, William Brooks grieved that parcels in the Town of Genoa, Douglas County, suffered from massive disparity of valuations, citing in particular a subject property, APN 1319-09-702-020 and properties surrounding the subject. The Department noted that one of the parcels in question was classified as agricultural property, which was why the parcel was significantly lower in value than other parcels. The Department also noted that a special study had been done on this specific grievance with legislators as part of the reviewing committee in 2004. The study was made part of the record of this equalization hearing. See *Record*, William Brooks evidence, page 1 and *Record*, 2004 Special Study; *Tr.*, 9-18-12, p. 17, l. 8 through p. 21, l. 14.

### *Response to Brooks Grievance*

At the November 5, 2012 hearing, the Douglas County Assessor responded that the four parcels referenced by Mr. Brooks are located in Genoa, Nevada and all are zoned neighborhood commercial. The zoning affects only one of the four parcels with regard to value. Parcel 1319-09-801-028 is vacant, with no established use. The value is therefore based on its neighborhood commercial zoning. Parcels 1319-09-709-019 and 1319-09-801-004 are both used as residential properties and are valued accordingly, even with the allowed zoning, noting that there is not a lot of valuation difference between commercial and residential valuation in the Genoa Town. Finally, parcel 1319-09-702-0200 is used for grazing as part of a large family ranch. The parcel is not contiguous with the rest of the ranch, which consists of approximately 750 acres in agricultural use, primarily cattle and hay production. The parcel is valued as required by NRS Chapter 361A regarding agricultural properties. See Tr., 11-5-12, p. 16, l. 20 through p. 17, l. 13.

The Assessor further responded that the differences in valuation are primarily the result of differences in use, as well as adjustments for shape and size. In particular, agricultural use property is based on an income approach and the values per acre are established by the Nevada Tax Commission in its *Agricultural Bulletin*. Differences in taxes are also due to the application of the abatement, which is 3 percent for residential property and up to 8 percent for all other property. See Tr., 11-5-12, p. 17, l. 14 through p. 18, l. 7.

The Department further described how the values are established for the *Agricultural Bulletin*. See Tr., 11-5-12, p. 18, l. 22 through p. 20, l. 11.

Mr. Brooks replied that the non-contiguous parcel valued as agricultural land is not owned by the same ranch entity and that as a stand-alone parcel, could not sustain an agricultural use and should not be classified as eligible for agricultural valuation. As a result, adjoining parcels similarly situated are not being treated uniformly. See Tr., 11-5-12, p. 22, l. 20 through p. 23, l. 8; p. 26, l. 11.

The Department recommended that the matter be referred to the Department to be included in a future performance audit regarding the proper classification of agricultural lands. The State Board directed the Department to conduct a performance audit of assessors with regard to the procedures used to properly qualify and classify lands used for agricultural purposes. See Tr., 11-5-12, p. 27, l. 16 through p. 29, l. 6.

### **Esmeralda County Grievances and Responses**

#### *Queen/Rupp Grievance*

Dehnert Queen grieved that the actual tax due has nothing to do with the assessment value. Mr. Queen proposed an alternative property tax system based on acquisition cost to each taxpayer. See Tr., 9-18-12, p. 24, l. 24 through p. 28, l. 2.

#### *Response to Queen/Rupp Grievance*

At the November 5, 2012 hearing, the Esmeralda County assessor noted that Mr. Queen owns no property in Esmeralda County and filed no agent authorization to represent Mr. Rupp. She had no response to Mr. Queen's proposal to go to a fair market value system. See Tr., 11-5-12, p. 29, ll. 18-25. Mr. Queen replied that he and Mr. Rupp had found discrepancies in the listing of Mr. Rupp's property; the actual taxes fluctuate significantly from year to year; and the actual tax has little relationship to assessed value. He briefly described again an alternative property tax system. See Tr., 11-5-12, p. 31, l. 3 through p. 34, l. 2. Mr. Rupp grieved about the county board of equalization process and how his



property valuation was derived. See Tr., 11-5-12, p. 35, l. 13 through p. 36, p. 15.

The State Board requested the Esmeralda County Assessor to inspect the property to ensure the improvements are correctly listed. The State Board took no further action on the grievance because it would require changes in the law. See Tr., 11-5-12, p. 36, ll. 2-25. The Department offered to provide training to the county board of equalization. See Tr., 11-5-12, p. 38, ll. 1-9.

### **Washoe County Grievances and Responses**

#### ***Village League Grievance***

Suellen Fulstone on behalf of Village League to Save Incline Assets, Inc., representing approximately 1350 taxpayers, grieved that all residential property valuations in Incline Village and Crystal Bay be set at constitutional levels for the 2003-2004 tax year and subsequent years through 2006-2007, based on the results of a Supreme Court case where the Court determined the 2002 reappraisal of certain properties at Incline Village used methods of valuation that were null, void, and unconstitutional. See Tr., 9-18-12, p. 31, l. 1 through p. 40, l. 24.

#### ***Response to Village League Grievance***

The State Board asked the Washoe County Assessor to respond to the Village League assertion that unconstitutional valuation methodologies were used for properties in Incline Village and Crystal Bay in Washoe County. The Assessor responded that teardown properties were included in the sales comparison approach for many, but not all, properties. In addition, when determining the land value for some properties, one or more adjustments were made for time, view, and/or beach type. Similarly, there were many parcels whose land value was determined without the use of teardowns in the sales analysis and without adjustments for time, view, or beach type. See Tr., 11-5-12, p. 39, ll. 6-15.

The Assessor further responded that for the 2006-2007 and 2007-2008 tax years, the State Board previously held hearings to address matters of equalization. The Assessor also responded that the Court's Writ does not require revisiting land valuation at Incline Village and Crystal Bay nearly a decade after the values were established, but rather to correct the failure to conduct a public hearing as it relates to the equalization process pursuant to NRS 361.395. See Tr., 11-5-12, p. 40, l. 6 through p. 43, l. 21.

Fulstone replied that she objected to the characterization of this matter as having to do with the methodologies; the matter is about equalization and not about methodologies. She also objected to the denial of a proper rebuttal; and failure of the department to provide a proper record to the State Board, which she asserted would show a failure of equalization at Incline Village for the 2003-2004, 2004-2005, and 2005-2006 tax years. See Tr., 11-5-12, p. 44, l. 8 through p. 45, l. 15.

The Department commented that NAC 361.652 defines "equalized property," which means to "ensure that the property in this state is assessed uniformly in accordance with the methods of appraisal and at the level of assessment required by law." The Department further commented that there is insufficient information in the record to determine whether the methods of appraisal used on all the properties at Incline Village were or were not uniform. In addition, the Department recommended the State Board examine the effects of removing the unconstitutional methodologies to determine the resulting value and whether the resulting value complies with the level of assessment required by law. See Tr., 11-5-12, p. 55, l. 10 through p. 56, l. 3.

For the December 3, 2012 hearing, the Department brought approximately 24 banker boxes containing the record of cases heard by the State Board for properties at Incline Village and Crystal Bay.

for prior years. The Department responded to the complaint of Fulstone that the full record was not before the State Board by stating that the record in the boxes had not been reduced to digital records due to a lack of resources in preparing for this hearing, but nevertheless the full record was available to the State Board and to the parties. The Department also stated that the *Bakst* and *Barta* case histories would be included in the record upon receipt from the Attorney General's office. See *Tr.*, 12-3-12, p. 4, ll. 12-25.

At the December 3, 2012 hearing, the Washoe County Assessor provided lists of properties for the 2003-2004, 2004-2005, and 2005-2006 fiscal years, showing those properties which were subject to one of the four methodologies deemed unconstitutional by the Nevada Supreme Court. See *Tr.*, 12-3-12, p. 6, l. 1 through p. 7, l. 12.

The Department recommended that the State Board measure the level of assessment through an additional sales ratio study after the valuations at Incline Village and Crystal Bay are revised, in order to ensure the Incline Village properties have the same relationship to taxable value as all other properties in Washoe County. See *Tr.*, 12-3-12, p. 24, l. 6 through p. 27, l. 15.

Fulstone rebutted the notion that a sales ratio study should be performed. Fulstone stated that for purposes of equalization, the Supreme Court's decision in *Bakst* to roll back values established for the 2002-2003 fiscal year should be determinative for the current equalization action. Further, the State Board should exclude any value that by virtue of resetting values to 2002-2003 would result in an increase. Fulstone asserted the values of those properties are already not in excess of the constitutional assessment. See *Tr.*, 12-3-12, p. 32, l. 10 through p. 33, l. 17. Fulstone also argued the regulations adopted by the State Board in 2010 regarding equalization do not apply, and the roll-back procedures adopted by the Supreme Court do apply for purposes of equalization. See *Tr.*, 12-3-12, p. 35, l. 8 through p. 37, l. 24; p. 41, l. 18 through p. 42, l. 4.

The State Board discussed the meaning of equalization at length and whether regulations governing equalization adopted in 2010 could be used as a guideline for purposes of equalizing values in 2003-04, 2004-05, and 2005-06. See *Tr.*, 12-3-12, p. 42, l. 12 through p. 47, l. 22. The Washoe County District Attorney concurred with the Department that a sales ratio study should be performed to ensure property values are fully equalized and reminded the State Board that the current regulations provide for several alternatives, including doing nothing, referring the matter to the Tax Commission, order a reappraisal or adjust values up or down, based on an effective ratio study. See *Tr.*, 12-3-12, p. 50, l. 21 through p. 53, l. 12. The Deputy Attorney General advised the State Board the writ of mandate does not limit the State Board to the roll-back procedures used by the Nevada Supreme Court to effect equalization. See *Tr.*, 12-3-12, p. 71, ll. 2-21.

The State Board, having considered all evidence, documents and testimony pertaining to the equalization of properties in accordance with NRS 361.227 and 361.395, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

#### FINDINGS OF FACT

- 1) The State Board is an administrative body created pursuant to NRS 361.375.
- 2) The State Board is mandated to equalize property valuations in the state pursuant to NRS 361.395.
- 3) The State Board found there was insufficient evidence to show a broad-based equalization action was necessary to equalize the taxable value of residential property in Clark County that was the subject of a grievance brought forward by Louise Modarelli. The State Board dismissed

the grievance from further action. See *Tr.*, 11-5-12, p. 11, ll. 2-14.

- 4) The State Board found there was insufficient evidence to show a broad-based equalization action was necessary to equalize the valuation of exempt property in Clark County that was the subject of a grievance brought forward by City Hall, LLC. The State Board dismissed the grievance from further action. The State Board, however, directed the Department to conduct a performance audit of the work practices of county assessors with regard to how value is established for exempt properties. See *Tr.*, 11-5-12, p. 12, l. 21 through p. 13, l. 4; p. 14, l. 9 through p. 15, l. 10.
- 5) The State Board did not make a finding with regard to a broad-based equalization action on agricultural property in Douglas County, however, the State Board directed the Department to conduct a performance audit of the work practices of county assessors in the proper classification of agricultural lands. See *Tr.*, 11-5-12, p. 27, l. 16 through p. 29, l. 3.
- 6) The State Board found the grievance brought forward by Dehnert Queen and Paul Rupp, Esmeralda County, with regard to the property tax system required statutory changes. The State Board dismissed the grievance from further action. See *Tr.*, 11-5-12, p. 34, l. 25 through p. 35, l. 4.
- 7) The State Board found there was sufficient evidence to support a finding that some properties located in Incline Village and Crystal Bay, Washoe County, were valued in 2003-2004, 2004-2005, and 2005-2006 using methodologies that were subsequently found to be unconstitutional by the Nevada Supreme Court. See *Tr.*, 11-5-12, p. 92, l. 19 through p. 94, l. 24; p. 98, l. 1-9; p. 100, ll. 3-23; *State Board of Equalization v. Bakst*, 122 Nev. 1403, 148 P.3d 717 (2006).
- 8) The State Board found there was no evidence to show methods found to be unconstitutional by the Nevada Supreme Court in the *Bakst* decision were used outside of the Incline Village and Crystal Bay area. See *Tr.*, 11-5-12, p. 94, l. 15 through p. 95, l. 7; p. 106, l. 7 through p. 108, l. 2; *Tr.*, 12-3-12, p. 61, ll. 3-21.
- 9) The State Board found that equalization of the Incline Village and Crystal Bay area which might result in an increase in value to individual properties requires separate notification by the State Board of Equalization pursuant to NRS 361.395(2). See *Tr.*, 11-5-12, p. 103, ll. 12-21; *Tr.*, 12-3-12, p. 74, l. 12 through p. 75, l. 9.
- 10) Any finding of fact above construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.

### CONCLUSIONS OF LAW

- 1) The State Board has the authority to determine the taxable values in the State and to equalize property pursuant to the requirements of NRS 361.395.
- 2) County assessors are subject to the jurisdiction of the State Board.
- 3) The Writ of Mandamus issued in Case No. CV-03-06922 requires the State Board to take such actions as are required to notice and hold public hearings, determine the grievances of property owner taxpayers regarding the failure or lack of equalization for 2003-2004 and subsequent years 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. See *Writ of Mandamus Issued August 21, 2012*. The State Board found the Writ did not limit the type of equalization action to

be taken. See *Tr.*, 12-3-12, p. 71, l. 11 through p. 73, l. 25.

- 4) Except for NRS 361.333 which is equalization by the Nevada Tax Commission, there were no statutes or regulations defining equalization by the State Board prior to 2010. As a result, the State Board for the current matter relied on the definition of equalization provided in NAC 361.652 and current equalization regulations for guidance in how to equalize the property values in Incline Village and Crystal Bay, Washoe County, Nevada. The State Board found the Incline Village and Crystal Bay properties to which unconstitutional methodologies were applied to establish taxable value in 2003-2004, 2004-2005, and 2005-2006 should be reappraised using the constitutional methodologies available in those years; and further, that the taxable values resulting from said reappraisal should be tested to ensure the level of assessment required by law has been attained, by using a sales ratio study conducted by the Department. See *Tr.*, 12-3-12, p. 76, l. 2 through p. 79, l. 21.
- 5) The standard for the conduct of a sales ratio study is the IAAO *Standard on Ratio Studies* (2007). See NAC 361.658 and NAC 361.662.
- 6) The Nevada Supreme Court defined unconstitutional methodologies used on properties located at Incline Village and Crystal Bay as: classification of properties based on a rating system of view; classification of properties based on a rating system of quality of beachfront; time adjustments and use of teardown sales as comparable sales. See *State Board of Equalization v. Bakst*, 122 Nev. 1403, 148 P.3d 717 (2006).
- 7) NAC 361.663 provides that the State Board require the Department to conduct a systematic investigation and evaluation of the procedures and operations of the county assessor before making any determination concerning whether the property in a county has been assessed uniformly in accordance with the methods of appraisal required by law.
- 8) Any conclusion of law above construed to constitute a finding of fact is adopted as such to the same extent as if originally so denominated.

## ORDER

Based on the Findings of Fact and Conclusions of Law above, the State Board determined that no statewide equalization was required. See *Tr.*, 12-3-12, p. 80, l. 1 through p. 81, l. 10. However, based on the Findings of Fact and Conclusions of Law above, the State Board determined certain regional or property type equalization action was required. The State Board hereby orders the following actions:

- 1) The Washoe County Assessor is directed to reappraise all residential properties located in Incline Village and Crystal Bay to which an unconstitutional methodology was applied to derive taxable value during the tax years 2003-2004, 2004-2005, and 2005-2006. The reappraisal must be conducted using methodologies consistent with Nevada Revised Statutes and regulations approved by the Nevada Tax Commission in existence during each of the fiscal years being reappraised. The reappraisal must result in a taxable value for land for each affected property for the tax years 2003-2004; 2004-2005; and 2005-2006.
- 2) The Washoe County Assessor must complete the reappraisal and report the results to the State Board no later than one year from the date of this Notice of Decision. The report shall include a list for each year, of each property by APN, the name of the taxpayer owning the property during the relevant years, the original taxable value and assessed value and the reappraised taxable value and assessed value. The report shall also include a narrative and discussion of the

processes and methodologies used to reappraise the affected properties. The Washoe County Assessor may request an extension if necessary. See *Tr.*, p. 78, l. 14 through p. 79, l. 1. The Washoe County Assessor may not change any tax roll based on the results of the reappraisal until directed to do so by the State Board after additional hearing(s) to consider the results of the reappraisal and the sales ratio study conducted by the Department.

- 3) The Department is directed to conduct a sales ratio study consistent with NAC 361.658 and NAC 361.662 to determine whether the reappraised taxable values of each affected residential property in Incline Village and Crystal Bay meets the level of assessment required by law; and to report the results of the study to the State Board prior to any change being applied to the 2003-2004, 2004-2005, or 2005-2006 tax rolls. The Washoe County Assessor is directed to cooperate with the Department in providing all sales from the Incline Village and Crystal Bay area occurring between July 1, 1999 to June 30, 2004, along with such information necessary and in a format to be identified by the Department, for the Department to perform the ratio study.
- 4) The Washoe County Assessor shall separately identify any parcel for which the reappraised taxable value is greater than the original taxable value, along with the names and addresses of the taxpayer owning such parcels to enable the State Board to notify said taxpayers of any proposed increase in value.
- 5) The Washoe County Assessor shall send a progress report to the State Board on the status of the reappraisal activities six months from the date of this Equalization Order including the estimated date of completion, unless the reappraisal is already completed.
- 6) The Department is directed to conduct a performance audit of the work practices of all county assessors with regard to the valuation of exempt properties, and to report the results of the audit to the State Board no later than the 2014-15 session of the State Board. All county assessors are directed to cooperate with the Department in supplying such information the Department finds necessary to review in order to conduct the audit; and to supply the information in the format required by the Department. See *Finding of Fact #5*.
- 7) The Department is directed to conduct a performance audit of the work practices of all county assessors with regard to the proper qualification and classification of lands having an agricultural use, and to include in the audit the specific properties brought forward in the Brooks grievance. The Department is directed to report the results of the audit to the State Board no later than the 2014-15 session of the State Board. All county assessors are directed to cooperate with the Department in supplying such information the Department finds necessary to review in order to conduct the audit; and to supply the information in the format required by the Department. See *Finding of Fact #6*.

BY THE STATE BOARD OF EQUALIZATION THIS 8 DAY OF FEBRUARY, 2013.



Christopher G. Nielsen, Secretary

CGF/ter

**CERTIFICATE OF SERVICE**  
**Equalization Order 12-001**

I hereby certify on the 8 day of February, 2013 I served the foregoing Findings of Fact, Conclusions of Law, and Decision by placing a true and correct copy thereof in the United States Mail, postage prepaid, and properly addressed to the following:

**CERTIFIED MAIL: 7010 3090 0002 0369 9100**  
**PETITIONER**  
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**PETITIONER**  
William Brooks  
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**CERTIFIED MAIL: 7010 3090 0002 0369 9148**  
**PETITIONER**  
CITY HALL, LLC (Taxpayer)  
Represented by:  
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Attorneys at Law  
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**PETITIONER**  
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**CERTIFIED MAIL: 7010 3090 0002 0369 9186**  
**PETITIONER**  
VILLAGE LEAGUE TO SAVE INCLINE  
ASSETS, INC., ET AL  
Represented by:  
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Snell and Wilmer  
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Richard Gammick  
Washoe County District Attorney  
P.O. Box 30083  
Reno, NV 89520-3083

  
Anita L. Moore, Program Officer I  
State Board of Equalization

# EXHIBIT 2

**FILED**  
Electronically  
03-11-2013:04:36:01 PM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3583202

# EXHIBIT 2





**Norma J. Green**  
**Churchill County Assessor**  
 assessor-njg@churchillcounty.org

**Liz Rogne**  
**Chief Deputy Assessor**  
 assessor-lr@churchillcounty.org

**RECEIVED**

November 25, 2008

DEC 01 2008

STATE OF NEVADA }  
 } ss.  
 COUNTY OF CHURCHILL }

STATE OF NEVADA  
 DEPARTMENT OF TAXATION

TAXABLE YEAR 2009-2010

I, Norma J. Green, hereby give notice that the Real Property Tax Roll for Churchill County for the taxable year 2009-2010 is complete and open for public inspection.

I, Norma J. Green being first duly sworn, depose and say pursuant to NRS 361.310: That I am the duly elected Assessor of Churchill County: That I have made diligent inquiry and examination to ascertain all the property within the county subject to taxation and required to be assessed by me. That I have assessed the same on the Assessment Roll equally and uniformly, according to the best of my judgment and belief, at 35 percent (35%) of its taxable value.

  
 NORMA J. GREEN  
 CHURCHILL COUNTY ASSESSOR

State of Nevada  
 County of Churchill

On this 25<sup>th</sup> day of November in the year 2008, before me, Liz Rogne a Notary Public in and for said state, personally appeared Norma J. Green, personally know to me to be the person who executed the above instrument, and acknowledged to me that she executed the same for the purposes stated therein.

  
 Notary Public



**LIZ ROGNE**  
 Notary Public - State of Nevada  
 Appointment Recorded in Churchill County  
 No. 00-0790-4 • Expires October 14, 2012

155 N. Taylor St; Ste. 200; Fallon, NV 89406-2783  
 Phone: (775) 423-6584 Fax: (775) 423-2429 Web Site: [www.churchillcounty.org](http://www.churchillcounty.org)

"Churchill County, Nevada is an equal opportunity provider and employer."

APX00800

Re-App Yr.	Taxing Dist.	Parcel #	Assessed Land	Assessed Struct. Ect	Assessed Pers. Prop.	Net Assessed
----AAAA----						
A & A DAIRY	2007	2 007-372-30	29	0	0	29
A & A DAIRY	2007	2 007-372-33	54,583	687,981	63,630	806,194
*A & A DAIRY	2007	2 007-372-37	9,544	188,515	0	196,869
A D I PROPERTIES LLC	2006	1 001-037-08	20,125	30,807	0	50,932
A D I PROPERTIES LLC	2006	1 001-161-01	24,500	33,351	0	57,851
A D I PROPERTIES LLC	2006	1 001-171-08	24,500	31,377	0	55,877
A D I PROPERTIES LLC	2005	2 007-171-17	25,988	11,693	0	37,681
A D I PROPERTIES LLC	2005	2 007-171-24	19,250	11,648	0	30,898
A D I PROPERTIES LLC	2005	2 007-171-25	19,250	1,843	0	21,093
A-RAE LIMITED PARTNERSHIP	2006	1 001-121-01	45,281	85,330	0	130,611
A-RAE LIMITED PARTNERSHIP	2008	2 008-492-21	19,845	25,258	0	45,103
A-Z ENTERPRISES	2006	1 001-051-18	39,851	27,249	0	67,100
ABBE MARIAN L	2008	2 008-493-04	19,750	44,580	0	63,830
ABDELHADI AMJAD	2006	1 001-723-33	20,125	39,952	0	60,077
ABERCROMBIE BRUCE M & ERLINDA S	2005	2 008-281-73	19,750	43,858	0	63,108
ABERCROMBIE WILLIAM F ET AL	2005	2 010-351-07	15,750	24,474	0	40,224
ABITZ ADAM CLARKE & LISA	2005	2 008-172-35	9,800	26,197	0	35,997
*ABRAHAMSEN GERALD F & FAVE E	2007	2 006-691-72	11,375	33,601	0	43,786
ACDC PROPERTIES LLC	2008	2 006-351-45	59,500	46,192	0	105,692
ACDC PROPERTIES LLC	2008	2 008-371-01	123,550	4,791	0	128,341
ACHATZ MARIA	2005	2 010-413-04	14,875	21,084	0	35,959
*ACHURRA JOHN & NORMA TRUSTEES	2005	2 008-322-13	16,975	70,109	0	84,704
ACHURRA R & P & VIERA WESLEY F	2006	1 001-112-05	11,550	7,089	0	18,639
ACHURRA ROBERT & PAULA	2006	1 001-304-02	28,945	59,494	0	88,439
ACKERMAN BRUCE T & SANDRA J	2006	1 001-433-20	16,625	11,750	0	28,375
ACOMB TIMOTHY D	2006	1 001-412-08	20,125	8,660	0	28,785
ACOSTA MANUEL & MENDOZA MARTHA	2005	2 008-221-14	10,500	0	0	10,500
ACOSTA ROMEO D & ELBERT & BETH	2005	3 005-031-05	6,720	0	0	6,720
ACOSTA ROMEO D & ELBERT & BETH	2005	3 005-031-07	6,668	0	0	6,668
ACOSTA-RIOS GILBERTO ET AL	2006	1 001-793-27	22,313	47,241	0	69,554
ACQUISTAPACE CHRISTOPHER ET AL	2008	2 006-031-30	16,100	57,492	0	73,592
ADAIR DENNIS H & JEANNE M	2008	2 008-693-45	22,750	39,171	0	61,921

ADAMA DOS	2007	2 003-721-13	438	0	0	438
ADAME LANI	2008	2 006-292-20	14,175	22,963	0	37,138
ADAMS CHARLES W & GERALDINE	2006	1 001-651-12	350	0	0	350
ADAMS CHARLES W & GERALDINE	2006	1 001-651-13	15,939	4,696	0	20,635
* ADAMS GEORGE M & JOANNE	2007	2 007-951-13	19,250	38,354	0	55,224
ADAMS GEORGE MANLEY	2007	2 007-951-14	19,250	1,341	0	20,591
ADAMS GLENN A & REBECCA K	2008	2 010-592-17	20,125	44,887	0	65,012
ADAMS HARRY W JR	2005	2 008-112-04	39,445	51,432	644	91,521
ADAMS HARRY WILLIAM JR	2005	2 007-491-05	6,738	2,583	0	9,321
ADAMS HARRY WILLIAM JR	2007	2 007-491-06	1,050	0	0	1,050
ADAMS JOHN H & ELLEN N TRUSTEES	2008	2 006-191-10	8,087	31,132	514	39,733
ADAMS JORDAN ISAAC & SUSAN KAY	2007	2 003-751-03	1,575	0	0	1,575
ADAMS JORDAN ISAAC & SUSAN KAY	2007	2 003-751-04	1,750	422	0	2,172
ADAMS JUDITH & CHRISTOPHER MARK	2006	1 001-544-06	26,250	45,282	0	71,532
ADAMS JUDITH R	2005	2 007-111-18	9,100	0	0	9,100
ADAMS MICHAEL K & IDA M	2005	2 008-132-16	8,750	4,851	2,458	16,059
ADAMS MICHAEL K & LISA E	2008	2 008-831-20	18,427	19,810	0	38,237
ADAMS MICHAEL KEITH & LISA E	2008	2 010-581-76	19,250	33,590	0	52,840
ADAMS NICK & TARA	2005	2 007-151-57	15,750	6,064	0	21,814
ADAMS ROBERT G & KAREN M	2005	2 008-122-04	16,800	113,118	0	129,918
ADAMS VERNON B & CATHIE E	2008	2 006-143-48	4,200	5,719	0	9,919
ADAMSON KIM ALAN & DEANN L	2006	1 001-024-39	20,125	41,847	0	61,972
ADDI WINIFRED W TRUSTEE	2006	1 001-574-04	13,283	9,182	0	22,465
ADDI WINIFRED W TRUSTEE	2006	1 001-584-06	13,283	11,829	0	25,112
ADKINS JEAN TRUSTEE	2006	1 001-024-14	20,125	26,482	0	46,607
* ADKISSON HELEN THERESA TRUSTEE	2005	2 008-451-13	14,000	76,444	0	89,454
AGAMAN MICHAEL A & ARLYN M	2006	1 001-433-19	16,625	27,302	0	43,927
AGARD WILLIAM F & DEBRA R	2007	2 006-691-16	20,125	50,370	0	70,495
AGEE VERONICA & GEORGE	2005	2 010-471-22	19,250	57,373	0	76,623
AGUIAR N D & TAYLOR K L	2007	2 006-871-22	55,143	7,021	0	62,164
AGUILAR ROBERTO	2006	1 001-391-01	20,125	14,544	0	34,669
AGUILAR VERONICA L	2008	2 010-072-01	15,592	31,067	0	46,659
AGUIRRE RICHARD & EMMA L	2007	2 007-351-12	7,000	5,860	0	12,860
AHAMMED KAZAL	2008	2 010-591-34	20,125	47,241	0	67,366

AHERN ELEANOR A	2006	1 001-525-06	11,550	9,807	0	21,357
AHIERS SHAUNA E M	2006	1 001-311-12	16,625	22,424	0	39,049
AHLBERG PACHARIN R	2008	2 006-251-39	40,250	38,789	0	79,039
AHLBERG PACHARIN R	2008	2 006-251-38	36,190	0	0	36,190
AHMANSON OBLIGATION COMPANY	2007	2 007-951-15	5,600	4,668	0	10,268
AHMED IMITIAZ & AHMAD SHAHZAD	2005	2 007-021-39	8,750	0	0	8,750
AIGBOBOH SUNDAY O & ANN D	2005	2 008-132-59	9,800	31,781	0	41,581
*AJA MANUEL A & JO ANN	2008	2 008-753-65	16,100	22,970	0	36,690
AJA SIDNEY JEAN	2007	2 009-111-34	11,289	16,964	1,210	29,463
AKHAVAN BIAN & NOOSHIN ET AL	2005	2 007-151-12	93,293	0	0	93,293
AKINS ALENE	2006	1 001-792-38	20,125	56,872	0	76,997
AKINS DAVE & BETH	2006	1 001-181-45	20,125	0	0	20,125
AKINS DAVE & BETH	2006	1 001-181-47	20,125	42,052	0	62,177
AKINS DAVE & BETH	2006	1 001-286-25	22,313	87,260	0	109,573
AKINS DAVE & BETH	2006	1 001-286-26	101,443	128,999	0	230,442
AKINS DAVE & BETH	2006	1 001-525-03	11,550	51,752	0	63,302
AKINS DAVE & BETH	2005	2 008-292-02	15,750	45,322	0	61,072
AKINS DAVE & BETH	2007	2 010-522-06	8,575	0	0	8,575
AKINS DAVID & BETH	2007	2 000-086-99	500	0	0	500
AKINS DAVID & BETH	2005	2 008-292-03	15,750	87,606	0	103,356
AKINS DAVID G & KIRBI B	2007	2 007-311-47	11,410	41,307	0	52,717
AKO JOHN K A & AMY KIM	2006	1 001-452-07	20,125	36,261	0	56,386
ALANIS ADRIAN & MARIA	2005	2 010-471-14	14,875	48,318	0	63,193
ALAVI NEDA & MOHIEDDIN S	2007	2 004-131-56	1,400	0	0	1,400
ALBAUGH R J & L A TRUSTEES	2007	2 009-411-36	117	0	0	117
ALBAUGH R J & L A TRUSTEES	2007	2 009-411-38	322	0	0	322
ALBAUGH R J & L A TRUSTEES	2007	2 009-411-40	6,142	12,246	0	18,388
ALBAUGH R J & L A TRUSTEES	2007	2 009-411-41	2,473	0	0	2,473
ALBAUGH R J & L A TRUSTEES	2007	2 009-411-50	20,328	31,090	0	51,418
ALBIANI KELLY L & DYNAASTY A	2008	2 006-031-28	16,100	6,681	4,701	27,482
ALBIANI PRIMO V & SUZANNE M	2008	2 006-571-05	14,175	91,705	0	105,880
ALBIN JUDY E	2006	1 001-434-08	16,625	11,478	0	28,103
*ALBISTON LEROY A & KATHLEEN E	2008	2 008-652-82	14,175	33,987	0	45,782
ALBRECHT DEREK K & TRACY L	2005	2 003-691-29	7,035	0	0	7,035

ALBRECHT DEREK K & TRACY L	2007	2 003-691-30	700	0	0	700
ALBRECHT FRANK R & NORA R	2006	1 001-294-06	16,625	15,249	0	31,874
ALBRECHT MICHAEL E C	2008	2 008-652-06	14,175	67,120	0	81,295
ALCORN CAPITOIA	2005	2 008-531-75	14,210	18,289	1,660	34,159
ALCORN MARY E	2006	1 001-372-05	16,625	21,609	0	38,234
ALCORN MARY E	2005	2 008-132-09	8,750	16,006	1,270	26,026
ALDRIDGE MICHAEL D & DONNA J	2006	1 001-812-54	20,125	37,665	0	57,790
ALEGRE DARRIN & MISTY TRUSTEES	2007	2 006-671-60	7,538	0	0	7,538
ALEGRE DARRIN & MISTY TRUSTEES	2007	2 007-431-50	9,230	8,844	2,527	20,601
ALEGRE DARRIN & MISTY TRUSTEES	2007	2 007-431-51	7,345	170,734	0	178,079
ALESSANDRI EARNEST F ET AL	2005	2 007-021-10	8,750	0	0	8,750
ALEXANDER AMBER	2008	2 008-811-36	22,750	56,500	0	79,250
ALEXANDER KRISTOPHER R	2006	1 001-792-45	20,125	50,666	0	70,791
*ALEXANDER P E & P A TRUSTEES	2005	2 008-152-22	9,800	42,567	0	49,987
ALEXANDER SHARON M	2007	2 007-471-35	8,575	49,946	0	58,521
ALEXANDER STEPHANIE M	2005	2 008-113-11	9,800	29,077	0	38,877
ALFONSO RICHARD T	2008	2 006-143-07	4,900	0	0	4,900
*ALFORD DON R & JOSEPHINE	2006	1 001-296-09	16,625	14,106	0	28,351
ALGER GERALD F & MARJORIE	2006	1 001-282-03	20,125	18,091	0	38,216
ALGERI JOHN W & MARJORIE S	2008	2 010-581-62	19,250	32,309	0	51,559
ALIPIO ARTURO F & GLORIA A	2006	1 001-102-21	11,550	10,819	0	22,369
ALIPIO EMILIO F JR & ESMERALDA	2006	1 001-312-05	16,625	15,905	0	32,530
ALLAN DONALD T & VICTORIA F	2008	2 008-492-60	45,465	106,746	0	152,211
ALLEGRE AMANDA B	2006	1 001-404-12	16,625	9,102	0	25,727
ALLEGRE RICHARD V & LILLA E	2007	2 007-951-25	67,638	0	0	67,638
ALLEGRE RICHARD V & LILLA E	2007	2 007-951-30	23,975	0	0	23,975
ALLEGRE RICHARD V & LILLA E	2007	2 007-951-31	7,596	34,580	0	42,176
ALLEN AMY S	2005	2 008-132-68	9,800	4,002	2,833	16,635
ALLEN ANDREW T	2008	2 008-572-19	19,250	81,694	0	100,944
ALLEN DAN H & CAROL E	2005	2 008-253-13	12,600	15,780	0	28,380
ALLEN DEBERA & DANIEL	2007	2 009-032-27	8,575	46,529	0	55,104
ALLEN DONALD E & ETTA M	2005	2 008-113-48	9,800	21,104	0	30,904
ALLEN EARL E & JUNE L	2007	2 007-891-11	15,750	16,318	0	32,068
ALLEN FREDERICK E & MARIE A	2005	2 007-191-59	12,600	68,171	0	80,771

ALLEN JAMES R	2005	2 007-191-16	19,250	160,763	0	180,013
ALLEN JAMES R & MURPHY RITA R	2008	2 008-411-47	68,762	34,082	0	102,844
ALLEN JOHN B	2005	2 008-263-05	15,750	19,288	0	35,038
ALLEN RICHARD	2005	2 008-282-55	19,250	84,543	0	103,793
ALLEN ROBERT DAVID & ESTELITA	2006	1 001-536-03	11,550	9,265	0	20,815
ALLEN ROBERT DAVID & ESTELITA	2006	1 001-536-04	18,375	0	0	18,375
ALLEN ROBERT DAVID & ESTELITA	2006	1 001-536-05	18,375	0	0	18,375
ALLEN ROY E & NANCY J	2005	2 008-173-72	9,800	35,526	0	45,326
ALLES R SAM	2005	2 008-312-34	16,975	50,926	0	67,901
ALLES RICHARD	2007	2 009-101-08	23,975	2,210	0	26,185
*ALLES RICHARD S & PAULINE M	2005	2 007-111-34	13,475	39,910	0	51,005
ALLHIZER FRED & JUDY	2008	2 008-572-26	50,050	23,033	0	73,083
ALLISON JAMES & MOLLY TRUSTEES	2006	1 001-122-01	26,250	18,646	0	44,896
ALLISON JAMES & MOLLY TRUSTEES	2006	1 001-122-02	43,772	2,510	0	46,282
ALLISON JAMES & MOLLY TRUSTEES	2006	1 001-122-10	26,250	0	0	26,250
ALLISON JAMES & MOLLY TRUSTEES	2006	1 001-414-06	16,625	13,771	0	30,396
ALLISON JAMES & MOLLY TRUSTEES	2006	1 001-414-07	16,625	6,785	0	23,410
ALLISON JAMES & MOLLY TRUSTEES	2005	2 010-412-05	14,875	0	0	14,875
ALLISON R C & C R TRUSTEES	2006	1 001-365-05	16,625	19,454	0	36,079
ALLRED JANET L	2006	1 001-333-06	16,625	15,671	0	32,296
ALLRED MICHAEL & MICHAEL S	2006	1 001-336-08	16,625	27,801	0	44,426
ALLSOP REYNOLD DEE & DAWN N	2006	1 001-041-59	20,125	32,144	0	52,269
ALLYN DAVID M	2007	2 006-732-57	11,375	9,709	0	21,084
*ALLYN MARGARET A	2006	1 001-181-32	20,125	36,838	0	55,773
ALLYN VIOLET ET AL	2008	2 006-351-22	16,301	20,344	1,400	38,045
ALMANZA RAFAEL A	2008	2 006-471-15	14,175	6,546	0	20,721
ALPERT JAMES M TRUSTEE	2006	1 001-041-55	20,125	40,303	0	60,428
ALPINE PARK ESTATES INC	2005	2 003-691-19	6,720	0	0	6,720
ALPINE PARK ESTATES INC	2005	2 003-691-37	6,720	0	0	6,720
ALSCHULER RICHARD & GAIL	2008	2 006-143-08	4,900	0	0	4,900
ALVAREZ JESUS M	2006	1 001-841-40	20,125	74,696	0	94,821
ALVAREZ JOLEEN A	2008	2 008-421-23	22,750	62,632	0	85,382
ALVES EDWARD L & BRENDA K	2008	2 010-511-06	38,839	47,545	0	86,384
ALVES ISIDRO & HEATHER	2005	2 007-121-07	7,476	208,979	0	216,455

ALVES ISIDRO & HEATHER	2005	2 007-121-08	6,756	33,449	0	40,205
ALVES ISIDRO G & HEATHER M	2008	2 008-791-22	18,370	46,813	0	65,183
AMARKE EMMANUEL A & DOROTHY A	2006	1 001-041-37	20,125	31,502	0	51,627
AMARAL THOMAS A & DEBRA L	2008	2 006-191-19	32,366	44,031	0	76,397
AMARAL TONY & ANNA J	2007	2 009-091-07	22,138	23,100	0	45,238
* AMBLER ALLEN W	2006	1 001-298-09	16,625	19,787	0	35,222
AMBLER KEITH E	2008	2 006-311-13	9,625	13,128	0	22,753
AMBLER KEITH E ET AL	2006	1 001-011-37	28,000	48,114	0	76,114
AMDAL WILLIAM J & JACQUILYNE	2008	2 010-541-30	23,590	45,019	0	68,609
AMERICAN DREAM LANDS LLC	2005	2 009-291-46	7,000	0	0	7,000
AMERICAN DREAM LANDS LLC	2005	2 009-291-47	7,000	0	0	7,000
AMERIGAS PROPANE LP	2007	2 007-451-08	7,000	0	0	7,000
AMERIGAS PROPANE LP	2007	2 007-451-09	10,500	479	0	10,979
AMERSON JAMES M & JENNIFER E	2006	1 001-453-11	20,125	39,775	0	59,900
AMES EDDY J & YOLANDA	2006	1 001-432-18	16,625	15,455	0	32,080
AMES THOMAS E III & SHERRI	2008	2 008-693-24	22,750	57,503	0	80,253
AMEZQUITA ROBERT E & KATIE	2007	2 007-391-48	11,410	38,286	0	49,696
AMICK SHELLEY ANN	2006	1 001-092-06	24,500	24,368	0	48,868
AMMERMAN JACKIE & ROMERO EDWARD	2008	2 006-142-15	4,200	45	0	4,245
AMOS JUDITH WILLIAMS	2006	1 001-562-14	13,283	25,470	0	38,753
AMOS JUSTIN V	2007	2 007-372-35	11,410	64,813	0	76,223
AMOS MICHAEL & CAROL ANNE	2005	2 010-413-02	14,875	19,698	0	34,573
AMOS MICHAEL V	2007	2 007-372-09	10,500	32,203	0	42,703
AMOS MIKE & CAROL	2005	2 010-412-01	14,875	27,207	0	42,082
AMOS MIKE V & CAROL A	2006	1 001-402-10	16,625	31,549	0	48,174
AMOS PHILIP C	2007	2 007-372-26	801	0	0	801
AMOS PHILLIP C & JODY	2007	2 007-372-20	6,122	45,348	0	51,470
AMP RESOURCES (STILLWATER) LLC	2007	2 009-032-30	24,675	0	0	24,675
AMSTUTZ PAUL L & SANDRA J TRUST	2006	1 001-037-07	20,125	35,251	0	55,376
ANACABE HILDA V TRUSTEE	2008	2 006-051-11	17,500	1,630	0	19,130
ANASTASSATOS D & M COTRUST ETAL	2007	2 009-111-33	2,354	0	0	2,354
ANAYA FLORENCIO & TAMMEE R	2006	1 001-367-08	16,625	26,063	0	42,688
ANAYA HECTOR J	2005	2 010-153-03	10,500	26,230	0	36,730
ANAYA JOSE D & GULDEN KRISTI D	2008	2 008-652-96	14,175	3,800	2,803	20,778

ANAYA JOSE D & GULDEN KRISTI D	2008	2 008-652-97	14,175	1,516	0	15,691
ANAYA JOSE D & GULDEN KRISTI D	2008	2 008-652-98	14,175	0	0	14,175
ANAYA JOSE D & GULDEN KRISTI D	2008	2 008-652-99	14,175	3,933	0	18,108
ANDA ALEX & ELLEN DAWN	2005	2 008-031-26	8,400	25,773	0	34,173
ANDEROSZI ROY	2008	2 008-753-56	16,100	28,188	0	44,288
ANDERSEN DAVID B & IMELDA L	2005	2 008-281-20	19,250	55,076	0	74,326
ANDERSEN LAURENCE C & JOAN L	2007	2 009-071-32	8,575	8,979	6,279	23,833
ANDERSON BARBARA J	2008	2 006-732-18	9,014	82,951	1,168	93,133
ANDERSON BRYAN & ROSEMARY K	2006	1 001-151-08	16,625	16,121	0	32,746
ANDERSON CHARLES M & PATRICIA J	2006	1 001-363-04	16,625	30,765	0	47,390
ANDERSON CURTIS M & MARY J	2005	2 008-174-15	11,375	44,257	0	55,632
ANDERSON DARYL W & DARYL	2005	2 010-092-06	11,463	41,351	0	52,814
*ANDERSON DAVID W & JOVITA M	2006	1 001-027-12	20,125	33,131	0	50,876
ANDERSON DAVID W & JOVITA M	2006	1 001-151-11	21,875	19,443	0	41,318
ANDERSON DAVID W & JOVITA M	2006	1 001-151-12	21,875	19,949	0	41,824
ANDERSON FRANK & FANNING DEBRA	2007	2 006-741-52	18,113	7,441	5,038	30,592
ANDERSON GREGORY D	2005	2 008-113-50	12,250	0	0	12,250
*ANDERSON GREGORY D	2005	2 008-174-08	9,800	10,502	11,557	29,479
ANDERSON JAMES ALLEN & JANE C	2008	2 008-411-24	16,018	54,288	0	70,306
ANDERSON JAMES C & MARY BRIDGET	2008	2 008-752-35	14,175	56,361	0	70,536
ANDERSON P A & J M TRUSTEES	2006	1 001-616-03	13,283	10,913	0	24,196
ANDERSON SHANNON & DANIEL A	2008	2 008-551-36	22,750	75,364	0	98,114
*ANDERSON VERN D & JOY ANN	2008	2 008-792-03	14,175	8,876	0	20,671
ANDERSON W A & B J TRUSTEES	2005	2 007-071-52	15,750	34,365	0	50,115
*ANDERSON WILLIAM & LINDA V	2005	2 007-121-28	32,200	39,183	0	69,003
ANDERSON WILLIAM R & LINDA V	2005	2 008-231-15	12,740	14,446	0	27,186
ANDHARAPU GIRIDHAR & ARAVINDA	2006	1 001-026-29	20,125	37,490	0	57,615
ANDHARAPU GIRIDHAR & ARAVINDA	2006	1 001-792-44	20,125	61,257	0	81,382
ANDING DARREN EDWARD & LORI ANN	2006	1 001-454-29	20,125	57,751	0	77,876
ANDRAE BARBARA L & PETERSEN G E	2006	1 001-744-24	5,775	7,318	3,185	16,278
*ANDRE EDITH & WILKENS KATHLEEN	2006	1 001-283-08	20,125	19,777	0	38,712
ANDRES RAYMOND & SCHWADEL S	2006	1 001-553-12	18,900	58,763	0	77,663
ANDRES RAYMOND & SCHWADEL S	2006	1 001-651-05	16,380	59,929	0	76,309
ANDREWS CLARENCE T & SYDNEY J	2006	1 001-412-01	20,125	8,910	0	29,035



ANDREWS DONALD D	2008	2 008-791-60	18,370	62,120	0	80,490
ANDREWS MARK E	2006	1 001-422-03	16,625	11,743	0	28,368
*ANDREWS MARTHA E	2006	1 001-794-55	20,125	42,793	0	61,728
ANDREWS ROBERT & NANCY	2008	2 006-031-32	16,100	31,211	0	47,311
ANDREWS ROBERT D & NANCY L	2008	2 010-591-05	20,125	45,081	0	65,206
ANDREWS WILLIAM B II & JILL G	2006	1 001-454-01	20,125	45,679	0	65,804
ANDREWS-BOULTER LINDA S	2008	2 006-293-10	14,175	46,082	0	60,257
ANGEL CHRISTOPHER E	2006	1 001-793-52	20,125	40,392	0	60,517
ANGEL KERRI R	2006	1 001-452-09	20,125	28,489	0	48,614
*ANGEL MYRNALEE L	2006	1 001-791-58	20,125	41,280	0	60,215
ANGLIN RONALD M & KATHLEEN S	2005	2 008-312-20	23,975	80,468	0	104,443
ANGST KENNETH TEMPLE	2005	2 008-191-24	11,375	28,016	0	39,391
ANGUS CASEY & BRENDA	2005	2 008-133-07	8,750	22,233	0	30,983
ANGUS JOHN R JR & JACI L	2005	2 008-451-32	14,000	58,654	0	82,654
ANGUS MARTY & BECKY	2006	1 001-511-06	20,125	12,602	0	32,727
ANGUS MARTY & REBECCA	2008	2 006-311-26	11,375	114,697	0	126,072
ANGUS REBECCA	2008	2 006-371-10	6,125	2,771	0	8,896
ANNAND JEFFREY C ET AL	2007	2 010-235-29	175	1,550	0	1,725
ANSOLABEHRE MARIE JEANNE	2007	2 007-951-20	15,750	44,299	0	60,049
ANSOTEGUI ALAN REED	2005	2 008-241-24	18,900	29,026	0	47,926
*ANSOTEGUI R & I TRUSTEES	2007	2 007-391-13	12,249	40,667	406	50,942
ANSOTEGUI R & I TRUSTEES	2005	2 008-241-12	4,433	0	0	4,433
ANSOTEGUI RAYMOND ET AL	2006	1 001-191-10	164,649	16,339	0	180,988
*ANSOTEGUI ROBERT & J L TRUSTEES	2006	1 001-191-27	105,198	22,615	0	127,813
ANSOTEGUI ROBERT MICHAEL ET AL	2007	2 007-932-08	6,292	15,363	0	19,275
ANSOTEGUI ROBERT MICHAEL ET AL	2006	1 001-151-07	16,625	17,059	0	33,684
ANSOTEGUI ROBERT MICHAEL ET UX	2006	1 001-152-04	16,625	25,599	0	42,224
ANSOTEGUI VICTOR & ALAN REED	2005	2 008-241-23	18,900	5,006	624	24,530
*ANSOTEGUI VICTOR & NEVA L	2005	2 008-241-22	32,375	15,163	0	45,158
ANTHONY ADELBERT & YVONNE	2005	2 008-221-08	10,500	64,045	0	74,545
ANTHONY MEYER PROPERTIES ET AL	2008	2 006-143-20	5,600	0	0	5,600
APOLINAR ROBERTO V & ONESIMA	2006	1 001-431-03	16,625	12,412	0	29,037
APPEZZATO JOSHUA A	2005	2 008-175-19	18,375	67,055	0	85,430
APPLEBACH RONALD C & MIAO MIAO	2005	2 010-092-10	11,375	28,593	0	39,968

APPLEGATE JACULYN J	2006	1	001-793-80	22,313	49,816	0	72,129
APPLEGATE S L & CHRISMAN O & W	2005	3	004-371-07	1,400	0	0	1,400
ARAI KATHERINE L & HOENIG JOHN	2005	2	005-391-02	28,000	0	0	28,000
ARAIZA ISIDRO JR & ELIDA	2006	1	001-367-03	16,625	25,157	0	41,782
ARAIZA ISIDRO JR & ELIDA	2006	1	001-367-04	2,975	3,509	0	6,484
ARANGUENA R L & CORNU R L & R L	2005	2	010-154-04	10,500	15,327	0	25,827
ARBIZU RALPH	2005	2	008-121-42	9,800	30,571	0	40,371
ARBORWOOD ASSOCIATES	2006	1	001-051-15	136,080	492,800	0	628,880
ARBORWOOD II ASSOCIATES	2006	1	001-051-22	136,080	512,184	0	648,264
ARBORWOOD III ASSOCIATES	2006	1	001-051-20	90,720	317,572	0	408,292
ARC DOME LLC	2005	2	007-021-20	8,750	991	0	9,741
ARCHER BILL & JESSIE L	2006	1	001-292-17	16,625	16,205	0	32,830
ARCHER STEPHEN C & SHARON L	2006	1	001-201-58	20,125	71,007	0	91,132
*ARCHER WILLIAM & EVELYN ET AL	2005	2	010-211-13	10,500	15,088	0	23,208
ARCHER WILLIAM M & JESSIE L	2005	2	008-122-31	14,000	77,484	0	91,484
ARCHER MICHAEL & TONI M	2008	2	006-031-66	16,100	36,729	0	52,829
ARCHER ROBERT E JR & KATHLEEN A	2008	2	006-331-28	22,750	59,586	0	82,336
ARCHULETA DALE & VALERIE	2005	2	008-133-20	8,750	12,163	0	20,913
ARCHULETA EDWARD V & SUSAN L	2008	2	006-541-38	7,789	100,636	0	108,425
*ARCINIEGA E & N TRUSTEES	2006	1	001-432-16	16,625	11,966	0	26,211
ARCINIEGA E & N TRUSTEES	2006	1	001-611-03	13,283	6,070	0	19,353
ARENDS TERRANCE & AMELIA	2005	2	008-132-77	9,800	35,789	0	45,589
ARGENBRIGHT DELMER & BEVERLY	2005	2	008-282-49	19,250	66,630	0	85,880
ARIAS GRACE C & JOSHUA A	2008	2	008-693-55	22,750	40,587	0	63,337
ARIAS SERGIO A & STACY L	2005	2	008-173-63	9,800	4,140	13,289	27,229
ARIAZ DAN & PATRICIA TRUSTEES	2008	2	008-831-71	22,750	0	0	22,750
ARIAZ DAN & PATRICIA TRUSTEES	2008	2	008-831-72	22,750	0	0	22,750
ARIAZ DAN & PATRICIA TRUSTEES	2008	2	008-831-73	22,750	0	0	22,750
ARIENS RANDY R & VIRGINIA B	2008	2	008-831-24	22,750	55,715	0	78,465
ARIENS RANDY ROBERT & VIRGINIA	2006	1	001-241-24	16,625	32,913	0	49,538
ARLINT II LEONARD A & JEANNE	2007	2	006-771-11	23,975	20,976	0	44,951
ARMAS DIANNE L	2006	1	001-492-10	16,625	17,152	0	33,777
*ARMAS PAMELA K	2006	1	001-494-08	16,625	17,830	0	30,885
*ARMAS VIRGINIA	2006	1	001-401-04	16,625	8,539	0	23,974

ARMBRUSTER JEFFREY B & MELINDA	2008	2 010-591-13	20,125	48,456	0	68,581
ARMES LARRY D & KATHY S	2008	2 010-192-04	4,252	9,149	0	13,401
ARMIC CRAIG ANTHONY	2005	2 008-113-47	9,800	0	0	9,800
ARMSTRONG CONNIE S	2005	2 007-111-50	8,501	39,911	0	48,412
ARMSTRONG DAVID	2006	1 001-285-13	20,125	30,637	0	50,762
ARMSTRONG JOHN D III	2005	2 008-152-10	9,800	31,920	0	41,720
*ARMSTRONG LEO & DAVID ET AL	2006	1 001-432-11	16,625	9,951	0	23,006
ARMSTRONG R L & M M TRUSTEES	2008	2 008-652-52	22,750	61,637	0	84,387
ARMSTRONG TINA M	2006	1 001-431-02	16,625	11,912	0	28,537
ARNAUD RICK	2005	2 009-271-54	2,240	18,906	0	21,146
ARNOLD KEITH	2005	2 008-132-60	9,800	28,963	0	38,763
ARO EDWARD W & CHARLOTTE A	2005	2 008-122-13	16,800	74,125	0	90,925
ARRASCADA E L & E S CO-TRUSTEES	2007	2 010-237-14	175	0	0	175
ARRASCADA E L & E S CO-TRUSTEES	2007	2 010-237-13	175	0	0	175
ARTHUR MARY	2006	1 001-574-03	13,283	8,020	0	21,303
ARTIGAS GROUP LLC	2006	1 001-554-02	26,250	19,257	0	45,507
ARTIGAS GROUP LLC	2006	1 001-554-03	21,000	3,373	0	24,373
ARTIGAS GROUP LLC	2006	1 001-554-11	6,300	1,587	0	7,887
ASHBY DONALD J SR & BOBBETTE L	2005	2 007-122-16	9,800	58,292	0	68,092
ASHCRAFT JACK B	2006	1 001-472-04	11,550	6,024	0	17,574
*ASHFIELD VIRGINIA B & SUSAN	2008	2 006-434-33	14,175	40,415	0	53,400
ASHMEAD TERRY L & MARY L	2006	1 001-361-10	16,625	20,237	0	36,862
ASPEN VALLEY LOG WORKS LLC	2006	1 001-011-63	30,188	49,570	0	79,758
ASTA VENTURES LTD PLC	2005	2 007-171-22	48,125	0	0	48,125
ASTA VENTURES LTD PLC	2005	2 007-171-23	30,450	0	0	30,450
ASTRIN HENRY & CLARA	2008	2 006-031-10	10,500	0	0	10,500
ATCHISON TOMMY J & LESLIE E	2007	2 006-111-11	23,975	9,033	0	33,008
ATCHISON WILLIAM A & LARONDA L	2006	1 001-286-15	20,125	30,701	0	50,826
ATKIN L L & S A TRUSTEES	2007	2 006-711-01	15,043	11,181	0	26,224
ATKIN LARRY & SHIRLEY TRUSTEES	2005	2 008-611-12	14,875	35,311	0	50,186
ATKINSON C 1/2 & C 1/2	2006	1 001-801-28	20,125	65,147	0	85,272
*ATKINSON G E & JEANNE E	2005	2 010-411-02	14,875	26,233	0	38,728
ATKINSON STEPHEN SR & MICHAEL E	2005	2 010-412-07	14,875	20,345	0	35,220
ATKINSON WILLIAM M TRUSTEE	2006	1 001-181-08	20,125	39,838	0	59,963

ATN PROPERTIES LLC	2006	1 001-122-03	33,206	16,840	0	50,046
ANGELLO SAMUEL J & ZEETA	2005	2 010-481-04	22,750	48,044	0	70,794
AUGHE JOHN H & CHARLENE R	2005	2 010-351-13	15,750	44,108	0	59,858
AULNER SCOTT ALAN & JOCELYN	2006	1 001-794-75	22,313	57,725	0	80,038
AUM-ARIHANT INC	2006	1 001-271-25	175,726	501,167	0	676,893
AURE KATHY M	2008	2 006-293-06	14,175	49,049	0	63,224
AURORA LOAN SERVICES LLC	2008	2 006-471-20	17,010	23,594	0	40,604
*AUST JUDIE	2005	2 008-531-13	11,480	35,903	0	46,193
*AUSTIN DOROTHY E TRUSTEE	2006	1 001-302-08	28,175	27,689	0	54,674
AUSTIN DOROTHY E TRUSTEE	2006	1 001-521-04	11,550	5,338	0	16,888
AUSTIN DOROTHY E TRUSTEE	2006	1 001-535-01	11,550	8,000	0	19,550
AUSTIN DOROTHY E TRUSTEE	2006	1 001-535-02	11,550	6,041	0	17,591
AUSTIN DOROTHY E TRUSTEE	2006	1 001-535-03	11,550	8,517	0	20,067
AUSTIN DOROTHY E TRUSTEE	2006	1 001-535-09	48,300	34,354	0	82,654
AUSTIN LILA MICHELLE	2006	1 001-432-14	16,625	8,392	0	25,017
AUSTIN LLOYD B TRUSTEE	2006	1 001-651-31	14,865	2,520	0	17,385
AUSTIN LLOYD B TRUSTEE	2008	2 006-122-62	5,425	7,142	1,599	14,166
AUSTIN PAMELA D	2005	2 010-481-01	24,063	47,541	0	71,604
*AUSTIN ROBERT J & JANICE A	2007	2 006-811-20	23,975	5,409	0	27,004
AUSTIN ROBERT L	2005	2 007-111-25	15,750	0	0	15,750
AUSTIN ROBERT L & DONNA	2007	2 000-022-99	500	0	0	500
AUSTIN STEVEN & DEBRA L	2005	2 008-322-30	16,975	57,444	0	74,419
AUTOZONE DEVELOPMENT CORP	2006	1 001-231-71	183,433	143,308	0	326,741
AVALOS ROBIN K	2005	2 007-171-73	9,310	43,041	0	52,351
AVERY RANCH LLC	2005	2 008-292-31	32,375	18,799	0	51,174
AWBREY JAMES M & CONSUELO M	2005	2 008-351-06	19,338	16,637	0	35,975
AYALA REYNALDO & MARIA M	2006	1 001-841-30	20,125	68,743	0	88,868
AYERS CHARLES I & LAUREN	2006	1 001-795-71	20,125	38,367	0	58,492
*AYERS ROBERT L & MARNO J	2008	2 006-471-19	14,175	46,602	0	54,877
AZEVEDO BRUNO DIAS & CELIA	2005	2 010-554-06	15,750	34,621	0	50,371
AZEVEDO N J & L TRUSTEES	2005	2 008-081-11	9,310	53,103	0	62,413
A3 RANCH LLC SERIES A	2006	1 001-481-01	6,125	21,436	0	27,561
A3 RANCH LLC SERIES B	2006	1 001-481-02	6,125	21,436	0	27,561
A3 RANCH LLC SERIES C	2006	1 001-481-03	6,125	21,884	0	28,009

# EXHIBIT 3

**FILED**  
Electronically  
03-11-2013:04:36:01 PM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3583202

# EXHIBIT 3



**JIM GIBBONS**  
Governor  
**THOMAS R. SHEETS**  
Chair, Nevada Tax Commission  
**DINO DICIANNO**  
Executive Director

**STATE OF NEVADA  
DEPARTMENT OF TAXATION**

Web Site: <http://tax.state.nv.us>  
1550 College Parkway, Suite 115  
Carson City, Nevada 89708-7837  
Phone: (775) 684-2000 Fax: (775) 684-2020

**LAS VEGAS OFFICE**  
Grant Sawyer Office Building, Suite 1300  
555 E. Washington Avenue  
Las Vegas, Nevada, 89101  
Phone: (702) 488-2300 Fax: (702) 488-2373

**RENO OFFICE**  
4600 Kietzke Lane  
Building L, Suite 235  
Reno, Nevada 89502  
Phone: (775) 688-1295  
Fax: (775) 688-1303

**HENDERSON OFFICE**  
2550 Paseo Verde Parkway Suite 180  
Henderson, Nevada 89074  
Phone: (702) 488-2300  
Fax: (702) 488-3377

## **NOTICE OF WORKSHOP**

### **To Solicit Comments on Proposed Regulation**

**To:** To All Interested Parties  
**From:** Terry Rubald, Chief, Division of Assessment Standards  
**Date:** January 9, 2009  
**Re:** Workshop on Proposed Regulations

The Department of Taxation will hold a workshop on behalf of the State Board of Equalization to receive input on proposed language, additions and deletions to NAC Chapter 361 regarding the process of equalization required by NRS 361.395(a).

**Date and Time of Meeting:** January 26, 2009 9:00 a.m.

The workshop will be held at the following locations:

**Place of Meeting:** Department of Transportation  
1263 South Stewart, Room 302  
Carson City, Nevada

**Video Conference To:** Department of Transportation  
123 East Washington  
Bldg. B, Training Room A  
Las Vegas, Nevada

Contact the Department at the Carson City address listed above, or Terry Rubald at (775) 684-2095 for questions about the workshop.

All interested parties will have the opportunity to present their ideas for suggested language at this workshop. The Department encourages you to provide your suggestions in writing. Although the Department requests interested parties submit written suggestions at least one week in advance so the ideas can be disseminated to others, written comments may be accepted at any time. Future workshops may be organized to consider language changes, additions and deletions to the Nevada Administrative Code based on what is achieved at this workshop.

**NOTE:** We are pleased to make accommodations for members of the public who are disabled. Please notify the Department of Taxation in writing, at 1550 East College Parkway, Carson City, Nevada, 89708 or call (775) 684-2180 prior to the meeting.

Notice of this meeting was posted in the following Carson City, Nevada location: Department of Taxation, 1550 E. College Parkway; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following locations: Department of Taxation, 4600 Kietzke Lane, Building L, Suite 235, Reno; Department of Taxation, 850 Elm Street, Suite 2, Elko; Department of Taxation, 2550 Paseo Verde, Suite 180, Henderson; Department of Taxation, 555 E. Washington Street; Las Vegas; Clark County Office, 500 South Grand Central Parkway, Las Vegas. Notice of this meeting was posted on the Internet through the Department of Taxation website at [www.tax.state.nv.us](http://www.tax.state.nv.us)



JIM GIBBONS  
Governor  
THOMAS R. SHEETS  
Chair, Nevada Tax Commission  
DINO DICIANNO  
Executive Director

STATE OF NEVADA  
DEPARTMENT OF TAXATION

Web Site: <http://tax.state.nv.us>  
1550 College Parkway, Suite 118  
Carson City, Nevada 89706-7937  
Phone: (775) 684-2000 Fax: (775) 684-2020

LAS VEGAS OFFICE  
Grant Sawyer Office Building, Suite 1300  
555 E. Washington Avenue  
Las Vegas, Nevada, 89101  
Phone: (702) 486-2300 Fax: (702) 486-2373

RENO OFFICE  
4800 Kietzke Lane  
Building L, Suite 235  
Reno, Nevada 89502  
Phone: (775) 688-1296  
Fax: (775) 688-1303

HENDERSON OFFICE  
2550 Paseo Verde Parkway Suite 180  
Henderson, Nevada 89074  
Phone: (702) 486-2300  
Fax: (702) 486-3377

## **NOTICE OF WORKSHOP**

### **To Solicit Comments on Proposed Regulation**

**To:** To All Interested Parties  
**From:** Terry Rubald, Chief, Division of Assessment Standards *Terry E Rubald*  
**Date:** February 10, 2009  
**Re:** Workshop on Proposed Regulations

The Department of Taxation will hold a second workshop to receive input on proposed language, additions and deletions to NAC Chapter 361 regarding the process of equalization required by NRS 361.395(a).

**Date and Time of Meeting:** February 26, 2009 9:00 a.m.

The workshop will be held at the following locations:

**Place of Meeting:** Department of Transportation  
1263 South Stewart, Room 302  
Carson City, Nevada

**Video Conference To:** Department of Transportation  
123 East Washington  
Bldg. B, Training Room A  
Las Vegas, Nevada

Contact the Department at the Carson City address listed above, or Terry Rubald at (775) 684-2095 for questions about the workshop.

All interested parties will have the opportunity to present their ideas for suggested language at this workshop. The Department encourages you to provide your suggestions in writing. Although the Department requests interested parties submit written suggestions at least one week in advance so the ideas can be disseminated to others, written comments may be accepted at any time. Future workshops may be organized to consider language changes, additions and deletions to the Nevada Administrative Code based on what is achieved at this workshop.

**NOTE:** We are pleased to make accommodations for members of the public who are disabled. Please notify the Department of Taxation in writing, at 1550 East College Parkway, Carson City, Nevada, 89706 or call (775) 684-2180 prior to the meeting.

Notice of this meeting was posted in the following Carson City, Nevada location: Department of Taxation, 1550 E. College Parkway; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following locations: Department of Taxation, 4800 Kietzke Lane, Building L, Suite 235, Reno; Department of Taxation, 850 Elm Street, Suite 2, Elko; Department of Taxation, 2550 Paseo Verde, Suite 180, Henderson; Department of Taxation, 555 E. Washington Street; Las Vegas; Clark County Office, 500 South Grand Central Parkway, Las Vegas. Notice of this meeting was posted on the Internet through the Department of Taxation website at [www.tax.state.nv.us](http://www.tax.state.nv.us)



JIM GIBBONS  
Governor  
THOMAS R. SHEETS  
Chair, Nevada Tax Commission  
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Executive Director

STATE OF NEVADA  
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Reno, Nevada 89502  
Phone: (775) 688-1295  
Fax: (775) 688-1303

HENDERSON OFFICE  
2550 Paseo Verde Parkway Suite 180  
Henderson, Nevada 89074  
Phone: (702) 486-2300  
Fax: (702) 486-3377

## **REVISED NOTICE OF WORKSHOP** To Solicit Comments on Proposed Regulation

**To:** To All Interested Parties  
**From:** Terry Rubald, Chief, Division of Assessment Standards  
**Date:** February 23, 2009  
**Re:** Workshop on Proposed Regulations

The Department of Taxation will hold a second workshop to receive input on proposed language, additions and deletions to NAC Chapter 361 regarding the process of equalization required by NRS 361.395(a).

**Date and Time of Meeting:** February 26, 2009 9:00 a.m.

The workshop will be held at the following locations:

**Place of Meeting:** Department of Transportation  
1263 South Stewart, Room 302  
Carson City, Nevada

**Video Conference To:** Department of Transportation  
123 East Washington  
Bldg A, Conference Room  
Las Vegas, Nevada

Contact the Department at the Carson City address listed above, or Terry Rubald at (775) 684-2095 for questions about the workshop.

All interested parties will have the opportunity to present their ideas for suggested language at this workshop. The Department encourages you to provide your suggestions in writing. Although the Department requests interested parties submit written suggestions at least one week in advance so the ideas can be disseminated to others, written comments may be accepted at any time. Future workshops may be organized to consider language changes, additions and deletions to the Nevada Administrative Code based on what is achieved at this workshop.

**NOTE:** We are pleased to make accommodations for members of the public who are disabled. Please notify the Department of Taxation in writing, at 1550 East College Parkway, Carson City, Nevada, 89706 or call (775) 684-2180 prior to the meeting.

Notice of this meeting was posted in the following Carson City, Nevada location: Department of Taxation, 1550 E. College Parkway; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was Faxed for posting to the following locations: Department of Taxation, 4600 Kietzke Lane, Building L, Suite 235, Reno; Department of Taxation, 850 Elm Street, Suite 2, Elko; Department of Taxation, 2550 Paseo Verde, Suite 180, Henderson; Department of Taxation, 555 E. Washington Street; Las Vegas; Clark County Office, 500 South Grand Central Parkway, Las Vegas. Notice of this meeting was posted on the Internet through the Department of Taxation website at [www.tax.state.nv.us](http://www.tax.state.nv.us)



# EXHIBIT 4

**FILED**  
Electronically  
03-11-2013:04:36:01 PM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3583202

# EXHIBIT 4

## **Terry Rubald**

---

**From:** Annalyn Bo Carrillo  
**Sent:** Wednesday, June 06, 2012 3:54 PM  
**To:** Terry Rubald  
**Subject:** RE: Ben Johnson List of Public Utility Clients

Thank you, I will attach list to his application for review.

**Annalyn Bo Carrillo**  
**Office of Governor Brian Sandoval**  
**Boards and Commissions**  
☎(702)486-0625 📠(702)486-2505

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**From:** Terry Rubald  
**Sent:** Wednesday, June 06, 2012 2:20 PM  
**To:** Annalyn Bo Carrillo  
**Cc:** Bill Chisel  
**Subject:** FW: Ben Johnson List of Public Utility Clients

Hi Annalyn,

I requested Mr. Johnson to submit a list of clients that are public utilities or the type of company listed in NRS 361.320, such as pipelines and electrics. Below is a partial list from Mr. Johnson. The list indicates he has the required experience. Would you add this information to his application?

Thank you very much for your help,

Terry

*Terry E. Rubald, Chief*  
*Division of Local Government Services*  
*1550 College Parkway, Suite 115*  
*Carson City, NV 89701*  
*(775) 684-2095*  
*FAX: (775) 684-2020*

### **CONFIDENTIALITY STATEMENT:**

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---

**From:** [bjjohnson@gmail.com](mailto:bjjohnson@gmail.com) [<mailto:bjjohnson@gmail.com>] **On Behalf Of** Ben Johnson  
**Sent:** Wednesday, June 06, 2012 2:15 PM  
**To:** Terry Rubald  
**Subject:** Ben Johnson List of Public Utility Clients

Hi Terry:

Pleasure to speak with you. Pursuant to your request, below please find a list of public utility clients for which I have performed valuation work. The list is off the top of my head and is not a full or complete list of public utility type clients for which I have performed valuation work.

- Paiute Pipeline Company (natural gas transmission lines);
- Magma Energy (geothermal plant);
- Lake Forest Water Company;
- Douglas County Public Works (various assignment types);
- Placer County Public Works (various types of assignments);
- Town of Minden (various types of assignments);
- Kingsbury General Improvement District (various types of assignments);

Please don't hesitate to call if you need any additional information or have any questions.

Thanks,

Ben

-----  
Benjamin Q. Johnson, MAI  
Johnson-Perkins & Associates, Inc.  
88 Mc Faul Way  
PO Box 11430  
Zephyr Cove, NV 89448  
bus: 775.588.4787  
fax: 775.588.8295  
[bjohnson@johnsonperkins.com](mailto:bjohnson@johnsonperkins.com)

# EXHIBIT 5

**FILED**  
Electronically  
03-11-2013:04:36:01 PM  
Joey Orduna Hastings  
Clerk of the Court  
Transaction # 3583202

# EXHIBIT 5

ONE HUNDRED ONE NORTH CARSON STREET  
CARSON CITY, NEVADA 89701  
OFFICE: (775) 684-5670  
FAX NO.: (775) 684-5683



555 EAST WASHINGTON AVENUE, SUITE 3100  
LAS VEGAS, NEVADA 89101  
OFFICE: (702) 486-2500  
FAX NO.: (702) 486-2505

## Office of the Governor

October 16, 2012

Benjamin Johnson  
1090 Deer Cliff Drive, Box 1671  
Zephyr Cove, NV 89448

RE: **Appointment to the Board of Equalization**  
Term: 10/16/2012 to 9/30/2016

Dear Mr. Johnson:

Congratulations on your appointment to the Board of Equalization for the State of Nevada. I truly appreciate your commitment to serve Nevada and your fellow citizens.

The official commission, signed by me and Secretary of State Miller, is for your records. Accompanying your commission is an oath of office, which must be executed before a notary public or any other authorized official (as required by NRS 281.030). This oath must be signed and returned to the Governor's office, and a copy to the board before serving your term.

Also, in the packet you will find a notice which details possible required filings with the Nevada Commission on Ethics and the Secretary of State's office. Failure to file any required documentation may result in fines and/or removal from office.

Please familiarize yourself with Nevada Open Meeting Law. The Open Meeting Law is codified in Chapter 241 of the Nevada Revised Statutes. The Attorney General's office also publishes an Open Meeting Law Manual. That manual can be found at [www.ag.state.nv.us](http://www.ag.state.nv.us).

Should you have any questions regarding the enclosed, please contact Annalyn Carrillo at (702) 486-0625. We wish you the best of luck in your position, and thank you for agreeing to serve the citizens of Nevada.

*Thank you for your  
service to Nevada!*

Sincere regards,

A handwritten signature in black ink, appearing to read "Brian Sandoval".  
BRIAN SANDOVAL  
Governor

Enclosures

cc: Director Christopher Nielsen, Department of Taxation

APX00820

# EXHIBIT 6

**FILED**  
Electronically  
03-11-2013:04:36:01 PM  
Joey Orduna Hastings  
Clerk of the Court  
—Transaction # 3583202

# EXHIBIT 6

State of Nevada

County of Douglas

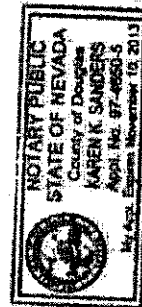
I, **BENJAMIN JOHNSON**

do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State notwithstanding, and that I will well and faithfully perform all the duties of the office of Member, Board of Equalization for the State of Nevada (NRS 361.375) (10/16/2012 - 9/30/2016)

on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.

Ben O. Johnson

Subscribed and sworn to before me this 30<sup>th</sup> day of October, A.D. 2012.



Karen K. Sanders

1 CODE 4085

2  
3  
4  
5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE

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

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is:

- 19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:
- 21 a. File with the Clerk of the Court, whose address is shown below, a **formal written**  
22 **answer** to the complaint or petition, along with the appropriate filing fees, in  
23 accordance with the rules of the Court, and;
  - 24 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
25 is shown below.
- 26 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
27 enter a judgment against you for the relief demanded in the complaint or petition.

28 Dated this 12 day of March, 20 13

Issued on behalf of Plaintiff(s):

Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

By: [Signature]  
Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501



# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snell & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on Washoe County, 1001 East Ninth Street, Reno, NV 89512.

I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 10:36 am, I:

SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Denise Clause as Administrative Assistant.

Said service was made at the address of: 1001 East Ninth Street, Reno, NV 89512.

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

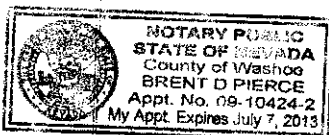
SIGNED and SWORN TO before me on the 19th  
day of March, 2013 by the affiant who  
is personally known to me.

  
NOTARY PUBLIC

  
Nicholas DiFraia  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
Las Vegas, NV 89101  
(702) 877-0200  
Our Job Serial Number: 2013000470

Service Fee: \$38.50



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

Electronically

03-19-2013:04:59:10 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3602406

CODE 4085

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.,

Petitioner(s)/Plaintiff(s).

vs.

Case No. CV13-00522

STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

**SUMMONS**

**TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.**

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).  
The object of this action is:

1. If you intend to defend this lawsuit, you must do the following within 20 days after service of this summons, exclusive of the day of service:

- File with the Clerk of the Court, whose address is shown below, a **formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
- Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.

2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 12 day of March, 2013

Issued on behalf of Plaintiff(s):

Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

By: [Signature]  
Deputy Clerk

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snell & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on Washoe County Assessor, 1001 East Ninth Street, Reno, NV 89512.

I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 10:42 am, I: **SERVED** an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Josh Wilson as Washoe County Assessor.

Said service was made at the address of: 1001 East Ninth Street, Reno, NV 89512.

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

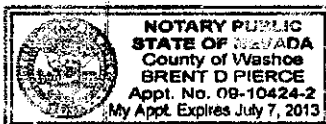
SIGNED and SWORN TO before me on the 14th  
day of March 2013 by the affiant who  
is personally known to me.

Brent D. Pierce  
NOTARY PUBLIC

Nicholas DiFraia  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
Las Vegas, NV 89101  
(702) 877-0200  
Our Job Serial Number: 2013000468

Service Fee: \$38.50



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

\_\_\_\_\_  
(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3602406

1 CODE 4085

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

7 VILLAGE LEAGUE TO SAVE INCLINE

8 ASSETS, INC., et al.,

Petitioner(s)/Plaintiff(s).

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is:

19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:

a. File with the Clerk of the Court, whose address is shown below, a formal written  
21 answer to the complaint or petition, along with the appropriate filing fees, in  
22 accordance with the rules of the Court, and;

b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
23 is shown below.

24 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
25 enter a judgment against you for the relief demanded in the complaint or petition.

26 Dated this 12 day of March, 20 13

27 Issued on behalf of Plaintiff(s):

JOEY ORDUNA HASTINGS,  
CLERK OF THE COURT

28 Name: Suellen Fulstone

By: [Signature]

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

Phone Number: (775) 789-5440

# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snell & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on Washoe County Treasurer, 1001 East Ninth Street, Reno, NV 89512.

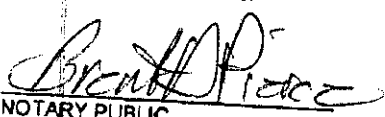
I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 10:39 am, I:

SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Frances Finch as Chief Deputy Treasurer.

Said service was made at the address of: 1001 East Ninth Street, Reno, NV 89512.

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

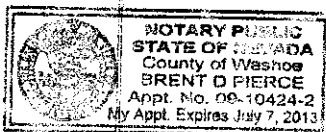
SIGNED and SWORN TO before me on the 14th  
day of March, 2013 by the affiant who  
is personally known to me.

  
NOTARY PUBLIC

  
Nicholas DiFraia  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
Las Vegas, NV 89101  
(702) 877-0200  
Our Job Serial Number: 2013000469

Service Fee: \$38.50



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)



FILED

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3602406

1 CODE 4085

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

7 VILLAGE LEAGUE TO SAVE INCLINE

8 ASSETS, INC., et al.,

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is: \_\_\_\_\_

19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:

- 21 a. File with the Clerk of the Court, whose address is shown below, a **formal written**  
22 **answer** to the complaint or petition, along with the appropriate filing fees, in  
23 accordance with the rules of the Court, and;  
24 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
25 is shown below.

26 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
27 enter a judgment against you for the relief demanded in the complaint or petition.

28 Dated this 12 day of March, 2013

Issued on behalf of Plaintiff(s):

Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT.

By: [Signature]

Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snell & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on State of Nevada on relation of the State Board of Equalization, 1550 College Parkway, Suite 115, Carson City, NV 89706.

I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 11:36 am, I:

SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Erin Fierro as Executive Assistant.

Said service was made at the address of: 1550 College Parkway, Suite 115, Carson City, NV 89706.

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

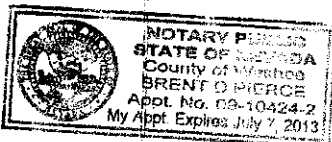
SIGNED and SWORN TO before me on the 19th  
day of March 2013 by the affiant who  
is personally known to me.

Brent D. Pierce  
NOTARY PUBLIC

Nicholas DiFraia  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
Las Vegas, NV 89101  
(702) 877-0200  
Our Job Serial Number: 2013000472

Service Fee: \$38.50



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_  
Summons

(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

FILED

Electronically

03-19-2013:04:59:10 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3602406

CODE 4085

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.,

Petitioner(s)/Plaintiff(s),

vs.

Case No. CV13-00522

STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

**SUMMONS**

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU  
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.  
READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).  
The object of this action is:

1. If you intend to defend this lawsuit, you must do the following within 20 days after service of this summons, exclusive of the day of service:
  - a. File with the Clerk of the Court, whose address is shown below, a **formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
  - b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.
2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this 12 day of March, 20 13

Issued on behalf of Plaintiff(s):

Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

By: [Signature]  
Deputy Clerk  
Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snell & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on State of Nevada on relation of the State Board of Equalization, 100 North Carson Street, Carson City, NV 89701.

I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 12:00 pm, I:

SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Trina Gibson as A.A. II.

Said service was made at the address of: 100 North Carson Street, Carson City, NV 89701.

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

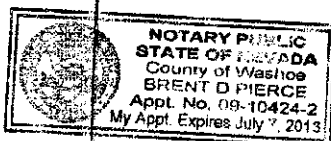
SIGNED and SWORN TO before me on the 19th  
day of March 2013 by the affiant who  
is personally known to me.

Brent D. Pierce  
NOTARY PUBLIC

Nicholas DiFraia  
Process Server

Legal Express  
Nevada License 999/999a  
911 South 1st Street  
Las Vegas, NV 89101  
(702) 877-0200  
Our Job Serial Number: 2013000473

Service Fee: \$38.50



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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)

**FILED**

Electronically

03-19-2013:04:59:10 PM

Joey Orduna Hastings

Clerk of the Court

Transaction # 3602406

1 CODE 4085

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

7 VILLAGE LEAGUE TO SAVE INCLINE

8 ASSETS, INC., et al.,

Petitioner(s)/Plaintiff(s),

9 vs.

Case No. CV13-00522

10 STATE OF NEVADA, et al.,

Dept. No. 3

Respondent(s)/Defendant(s).

11  
12 **SUMMONS**

13 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**  
14 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS.**  
15 **READ THE INFORMATION BELOW VERY CAREFULLY.**

16 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that  
17 document (see complaint or petition). When service is by publication, add a brief statement of the object of the  
18 action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of this action is: \_\_\_\_\_

19 1. If you intend to defend this lawsuit, you must do the following within 20 days after service of  
20 this summons, exclusive of the day of service:

a. File with the Clerk of the Court, whose address is shown below, a **formal written**  
21 **answer** to the complaint or petition, along with the appropriate filing fees, in  
22 accordance with the rules of the Court, and;

b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address  
23 is shown below.

24 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may  
25 enter a judgment against you for the relief demanded in the complaint or petition.

26 Dated this 12 day of March, 2013

27 Issued on behalf of Plaintiff(s):

JOEY ORDUNA HASTINGS  
CLERK OF THE COURT

By: [Signature]

Deputy Clerk

Second Judicial District Court  
75 Court Street  
Reno, Nevada 89501

28 Name: Suellen Fulstone

Address: 50 W. Liberty St., Ste. 510  
Reno, NV 89501

Phone Number: (775) 785-5440

# AFFIDAVIT OF SERVICE

State of Nevada

County of Washoe

Washoe County District Court

Case Number: CV13-00522

Petitioner:

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

vs.

Respondent:

STATE OF NEVADA, et al.,

For:

Snell & Wilmer L.L.P.  
50 West Liberty Street  
Suite 510  
Reno, NV 89501

Received by Legal Express on the 14th day of March, 2013 at 11:30 am to be served on Douglas County Assessor, 1616 8th Street, Minden, NV 89423.

I, Nicholas DiFraia, being duly sworn, depose and say that on the 15th day of March, 2013 at 12:30 pm, I:

SERVED an authorized entity by delivering a true copy of the Summons, Petition for Judicial Review, Motion to Consolidate Cases to Douglas Sonnemann as Douglas County Assessor.

Said service was made at the address of: 1616 8th Street, Minden, NV 89423.

Affiant is, and was, a citizen of the United States, over 18 years of age, and not a party to, nor interested in, the proceeding in which this affidavit is made.

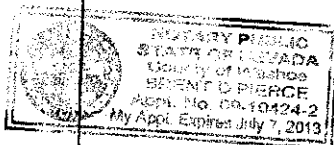
SIGNED and SWORN TO before me on the 14th  
day of March, 2013 by the affiant who  
is personally known to me.

  
NOTARY PUBLIC

  
Nicholas DiFraia  
Process Server

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SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

Summons

(Title of Document)

filed in case number: CV13-00522



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 3/19/13

/s/ Suellen Fulstone  
(Signature)

Suellen Fulstone  
(Print Name)

Petitioners  
(Attorney for)