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West's Nevada Revised Statutes Annotated

Title 18. State Executive Department (Chapters 223-233J)

Chapter 233B. Nevada Administrative Procedure Act (Refs & Annos)

General Provisions

N.R.S. 233B.032

233B.032. "Contested case" defined

Currentness

"Contested case" means a proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing, or in which an administrative penalty may be imposed.

Credits

Added by Laws 1977, p. 1382.

Notes of Decisions (4)

N. R. S. 233B.032, NV ST 233B.032

Current through the 2011 76th Regular Session of the Nevada Legislature, and technical corrections received from the Legislative Counsel Bureau (2012).

West's Nevada Revised Statutes Annotated

Title 18. State Executive Department (Chapters 223-233J)

Chapter 233B. Nevada Administrative Procedure Act (Refs & Annos)

Adjudication of Contested Cases

N.R.S. 233B.130

233B.130. Judicial review; requirements for petition;
statement of intent to participate; petition for rehearing

Effective: May 29, 2007

Currentness

1. Any party who is:

(a) Identified as a party of record by an agency in an administrative proceeding; and

(b) Aggrieved by a final decision in a contested case,

is entitled to judicial review of the decision. Where appeal is provided within an agency, only the decision at the highest level is reviewable unless a decision made at a lower level in the agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an agency in a contested case is reviewable if review of the final decision of the agency would not provide an adequate remedy.

2. Petitions for judicial review must:

(a) Name as respondents the agency and all parties of record to the administrative proceeding;

(b) Be instituted by filing a petition in the district court in and for Carson City, in and for the county in which the aggrieved party resides or in and for the county where the agency proceeding occurred; and

(c) Be filed within 30 days after service of the final decision of the agency.

Cross-petitions for judicial review must be filed within 10 days after service of a petition for judicial review.

3. The agency and any party desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon the agency and every party within 20 days after service of the petition.

4. A petition for rehearing or reconsideration must be filed within 15 days after the date of service of the final decision. An order granting or denying the petition must be served on all parties at least 5 days before the expiration of the time for filing the petition for judicial review. If the petition is granted, the subsequent order shall be deemed the final order for the purpose of judicial review.

5. The petition for judicial review and any cross-petitions for judicial review must be served upon the agency and every party within 45 days after the filing of the petition, unless, upon a showing of good cause, the district court extends the time for such service. If the proceeding involves a petition for judicial review or cross-petition for judicial review of a final decision of the State Contractors' Board, the district court may, on its own motion or the motion of a party, dismiss from the proceeding any agency or person who:

(a) Is named as a party in the petition for judicial review or cross-petition for judicial review; and

(b) Was not a party to the administrative proceeding for which the petition for judicial review or cross-petition for judicial review was filed.

6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case involving an agency to which this chapter applies.

Credits

Added by Laws 1965, p. 966. Amended by Laws 1969, p. 318; Laws 1975, p. 495; Laws 1977, p. 57; Laws 1981, p. 80; Laws 1989, p. 1651; Laws 1991, p. 465; Laws 2003, c. 337, § 17, eff. June 9, 2003; Laws 2005, c. 283, § 2; Laws 2007, c. 164, § 2, eff. May 29, 2007.

NOTES OF DECISIONS

West's Nevada Revised Statutes Annotated

Title 32. Revenue and Taxation (Chapters 360-377B)

Chapter 361. Property Tax (Refs & Annos)

Assessment

Equalization of Assessments Among the Several Counties

N.R.S. 361.333

361.333. Procedure

Currentness

1. Not later than May 1 of each year, the Department shall:
 - (a) Determine the ratio of the assessed value of each type or class of property for which the county assessor has the responsibility of assessing in each county to:
 - (1) The assessed value of comparable property in the remaining counties.
 - (2) The taxable value of that type or class of property within that county.
 - (b) Publish and deliver to the county assessors and the boards of county commissioners of the counties of this state:
 - (1) A comparison of the latest median ratio, overall ratio and coefficient of dispersion of the median for:
 - (I) The total property for each of the 17 counties; and
 - (II) Each major class of property within each county.
 - (2) A determination whether each county has adequate procedures to ensure that all property subject to taxation is being assessed in a correct and timely manner.

- (3) A summary for each county of any deficiencies that were discovered in carrying out the study of those ratios.
2. The Nevada Tax Commission shall allocate the counties into three groups such that the work of conducting the study is approximately the same for each group. The Department shall conduct the study in one group each year. The Commission may from time to time reallocate counties among the groups, but each county must be studied at least once in every 3 years.
3. In conducting the study the Department shall include an adequate sample of each major class of property and may use any statistical criteria that will indicate an accurate ratio of taxable value to assessed value and an accurate measure of equality in assessment.
4. During the month of May of each year, the board of county commissioners, or a representative designated by the board's chair, and the county assessor, or a representative designated by the assessor, of each county in which the study was conducted shall meet with the Nevada Tax Commission. The board of county commissioners and the county assessor, or their representatives, shall:
 - (a) Present evidence to the Nevada Tax Commission of the steps taken to ensure that all property subject to taxation within the county has been assessed as required by law.
 - (b) Demonstrate to the Nevada Tax Commission that any adjustments in assessments ordered in the preceding year as a result of the procedure provided in paragraph (c) of subsection 5 have been complied with.
5. At the conclusion of each meeting with the board of county commissioners and the county assessor, or their representatives, the Nevada Tax Commission may:
 - (a) If it finds that all property subject to taxation within the county has been assessed at the proper percentage, take no further action.

(b) If it finds that any class of property is assessed at less or more than the proper percentage, and if the board of county commissioners approves, order a specified percentage increase or decrease in the assessed valuation of that class on the succeeding tax list and assessment roll.

(c) If it finds the existence of underassessment or overassessment wherein the ratio of assessed value to taxable value is less than 32 percent or more than 36 percent in any of the following classes:

(1) Improvement values for the reappraisal area;

(2) Land values for the reappraisal area; and

(3) Total property values for each of the following use categories in the reappraisal area:

(I) Vacant;

(II) Single-family residential;

(III) Multi-residential;

(IV) Commercial and industrial; and

(V) Rural,

of the county which are required by law to be assessed at 35 percent of their taxable value, if in the nonreappraisal area the approved land and improvement factors are not being correctly applied or new construction is not being added to the assessment roll in a timely manner, or if the board of county commissioners does not agree to an increase or decrease in assessed value as provided in paragraph (b), order the board of county commissioners to employ forthwith one or more qualified appraisers approved by the Department. The payment of those appraisers' fees is a proper charge against the county notwithstanding that the amount of such fees has not been budgeted in accordance with law. The appraisers shall determine whether or not the county assessor has assessed all real and personal property in the county subject to taxation at the rate of assessment

required by law. The appraisers may cooperate with the Department in making their determination if so agreed by the appraisers and the Department, and shall cooperate with the Department in preparing a report to the Nevada Tax Commission. The report to the Nevada Tax Commission must be made on or before October 1 following the date of the order. If the report indicates that any real or personal property in the county subject to taxation has not been assessed at the rate required by law, a copy of the report must be transmitted to the board of county commissioners by the Department before November 1. The board of county commissioners shall then order the county assessor to raise or lower the assessment of such property to the rate required by law on the succeeding tax list and assessment roll.

6. The Nevada Tax Commission may adopt regulations reasonably necessary to carry out the provisions of this section.

7. Any county assessor who refuses to increase or decrease the assessment of any property pursuant to an order of the Nevada Tax Commission or the board of county commissioners as provided in this section is guilty of malfeasance in office.

Credits

Added by Laws 1967, p. 893. Amended by Laws 1973, p. 329; Laws 1975, p. 1661; Laws 1979, p. 81; Laws 1981, p. 794; Laws 1989, p. 808; Laws 1991, p. 699; Laws 1999, c. 81, § 1.

N. R. S. 361.333, NV ST 361.333

Current through the 2011 76th Regular Session of the Nevada Legislature, and technical corrections received from the Legislative Counsel Bureau (2012).

West's Nevada Revised Statutes Annotated

Title 32. Revenue and Taxation (Chapters 360-377B)

Chapter 361. Property Tax (Refs & Annos)

Equalization

Equalization by County Board of Equalization

N.R.S. 361.355

361.355. Complaints of overvaluation or excessive valuation by
reason of undervaluation or nonassessment of other property

Currentness

1. Any person, firm, company, association or corporation, claiming overvaluation or excessive valuation of its real or secured personal property in the State, whether assessed by the Nevada Tax Commission or by the county assessor or assessors, by reason of undervaluation for taxation purposes of the property of any other person, firm, company, association or corporation within any county of the State or by reason of any such property not being so assessed, shall appear before the county board of equalization of the county or counties where the undervalued or nonassessed property is located and make complaint concerning it and submit proof thereon. The complaint and proof must show the name of the owner or owners, the location, the description, and the taxable value of the property claimed to be undervalued or nonassessed.
2. Any person, firm, company, association or corporation wishing to protest the valuation of real or personal property placed on the unsecured tax roll which is assessed between May 1 and December 15 may appeal the assessment on or before the following January 15, or the first business day following January 15 if it falls on a Saturday, Sunday or holiday, to the county board of equalization.
3. The county board of equalization forthwith shall examine the proof and all data and evidence submitted by the complainant, together with any evidence submitted thereon by the county assessor or any other person. If the county board of equalization determines that the complainant has just cause for making the complaint it shall immediately make such increase in valuation of the property complained of as conforms to its taxable value, or cause the property to be placed on the assessment roll at its taxable value, as the case may be, and make proper equalization thereof.

4. Except as provided in subsection 5 and NRS 361.403, any such person, firm, company, association or corporation who fails to make a complaint and submit proof to the county board of equalization of each county wherein it is claimed property is undervalued or nonassessed as provided in this section, is not entitled to file a complaint with, or offer proof concerning that undervalued or nonassessed property to, the State Board of Equalization.

5. If the fact that there is such undervalued or nonassessed property in any county has become known to the complainant after the final adjournment of the county board of equalization of that county for that year, the complainant may file the complaint on or before March 10 with the State Board of Equalization and submit his or her proof as provided in this section at a session of the State Board of Equalization, upon complainant proving to the satisfaction of the State Board of Equalization he or she had no knowledge of the undervalued or nonassessed property before the final adjournment of the county board of equalization. If March 10 falls on a Saturday, Sunday or legal holiday, the complaint may be filed on the next business day. The State Board of Equalization shall proceed in the matter in the same manner as provided in this section for a county board of equalization in such a case, and cause its order thereon to be certified to the county auditor with direction therein to change the assessment roll accordingly.

Credits

Amended by Laws 1975, p. 1664; Laws 1977, p. 1319; Laws 1981, p. 797; Laws 1983, p. 684; Laws 1985, p. 1435; Laws 1993, p. 93; Laws 2003, c. 451, § 23, eff. July 1, 2003.

Formerly section 4 of chapter 177 of Laws 1917 [part]; amended by Laws 1929, p. 341; Laws 1939, p. 279; Laws 1953, p. 576 *and* section 19 of chapter 344 of Laws 1953.

N. R. S. 361.355, NV ST 361.355

Current through the 2011 76th Regular Session of the Nevada Legislature, and technical corrections received from the Legislative Counsel Bureau (2012).

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West's Nevada Revised Statutes Annotated

Title 32. Revenue and Taxation (Chapters 360-377B)

Chapter 361. Property Tax (Refs & Annos)

Equalization

Equalization by County Board of Equalization

N.R.S. 361.360

361.360. Appeals to State Board of Equalization

Effective: June 13, 2011

Currentness

1. Any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his or her property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 and present to the State Board of Equalization the matters complained of at one of its sessions. If March 10 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.
2. All such appeals must be presented upon the same facts and evidence as were submitted to the county board of equalization in the first instance, unless there is discovered new evidence pertaining to the matter which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization. The new evidence must be submitted in writing to the State Board of Equalization and served upon the county assessor not less than 7 days before the hearing.
3. Any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may likewise protest to the State Board of Equalization. Every such appeal must be filed on or before May 15. If May 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. A meeting must be held before May 31 to hear those protests that in the opinion of the State Board of Equalization may have a substantial effect on tax revenues. One or more meetings may be held at any time and place in the State before November 1 to hear all other protests.
4. The State Board of Equalization may not reduce the assessment of the county assessor if:

(a) The appeal involves an assessment on property which the taxpayer has refused or, without good cause, has neglected to include in the list required of the taxpayer pursuant to NRS 361.265 or if the taxpayer has refused or, without good cause, has neglected to provide the list to the county assessor; or

(b) The taxpayer has, without good cause, refused entry to the assessor for the purpose of conducting the physical examination authorized by NRS 361. 260.

5. Any change made in an assessment appealed to the State Board of Equalization is effective only for the fiscal year for which the assessment was made. The county assessor shall review each such change and maintain or remove the change as circumstances warrant for the next fiscal year.

6. If the State Board of Equalization determines that the record of a case on appeal from the county board of equalization is inadequate because of an act or omission of the county assessor, the district attorney or the county board of equalization, the State Board of Equalization may remand the case to the county board of equalization with directions to develop an adequate record within 30 days after the remand. The directions must indicate specifically the inadequacies to be remedied. If the State Board of Equalization determines that the record returned from the county board of equalization after remand is still inadequate, the State Board of Equalization may hold a hearing anew on the appellant's complaint or it may, if necessary, contract with an appropriate person to hear the matter, develop an adequate record in the case and submit recommendations to the State Board. The cost of the contract and all costs, including attorney's fees, to the State or the appellant necessary to remedy the inadequate record on appeal are a charge against the county.

Credits

Amended by Laws 1971, p. 507; Laws 1975, p. 1665; Laws 1981, p. 798; Laws 1983, pp. 685, 1902; Laws 1985, pp. 894, 1436; Laws 1993, p. 95; Laws 1997, c. 446, § 20, eff. July 1, 1997; Laws 2003, c. 451, § 26, eff. July 1, 2003; Laws 2007, c. 415, § 11, eff. July 1, 2007; Laws 2011, c. 334, § 2, eff. June 13, 2011.

Formerly section 20 of chapter 344 of Laws 1953.

Notes of Decisions (1)

N. R. S. 361.360. NV ST 361.360

361.360. Appeals to State Board of Equalization, NV ST 361.360

Current through the 2011 76th Regular Session of the Nevada Legislature, and technical corrections received from the Legislative Counsel Bureau (2012).

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West's Nevada Revised Statutes Annotated

Title 32. Revenue and Taxation (Chapters 360-377B)

Chapter 361. Property Tax (Refs & Annos)

Equalization

Equalization by State Board of Equalization

N.R.S. 361.375

361.375. State Board of Equalization: Composition; qualifications; terms; removal; compensation; quorum; adoption of and compliance with regulations; staff

Currentness

1. The State Board of Equalization, consisting of five members appointed by the Governor, is hereby created. The Governor shall designate one of the members to serve as Chair of the Board.
2. The Governor shall appoint:
 - (a) One member who is a certified public accountant or a registered public accountant.
 - (b) One member who is a property appraiser with a professional designation.
 - (c) One member who is versed in the valuation of centrally assessed properties.
 - (d) Two members who are versed in business generally.
3. Only three of the members may be of the same political party and no more than two may be from the same county.
4. An elected public officer or his or her deputy, employee or any person appointed by him or her to serve in another position must not be appointed to serve as a member of the State Board of Equalization.

5. After the initial terms, members serve terms of 4 years, except when appointed to fill unexpired terms. No member may serve more than two full terms consecutively.
6. Any member of the Board may be removed by the Governor if, in the opinion of the Governor, that member is guilty of malfeasance in office or neglect of duty.
7. Each member of the Board is entitled to receive a salary of not more than \$80, as fixed by the Board, for each day actually employed on the work of the Board.
8. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.
9. A majority of the members of the Board constitutes a quorum, and a majority of the Board shall determine the action of the Board. The Board may adopt regulations governing the conduct of its business.
10. The Board shall comply with any applicable regulation adopted by the Nevada Tax Commission.
11. The staff of the State Board of Equalization must be provided by the Department and the Executive Director is the Secretary of the Board.

Credits

Amended by Laws 1969, p. 887; Laws 1975, p. 1665; Laws 1977, pp. 1050, 1201; Laws 1981, pp. 65, 1980; Laws 1985, p. 416; Laws 1989, p. 1713; Laws 2005, c. 142, § 5.

Formerly section 6 of chapter 177 of Laws 1917 [part]; amended by Laws 1929, p. 341; Laws 1933, p. 248; Laws 1939, p. 279; Laws 1943, p. 81; Laws 1953, p. 576.

N. R. S. 361.375, NV ST 361.375

Current through the 2011 76th Regular Session of the Nevada Legislature, and technical corrections received from the Legislative Counsel Bureau (2012).

West's Nevada Revised Statutes Annotated

Title 32. Revenue and Taxation (Chapters 360-377B)

Chapter 361. Property Tax (Refs & Annos)

Equalization

Equalization by State Board of Equalization

N.R.S. 361.395

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

Currentness

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

(a) Equalize property valuations in the State.

(b) Review the tax rolls of the various counties as corrected by the county boards of equalization thereof and 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 boards of equalization and the Nevada Tax Commission, of any class or piece of property in whole or in part in any county, including those classes of property enumerated in NRS 361.320.

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

Credits

Amended by Laws 1977, p. 605; Laws 1981, p. 799; Laws 1983, p. 1196; Laws 1987, p. 294; Laws 1993, p. 96.

Formerly section 4 of chapter 177 of Laws 1917 [part]; amended by Laws 1929, p. 341; Laws 1939, p. 279; Laws 1953, p. 576 *and* section 6 of chapter 177 of Laws 1917 [part]; amended by Laws 1929, p. 341; Laws 1933, p. 248; Laws 1939, p. 279; Laws 1943, p. 81; Laws 1953, p. 576.

Notes of Decisions (6)

N. R. S. 361.395, NV ST 361.395

Current through the 2011 76th Regular Session of the Nevada Legislature, and technical corrections received from the Legislative Counsel Bureau (2012).

West's Nevada Revised Statutes Annotated

Title 32. Revenue and Taxation (Chapters 360-377B)

Chapter 361. Property Tax (Refs & Annos)

Equalization

Equalization by State Board of Equalization

N.R.S. 361.400

361.400. Appeals from action of county boards of equalization

Currentness

1. The State Board of Equalization shall hear and determine all appeals from the action of each county board of equalization, as provided in NRS 361.360.
2. No such appeals shall be heard and determined by the State Board of Equalization where overvaluation or excessive valuation of the claimant's property, or the undervaluation of other property, or nonassessment of other property, was the ground of complaint before the county board of equalization, save upon the terms and conditions provided in NRS 361.350 and 361.355.
3. No appeal shall be heard and determined save upon the evidence and data submitted to the county board of equalization, unless it is proven to the satisfaction of the State Board of Equalization that it was impossible in the exercise of due diligence to have discovered or secured such evidence and data in time to have submitted the same to the county board of equalization prior to its final adjournment.

Credits

Formerly section 4 of chapter 177 of Laws 1917 [part]; amended by Laws 1929, p. 341; Laws 1939, p. 279; Laws 1953, p. 576 *and* section 6 of chapter 177 of Laws 1917 [part]; amended by Laws 1929, p. 341; Laws 1933, p. 248; Laws 1939, p. 279; Laws 1943, p. 81; Laws 1953, p. 576.

N. R. S. 361.400, NV ST 361.400

Current through the 2011 76th Regular Session of the Nevada Legislature, and technical corrections received from the Legislative Counsel Bureau (2012).

2013 Nevada Laws Ch. 481 (A.B. 66)

NEVADA 2013 SESSION LAWS

REGULAR SESSION OF THE 77TH LEGISLATURE (2013)

Additions are indicated by Text; deletions by
~~Text~~ .

Vetoed are indicated by ~~Text~~ ;
stricken material by ~~Text~~ .

Ch. 481
A.B. No. 66

AN ACT relating to property tax; revising the manner in which the State Board of Equalization must provide certain notices concerning increases in the valuation of property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Board of Equalization is required to give 10 days' notice by registered or certified mail or by personal service to interested persons if the Board proposes to increase the valuation of any property on the assessment roll. (NRS 361.395)

Section 1 of this bill maintains this requirement if the Board proposes to increase the valuation of any property on the assessment roll in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403.

However, for notices of proposed increases in the valuation of a class or group of property that relate to a fiscal year that begins on or after July 1, 2013, **section 1** requires the Board to give 30 days' notice by first-class mail to interested persons.

Under existing law, whenever the valuation of any property is raised by the Board, the Secretary of the Board is required to forward notice of the increased valuation by certified mail to the property owner or owners affected. (NRS 361.405) **Section 1.5** of this bill: (1) maintains the requirement that this notice be provided by certified mail if the Board increases the valuation in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403; and (2) requires this notice to be provided by first-class mail to the property owner or owners affected if the Board increases the valuation of a class or group of properties.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED
IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 361.395 is hereby amended to read as follows:

<< NV ST 361.395 >>

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

(a) Equalize property valuations in the State.

(b) Review the tax rolls of the various counties as corrected by the county boards of equalization thereof and 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 boards of equalization and the Nevada Tax Commission, of any class or piece of property in whole or in part in any county, including those classes of property enumerated in NRS 361.320.

2. If the State Board of Equalization proposes to increase the valuation of any property on the assessment roll: :

(a) Pursuant to paragraph (b) of subsection 1, it shall give 30 days' notice to interested persons by first-class mail.

(b) In a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403, it shall give 10 days' notice to interested persons by registered or certified mail or by personal service. ~~The~~

A notice provided pursuant to this subsection must state the time when and place where the person may appear and submit proof concerning the valuation of the property. A person waives the notice requirement if he or she personally appears before the Board and is notified of the proposed increase in valuation.

Sec. 1.5. NRS 361.405 is hereby amended to read as follows:

<< NV ST 361.405 >>

1. The Secretary of the State Board of Equalization forthwith shall certify any change made by the Board in the assessed valuation of any property in whole or in part to the county auditor of the county where the property is assessed, and whenever the valuation of any property is raised: :

(a) In a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403, the Secretary of the ~~State Board of Equalization~~ shall forward by certified mail to the property owner or owners affected, notice of the increased valuation.

(b) Pursuant to paragraph (b) of subsection 1 of NRS 361.395, the Secretary of the Board shall forward by first-class mail to the property owner or owners affected, notice of the increased valuation.

2. As soon as changes resulting from cases having a substantial effect on tax revenues have been certified to the county auditor by the Secretary of the State Board of Equalization, the county auditor shall:

(a) Enter all such changes and the value of any construction work in progress and net proceeds of minerals which were certified to him or her by the Department, on the assessment roll before the delivery thereof to the tax receiver.

(b) Add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment roll.

(c) Certify the results to the board of county commissioners and the Department.

3. The board of county commissioners shall not levy a tax on the net proceeds of minerals added to the assessed valuation pursuant to paragraph (a) of subsection 2, but, except as otherwise provided by specific statute, the net proceeds of minerals must be included in the assessed valuation of the taxable property of the county and all local governments in the county for the determination of the rate of tax and all other purposes for which assessed valuation is used.

4. As soon as changes resulting from cases having less than a substantial effect on tax revenue have been certified to the county tax receiver by the Secretary of the State Board of Equalization, the county tax receiver shall adjust the assessment roll or the tax statement or make a tax refund, as directed by the State Board of Equalization.

Sec. 2. The amendatory provisions of section 1 of this act apply only to notices of proposed increases in the valuation of property that relate to a fiscal year that begins on or after July 1, 2013.

Sec. 3. This act becomes effective on July 1, 2013.

Approved by the Governor June 11, 2013.

area the approved land and improvement factors are not being correctly applied or new construction is not being added to the assessment roll in a timely manner, or if the board of county commissioners does not agree to an increase or decrease in assessed value as provided in paragraph (b), order the board of county commissioners to employ forthwith one or more qualified appraisers approved by the Department. The payment of those appraisers' fees is a proper charge against the county notwithstanding that the amount of such fees has not been budgeted in accordance with law. The appraisers shall determine whether or not the county assessor has assessed all real and personal property in the county subject to taxation at the rate of assessment required by law. The appraisers may cooperate with the Department in making their determination if so agreed by the appraisers and the Department, and shall cooperate with the Department in preparing a report to the Nevada Tax Commission. The report to the Nevada Tax Commission must be made on or before October 1 following the date of the order. If the report indicates that any real or personal property in the county subject to taxation has not been assessed at the rate required by law, a copy of the report must be transmitted to the board of county commissioners by the Department before November 1. The board of county commissioners shall then order the county assessor to raise or lower the assessment of such property to the rate required by law on the succeeding tax list and assessment roll.

6. The Nevada Tax Commission may adopt regulations reasonably necessary to carry out the provisions of this section.

7. Any county assessor who refuses to increase or decrease the assessment of any property pursuant to an order of the Nevada Tax Commission or the board of county commissioners as provided in this section is guilty of malfeasance in office.

(Added to NRS by 1967, 893; A 1973, 329; 1975, 1661; 1979, 81; 1981, 794; 1989, 808; 1991, 699; 1999, 177)

ADMINISTRATIVE REGULATIONS.

Equalization of assessments among several counties, NAC 361.580

EQUALIZATION BY STATE BOARD OF EQUALIZATION

NAC 361.650 Definitions. (NRS 361.375, 361.395) As used in NAC 361.650 to 361.669, inclusive, unless the context otherwise requires, the words and terms defined in NAC 361.651 to 361.656, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by St. Bd. of Equalization by R153-09, eff. 4-20-2010)

NAC 361.651 "County board" defined. (NRS 361.375, 361.395) "County board" means a county board of equalization.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.652 "Equalize property valuations" defined. (NRS 361.375, 361.395) "Equalize property valuations" 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.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.653 "Interested person" defined. (NRS 361.375, 361.395) "Interested person" means an owner of any relevant property, as indicated in the records of the county assessor of the county in which the property is located or, if the Commission establishes the valuation of the

property, as indicated in the records of the Department.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.654 "Ratio study" defined. (NRS 361.375, 361.395) "Ratio study" means an evaluation of the quality and level of assessment of a class or group of properties in a county which compares the assessed valuation established by the county assessor for a sampling of those properties to:

1. An estimate of the taxable value of the property by the Department or an independent appraiser; or
 2. The sales price of the property,
- as appropriate.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.655 "Secretary" defined. (NRS 361.375, 361.395) "Secretary" means the Secretary of the State Board.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.656 "State Board" defined. (NRS 361.375, 361.395) "State Board" means the State Board of Equalization.

(Added to NAC by St. Bd. of Equalization by R153-09, eff. 4-20-2010)

NAC 361.657 Scope. (NRS 361.375, 361.395) The provisions of NAC 361.650 to 361.669, inclusive, govern the practice and procedure for proceedings before the State Board to carry out the provisions of NRS 361.395.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.658 Adoption by reference of *Standard on Ratio Studies*; revision of publication after adoption. (NRS 361.375, 361.395)

1. The State Board hereby adopts by reference the *Standard on Ratio Studies*, July 2007 edition, published by the International Association of Assessing Officers. The *Standard on Ratio Studies* may be obtained from the International Association of Assessing Officers, 314 West 10th Street, Kansas City, Missouri 64105-1616, or on the Internet at <http://www.iaao.org/store>, for the price of \$10.

2. If the publication adopted by reference in subsection 1 is revised, the State Board will review the revision to determine its suitability for this State. If the State Board determines that the revision is not suitable for this State, the State Board will hold a public hearing to review its determination and give notice of that hearing within 30 days after the date of the publication of the revision. If, after the hearing, the State Board does not revise its determination, the State

Board will give notice that the revision is not suitable for this State within 30 days after the hearing. If the State Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

(Added to NAC by St. Bd. of Equalization by R153-09, eff. 4-20-2010)

NAC 361.659 Annual sessions of State Board: Duties of State Board; adjournment.
(NRS 361.375, 361.395)

1. During each annual session of the State Board, the State Board will hold one or more hearings to:

- (a) Review the tax roll of each county, as corrected by the county board;
- (b) Determine whether the property in this State has been assessed uniformly in accordance with the methods of appraisal and at the level of assessment required by law;
- (c) Determine whether the taxable values specified in the tax roll of any county must be increased or decreased to equalize property valuations in this State; and
- (d) Take such additional actions as it deems necessary to carry out the provisions of NRS 361.395.

2. Subject to the time limitations specified in NRS 361.380, the State Board may adjourn its annual session from time to time until it has completed its duties pursuant to NRS 361.395 for the applicable fiscal year.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.660 Information to be considered by State Board. (NRS 361.375, 361.395) In determining whether the property in this State has been assessed uniformly in accordance with the methods of appraisal and at the level of assessment required by law, the State Board will consider:

1. The tax roll of each county, as corrected by the county board and filed with the Secretary pursuant to NRS 361.390;
2. The central assessment roll prepared pursuant to NRS 361.3205;
3. The results of any relevant ratio study conducted by the Department pursuant to NRS 361.333;
4. The results of any relevant audit of the work practices of a county assessor performed by the Department pursuant to NRS 361.333 to determine whether a county has adequate procedures to ensure that all property subject to taxation is being assessed in a correct and timely manner;
5. Any relevant evidence submitted to a county board or the State Board pursuant to NRS 361.355;
6. Any information provided to the State Board pursuant to NAC 361.661, 361.662 and 361.663; and
7. Any other information the State Board deems relevant.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.661 Provision of certain information by county assessor upon request of State Board. (NRS 361.375, 361.395)

1. In addition to the information contained in the tax roll filed with the Secretary pursuant to NRS 361.390, a county assessor shall, upon the request of the State Board, provide any information the State Board deems necessary to carry out the provisions of NRS 361.395, including, without limitation:

- (a) The assessor's parcel number for any parcel of property.
- (b) The taxable value and assessed value determined for any land, improvements or personal property before and after any adjustments to those values by the county board.
- (c) The value per unit determined for any land or personal property before and after any adjustments to that value by the county board.
- (d) Land use codes for the county.
- (e) Market areas in the county.
- (f) The year in which any improvements were built.
- (g) The classification of quality for any improvements.
- (h) The size of any improvements.
- (i) The size of any lot.
- (j) The zoning of any property.
- (k) The date of the most recent sale of any property and the sales price of the property.
- (l) Summary statistics concerning taxable values and assessed values for tax districts, market areas, neighborhoods and land use codes, including, without limitation, the applicable medians and modes.

2. If the State Board desires a county assessor to provide any information pursuant to this section, the State Board will require the Department to send to the county assessor by regular mail a notice of the request which describes the information requested and the format and type of media in which the information is requested. The county assessor shall submit the information to the State Board, in the format and type of media requested, within 10 business days after the date of the postmark on the notice of the request or such a longer period as the State Board, upon the request of the county assessor, may allow.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.662 Ratio studies and other statistical analyses: Performance upon request of and evaluation by State Board. (NRS 361.375, 361.395)

1. Upon the request of the State Board, the Department or county assessor shall perform and submit to the State Board any ratio study or other statistical analysis that the State Board deems appropriate to assist it in determining the quality and level of assessment of any class or group of properties in a county.

2. Each ratio study or other statistical analysis requested by the State Board pursuant to this section must:

- (a) Be performed in accordance with the provisions of the *Standard on Ratio Studies* adopted

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by reference in NAC 361.658, except any specific provision of the *Standard on Ratio Studies* that conflicts or is inconsistent with the laws of this State or any regulations adopted by the State Board or the Commission;

(b) Identify the statistical population that is the subject of the ratio study or statistical analysis, which may be divided into two or more strata according to neighborhood, age, type of construction or any other appropriate criterion or set of criteria; and

(c) Include an adequate sampling of each stratum into which the statistical population that is the subject of the ratio study or statistical analysis is divided, and such statistical criteria as may be required, to indicate an accurate ratio of assessed value to taxable value and an accurate measure of equality in assessment.

3. The State Board will determine the appropriate time frame from which sales of property may be considered in any ratio study or statistical analysis requested pursuant to this section. If the State Board determines that the appropriate time frame is any period other than the 36 months immediately preceding July 1 of the year before the applicable lien date, the State Board will provide the reasons for that determination to the Department or county assessor.

4. The State Board will evaluate each ratio study and statistical analysis performed pursuant to this section to determine whether the ratio study or statistical analysis reliably indicates the quality and level of assessment for the applicable class or group of properties. In making that determination, the State Board will consider:

(a) Whether the Department or county assessor used a sufficient number of sales or appraisals in performing the ratio study or statistical analysis;

(b) Whether the samples of property selected by the Department or county assessor adequately represent the total makeup of the applicable class or group of properties;

(c) Whether the Department or county assessor correctly adjusted the samples of property for market conditions;

(d) Whether any variations among sales or appraisal ratios affect the reliability of the ratio study or statistical analysis; and

(e) Any other matters the State Board deems relevant.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.663 Investigation and evaluation by Department of procedures and operation of county assessor. (NRS 361.375, 361.395) 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, the State Board will require the Department to:

1. Conduct a systematic investigation and evaluation of the procedures and operations of the county assessor; and

2. Report to the State Board its findings concerning whether the county assessor has appraised the property in the county in accordance with the methods of valuation prescribed by

statute and the regulations of the Commission.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.664 Preliminary finding that class or group of properties was not assessed uniformly in accordance with methods of appraisal and at level of assessment required by law: Scheduling and notice of hearing. (NRS 361.375, 361.395)

1. If the State Board, after considering the information described in NAC 361.660, makes a preliminary finding that any class or group of properties in this State was not assessed uniformly in accordance with the methods of appraisal and at the level of assessment required by law, the State Board will:

(a) Schedule a hearing concerning that preliminary finding on a date which is not less than 10 business days after the notice of the hearing is mailed pursuant to paragraph (b).

(b) Require the Department to send by registered or certified mail a notice of the hearing to the county clerk, county assessor, district attorney and chair of the county board of each county in which any of the property is located. A legal representative of the county may waive the receipt of such notice.

(c) Require the Secretary to provide a copy of the notice of the hearing to the Commission and to the board of county commissioners of each county in which any of the property is located.

2. The notice of the hearing must state:

(a) The date, time and location of the hearing;

(b) The information on which the State Board relied to make its preliminary finding that the class or group of properties was not assessed uniformly in accordance with the methods of appraisal and at the level of assessment required by law; and

(c) The proposed order of the State Board.

3. The Department shall include with each notice provided pursuant to paragraph (b) of subsection 1, and upon the request of any interested person, provide to that person, a copy of any analysis or other information considered by the State Board in making its preliminary finding that the class or group of properties was not assessed uniformly in accordance with the methods of appraisal and at the level of assessment required by law.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.665 Hearing on preliminary finding: Order of State Board; additional hearing following order for reappraisal. (NRS 361.375, 361.395)

1. Upon the completion of a hearing scheduled pursuant to NAC 361.664, the State Board will issue:

(a) An order stating that the State Board will take no action on the matter and specifying the reasons that no action will be taken;

(b) An order referring the matter to the Commission for the Commission to take such action within its jurisdiction as the Commission deems to be appropriate;

(c) An order requiring the reappraisal by the county assessor of a class or group of properties in a county; or

(d) Except as otherwise provided in this paragraph, if a ratio study or other statistical analysis performed pursuant to NRS 361.333 or NAC 361.662 indicates with a confidence level of at least 95 percent that the median assessment ratio for any class or group of properties is less than 32 percent or more than 36 percent, an order increasing or decreasing the assessed valuation of that class or group of properties by such a factor as the State Board deems to be appropriate to cause the median assessment ratio to be not less than 32 percent and not more than 36 percent. The State Board will not issue such an order if the application of the factor would cause the coefficient of dispersion calculated for the class or group of properties to fail to meet the recommendations set forth in the *Standard on Ratio Studies* adopted by reference in NAC 361.658.

2. If the State Board orders the reappraisal of a class or group of properties pursuant to this section, the State Board will:

(a) Schedule an additional hearing to determine whether to issue an order:

(1) Stating that the State Board will take no further action on the matter and specifying the reasons that no further action will be taken;

(2) Referring the matter to the Commission for the Commission to take such action within its jurisdiction as the Commission deems to be appropriate; or

(3) Increasing or decreasing the taxable valuation of the class or group of properties in accordance with the reappraisal or in such other manner as the State Board deems appropriate to equalize property valuations.

(b) Require the Department to send by registered or certified mail, not less than 10 business days before the date of the additional hearing, notice of the date, time and location of the hearing to the county clerk, county assessor, district attorney and chair of the county board of the county in which the property is located. A legal representative of the county may waive the receipt of such notice.

(c) Require the Secretary to notify the Commission and the board of county commissioners of the county in which the property is located, of the date, time and location of the hearing.

3. Each order issued pursuant to this section must include a statement of any pertinent findings of fact made by the State Board. If the State Board issues an order pursuant to this section:

(a) Requiring the reappraisal of a class or group of properties, the order must specify:

(1) The class or group of properties affected;

(2) The purpose and objectives of the reappraisal; and

(3) The procedures required for the reappraisal, including the particular methods of appraisal prescribed by the regulations of the Commission.

(b) Increasing or decreasing the valuation of any class or group of properties, the order must

specify:

- (1) The class or group of properties affected; and
- (2) The amount of or the formula to be used to calculate the amount of that increase or decrease.

4. Upon the issuance of any order pursuant to this section:

(a) The Department shall send a copy of the order:

- (1) By certified mail to the county assessor of each affected county; and
- (2) By regular mail to the county clerk and chair of the county board of each affected county; and

(b) The Secretary shall provide:

- (1) A copy of the order to the Commission; and
- (2) Any certification and notice required to carry out the provisions of NRS 361.405.

5. As used in this section, "assessment ratio" means the ratio of assessed value to taxable value.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.666 Hearings: Provision of notice by Department. (NRS 361.375, 361.395)

1. The State Board will require the Department to place on the Internet website maintained by the Department, not less than 10 business days before the date of each hearing scheduled pursuant to NAC 361.664 or 361.665, a copy of the notice of the hearing and of the agenda for the meeting at which the State Board will conduct the hearing.

2. If the State Board proposes to issue an order increasing the valuation of any class or group of properties at any hearing scheduled pursuant to NAC 361.664 or 361.665, the State Board will require the Department to provide to each interested person the notice of the hearing required by subsection 2 of NRS 361.395. If the notice is not provided to an interested person by personal service and the mailing address of that person is not available, the Department must send the notice of the hearing by registered or certified mail to the address of the relevant property or, if the interested person has designated a resident agent pursuant to chapter 77 of NRS, the address of that resident agent as it appears in the records of the Secretary of State. For the purposes of subsection 2 of NRS 361.395, the State Board construes the term "interested person" to have the meaning ascribed to it in NAC 361.653.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.667 Hearings: Persons required to appear; conduct. (NRS 361.375, 361.395)

1. The following persons shall appear at each hearing scheduled pursuant to NAC 361.664 or 361.665:

(a) The county assessor of each county in which any of the property that is the subject of the hearing is located or a representative of the county assessor.

(b) A representative of the county board of each county in which any of the property that is the subject of the hearing is located.

2. At each hearing scheduled pursuant to NAC 361.664 or 361.665:

(a) The State Board will receive testimony under oath from interested persons.

(b) The county assessor or his or her representative, the representative of the county board and a representative of the board of county commissioners of each county in which any of the property that is the subject of the hearing is located may:

(1) Provide additional information and analysis in support of or in opposition to any proposed order of the State Board; and

(2) Show cause why the State Board should not increase or decrease the valuation, or require a reappraisal, of the pertinent class or group of properties in the county.

3. A hearing scheduled pursuant to NAC 361.664 or 361.665 may be held by means of a video teleconference between two or more locations if the video technology used at the hearing provides the persons present at each location with the ability to hear and communicate with the persons present at each other location.

4. The presiding member of the State Board may exclude any disruptive person from the hearing room.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.668 Order of State Board increasing or decreasing valuation of property: Duties of county assessor and Department. (NRS 361.375, 361.395) If the State Board orders any increase or decrease in the valuation of any property in a county pursuant to NAC 361.665:

1. The county assessor of the county shall, on or before June 30 immediately following the issuance of the order or such a later date as the State Board may require, file with the Department the assessment roll for the county, as adjusted to carry out that order; and

2. The Department shall, on or before August 1 immediately following the issuance of the order or such a later date as the State Board may require:

(a) Audit the records of the county assessor of the county to the extent necessary to determine whether that order has been carried out; and

(b) Report to the State Board its findings concerning whether the county assessor has carried out that order.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

NAC 361.669 Reconsideration of order of State Board. (NRS 361.375, 361.395) The State Board may reconsider any order issued pursuant to NAC 361.665 in the manner provided in NAC 361.7475, except that:

1. A petition for reconsideration must be filed with the Secretary within 5 business days after the date on which the order was mailed to the petitioner; and

2. If the State Board takes no action on the petition within 10 business days after the date the petition was filed with the Secretary, the petition shall be deemed to be denied.

(Added to NAC by St. Bd. of Equalization by R153-09, 4-20-2010, eff. 10-1-2010)

Nevada Administrative Code Currentness

Chapter 361. Property Tax

Proceedings Before State Board of Equalization

Hearings

NAC 361.702

**NAC 361.702 Notice of hearing; duties of county assessor
or representative of county assessor. (NRS 361.375)**

1. The State Board will give reasonable notice of any hearing held before it to each party or the authorized agent of a party at the address of each of those persons as those addresses appear in the records of the Department.
2. The State Board will notify the appropriate county assessor of a hearing relating to any property in his or her county or which may have a direct effect upon his or her county. The county assessor or a representative of the county assessor shall:
 - (a) Attend any hearing specified in this subsection, unless otherwise directed by the State Board; and
 - (b) Make any presentation prescribed by the State Board.

Credits

[St. Bd. of Equalization, Practice Rules 19-21, eff. 10-14-77]--(NAC A 1-6-84; R018-97, 12-19-97; R029-05, 6-28-2006)

Current through July 31, 2013. Supplement 2013-1

NAC 361.702, NV ADC 361.702

Nevada Administrative Code Currentness

Chapter 361. Property Tax

Proceedings Before State Board of Equalization

Hearings

NAC 361.741

NAC 361.741 Appeal of decision of county board: Burden of proof; order and length of presentations. (NRS 361.375)

In a hearing concerning an appeal from a decision of a county board:

1. The petitioner has the burden of proof.

2. The order and length of presentations will ordinarily be:

(a) A brief orientation by the county assessor or the county assessor's staff;

(b) A presentation of not more than 15 minutes by the petitioner;

(c) A presentation of not more than 15 minutes by the respondent; and

(d) A rebuttal of not more than 5 minutes by the petitioner.

3. If the State Board allows a party, pursuant to NRS 361.360 and 361.400 and NAC 361.739, to present new evidence, the State Board will extend the length of the party's presentation by the time required to present the evidence and, in the case of new testimony, for the State Board to question the witness.

Credits

(Added to NAC by St. Bd. of Equalization by R018-97, eff. 12-19-97; A by R029-05, 6-28-2006)

NAC 361.741 Appeal of decision of county board: Burden of..., NV ADC 361.741

Current through July 31, 2013, Supplement 2013-1

NAC 361.741, NV ADC 361.741

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IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants,

vs.

STATE OF NEVADA, on relation of the STATE BOARD OF EQUALIZATION; WASHOE COUNTY; BILL BERRUM, Washoe County Treasurer,

Respondents.

Supreme Court Case No. 63581

District Court Case No. 63581
consolidated with District Court Case No. 63581
District Court Case No. 63581
Clerk of Supreme Court

Dept. 7

**RESPONDENT STATE BOARD OF EQUALIZATION'S
ANSWERING BRIEF**

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<i>Thomas v. City of North Las Vegas</i> , 122 Nev. 82, 102, 127 P.3d 1057, 1070 (2006)	28
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I. STATEMENT OF ISSUES ON APPEAL

The issues relating to the State Board's Equalization Order are matters of first impression as will be more fully explained within State Board's Answering Brief.

1. Whether the District Court correctly dismissed the Petition for Judicial Review of a State Board equalization decision?
2. Whether the District Court correctly dismissed the Objection?
3. Whether a State Board equalization determination pursuant to NRS 361.395 is a legislative action, not an adjudicative action?
4. Whether the State Board's Equalization Order was an "intermediate order" subject to a petition for judicial review pursuant to NRS Chapter 233B?
5. Whether property values derived from equalization are different from taxable values developed by assessment such that a taxable value of a property reached through a Court order is still subject to equalization?¹
6. Whether Appellants have a remedy for review of a State Board equalization decision?

II. STATEMENT OF THE CASE

This case comes before the Court on review of the District Court's Order Granting State Board's Motion to Dismiss Petition for Judicial Review (PJR) and denying Appellants' Objections to State Board of Equalization Report (Objection) *See* Notice of Appeal. Appellants (Intervenors) were admitted as intervenors at the District Court hearing on June 14, 2013. Joint Appendix (JA) Vol. VIII, p. 1412. This case has a long history dating back to 2003 including this Court's most recent Order in Case No. 56030 resulting in a remand to the District Court

¹ This is Intervenors' collateral estoppel issue pursuant to *C.I.R. v. Sunnen*, 333 U.S. 591, 599-600 (1948).

for the purpose of equalization by the State Board of Equalization (State Board) conducting “public hearings with regard to statewide equalization.” Nevada Supreme Court Order, Case No. 56030, pp. 4-5. After the District Court issued a Writ of Mandamus (Writ) ordering the State Board to hold public hearings to hear taxpayer grievances for tax years 2003-2010, the State Board held three hearings. JA Vol. I, pp. 49-50, 79-83, 143-145, 228. The State Board and Department of Taxation did not hatch a plan “to collaterally attack” Intervenor in order to issue tax deficiencies. *See* Brief, pp. 17, 20. The issuance of a tax deficiency is an entirely different issue and is not within the State Board’s authority to order for any year. NRS 361.400; NRS 361.395. At the final equalization hearing, the State Board issued a decision (Equalization Order) which required the Washoe County Assessor (Assessor) to reappraise certain parcels in Incline Village and Crystal Bay and report back to the State Board to present the resulting taxable values. JA Vol. III, pp. 503-506. Such parcels were those identified as having any of four unconstitutional methods applied to determine the assessed taxable value. JA Vol. III, p. 503.

III. STATEMENT OF FACTS

The following facts relate to the equalization hearings before the State Board. 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...” JA Vol. I, p. 49. The State Board held public hearings on September 18, 2012, November 5, 2012, and December 3, 2012 (equalization hearings). JA Vol. IV, pp. 660-666.

For the September 18, 2012 hearing, the State Board elected to “cause published notices” of the equalization hearing “to be made in the press.” JA, Vol.

VI, p. 661. NRS 361.380. The notice was placed in 21 newspapers across the State. JA Vol. VI, 661 Notice of Hearing was sent to Petitioners through attorney, Suellen Fulstone. JA Vol. VI, p. 661.

The September 18, 2012 State Board hearing was video-conferenced between the Carson City Legislative Building and the Las Vegas Legislative Building as well as eight other locations including Battle Mountain, Caliente, Elko, Ely, Eureka, Pahrump, and Winnemucca. JA Vol. VI, p. 661. The hearing was available for live viewing via the internet at the Legislative website: <http://leg.state.nv.us>. The hearing was also available by teleconferencing through a call-in number. JA Vol. VI, p. 661.

At the September equalization hearing, one group of Washoe County property owners submitted an equalization grievance. Such property owners from Incline Village and Crystal Bay (Incline) were represented by Suellen Fulstone. Incline stated there were some 1300 property owners whose interests were represented at the hearing; however, the claim was for equalization of all residential property in Incline. JA Vol. I, p. 123. Intervenors are part of a group of property owners who received relief on the assessed taxable value of their property in the *Bakst* and *Barta* cases. Opening Brief (Brief), pp. 4-5. *State Board of Equalization, et al. v. Bakst, et al.*, 122 Nev. 1403, 148 P.3d 717 (2006); *State ex rel. State Bd. of Equalization v. Barta*, 124 Nev. 612, 188 P.3d 1092 (2008).

Incline's position was the Nevada Supreme Court (Supreme Court) has determined that the 2002 appraisal was unlawful and that the valuations reached in that appraisal were null, void, and unconstitutional. Equalization under the constitution requires uniform and equal taxation, and requires that all of the valuations of residential property at Incline Village and Crystal Bay be set for those years at the 2002-2003 constitutional levels. JA Vol. I, p. 123. Pursuant to *Bakst*, four methods were determined to be invalid and unconstitutional:

adjustments for view, adjustments for time, adjustments for teardowns, and adjustments for beach type. JA Vol. I, pp. 123, 136-137. *Bakst*, 122 Nev. at 1408.

For relief, Incline requested that after setting residential property land values at the 2002-2003 level, a factor, as approved by the Nevada Tax Commission, be applied which would result in a total taxable value for each property. JA, Vol. I, p. 129. At the November 5, 2012 hearing, Incline testified that the tax years under dispute are 2003- 2004, 2004-05, and 2005-06 and that tax year 2007-2008 was “not at issue here.” JA Vol. I, pp. 160.

On November 5, 2012, the State Board held an equalization hearing. JA Vol. I, p. 146. The Assessor responded to Incline’s grievances. The Assessor testified that not all of the Incline residential properties had one of the invalid methodologies applied to arrive at taxable value. JA Vol. I, p. 150, 154. Incline disagreed testifying that one of the invalid methods was used on all residential properties in Incline. JA Vol. I, p. 157. When the Chairman asked for the specific information or evidence that the methods were used on all Incline properties, Incline responded “[y]ou have all of that information in the records of this Board for those years.” JA Vol. I, p. 160. Later, Incline pointed to the record again to indicate support for a general equalization down for all properties in Incline. JA Vol. I, p. 179.

The Department, the state agency that maintains State Board records, testified that the records Incline requested to be placed in front of the State Board included only information relating to taxable values for properties which were appealed to the State Board in past years. JA, Vol. I, p. 179. The records did not contain information about other properties under consideration for equalization at Incline. JA Vol. I, p. 179. NRS 361.375(11). Incline stated that the record would provide “more information, in terms of what was done at Incline for those years.” JA Vol. I, p. 180. State Board members indicated an interest in information

relating to those properties that were not previously appealed because the Writ addresses general equalization, **not individual appeals**. JA Vol. I, p. 179-180.

Responding to an inquiry from the Chairman, the Department referred the State Board to NAC 361.652 which defines equalized property. “‘Equalized property valuations’ 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.” NAC 361.652; NRS 361.333. The Department testified that the State Board may need to “explore what happens when you remove those [invalid] methodologies.” After the value was removed, would the properties be valued at the level of assessment required by law? NAC 361.652; NRS 361.333. JA Vol. I, pp. 166-167.

The State Board expressed concern that it did not have enough information on exactly which properties the invalid appraisal methods were applied. JA Vol. I, pp. 169-173, 179-180, 186. The Incline properties which had the invalid methodologies applied to arrive at a taxable value should be identified. JA Vol. I, pp. 186-187. The State Board considered Incline’s request for relief: set the base value at the 2002-2003 taxable value and apply Nevada Tax Commission factors each year forward to develop a final taxable value for each Incline property. JA Vol. I, pp. 198-200. When asked by the State Board, the Assessor responded that he could identify residential parcels which had had one of the invalid methodologies applied to arrive at taxable value. JA Vol. I, pp. 203-204.

The State Board passed a motion directing the Assessor to identify the Incline properties which had one of the invalid methodologies applied to it in order to arrive at the taxable value for the land. JA Vol. I, pp. 211-212. The Assessor was to then reduce taxable value to the 2002-2003 level and apply the Nevada Tax Commission factor to each year forward from 2003-2004, 2004-2005 and 2005-2006 to result in a taxable value for such property. JA Vol. I, pp. 211-212, 214-

216. The Assessor was to report back to the State Board to review the Assessor's work at another hearing to determine if the State Board agreed with the taxable values or if the State Board needed to continue to deliberate regarding its final action on this matter. JA Vol. I, p. 224.

On December 3, 2012, the State Board held a hearing by telephone and video conference to receive information from the Assessor. JA Vol. III, p. 430. The information included revised valuations of properties located in Incline Village and Crystal Bay for the 2003-2004, 2004-2005, and 2005-2006 tax years. JA Vol. III, p. 432.

The Assessor reported that applying the State Board's directions to value property in Incline/Crystal Bay as directed at the November meeting would result in reduction in value to most parcels (land) and an increase in value to some parcels. JA Vol. III, p. 433. The decrease in value was \$698,000,000 for tax year 2003-2004; \$657,000,000 for tax year 2004-2005; and \$564,000,000 for tax year 2005-2006. JA Vol. III, p. 433.

The State Board Chairman inquired about "the percentage increase . . . during that period and/or if you had utilized other adjusting techniques in your reappraisal would your value still have been similar to what you actually had on them in 2003-2004?" The Assessor responded "yes." JA Vol. III, pp. 435, 486.

Another State Board member inquired if the Assessor was using the same methods that assessors in other counties were using. JA Vol. III, p. 440. The Assessor deferred to the Department. JA Vol. III, p. 440. The Department replied that "all of the assessors make adjustments to value to reflect the effect of a property characteristic that has significance in the local market. They might not make view [sic] adjustments or beach adjustments or time adjustments. But they do make adjustments that are relevant to their market." JA Vol. III, p. 443.

The Department responded that the results of a performance audit with sales

dating back to 2006, indicated no exceptions for Washoe County appraisals which meant there were no problems found in Washoe County's procedures for performing appraisals. JA Vol. III, p. 441. Although the Performance Audit was approved by the Nevada Tax Commission on March 9, 2012, it is relevant to prior assessment years because the methodologies discussed in the Performance Audit "are the same types of methodologies that had been used in the prior years." JA Vol. III, p. 441.

The Department recommended if any taxable values that were developed using the unconstitutional methodologies are revised that a ratio study be performed to ensure the level of assessment is at the same level as the rest of Washoe County. In other words, Incline properties will "have the same relationship to taxable value as all other properties in the county." JA Vol. III, p. 451. The Department quoted NAC 361.652: "equalized property valuation 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." JA Vol. III, pp. 451-452. Even if a method is struck down by the Supreme Court," those properties still have to reach the parameters that are outlined in NRS 361.333, which is for land.... The level of assessment has to be between 32 and 36 percent of the taxable value. And taxable value for land is defined as market value." JA Vol. III, p. 452. NRS 361.025. For purposes of equalization "similarly-situated properties are treated similarly and they should all arrive at the statistical level of assessment and an equal amount." JA Vol. III, p. 453. For that reason, the Department suggested a sales ratio study to assure the Incline properties are equalized. JA Vol. III, p. 454.

Incline responded to the Assessor's testimony. JA Vol. III, p. 454. Although Incline pointed out that the taxable value of land "is based on comparable sales of vacant land...." Incline maintained in a taxable value system

like Nevada's, not based on market value, "the uniformity of regulations and uniformity of assessors in following those regulations is the only basis for assuring constitutional valuation." JA Vol. III, p. 454. Incline argued that "for purposes of the board's decision here those values [tax year 2002] have been deemed to be constitutional by the Supreme Court and as the basis – because they weren't unchallenged and become the basis for resetting the unconstitutional valuations of 2000 – as determined by the courts of 2003-2004." JA Vol. III, p. 459.

Incline stated and the Department agreed there were no equalization regulations until 2010. JA Vol. III, pp. 461-462. However, the Department indicated there was a regulation "in place for what methodologies that the assessors could use." LCB File No. RO31-03. JA Vol. III, p. 461. Incline argued "you can't fix unconstitutional valuation by ratio studies. The remedy is the valuations must go back to 2002. JA Vol. III, pp. 466, 482.

In response to Incline's comments, the State Board Chairman was concerned about equalization because looking at the actual valuation numbers returned by the Assessor, "it throws it out of equalization and it's not fair and equitable values for 03-04, . . .". JA Vol. III, pp. 465, 467, 485.

David Creekman responded on behalf of the Washoe County parties (County). JA Vol. III, p. 477. County concurred with the Department that the State Board should perform a ratio study to assure the valuations comply within the range provided by statute. JA Vol. III, p. 479. Applying the 2010 equalization regulations, the State Board has four alternative options. The State Board may: (1) do nothing; (2) refer this matter to the Nevada Tax Commission; (3) order a reappraisal; or (4) adjust values up or down pursuant to a ratio study. JA Vol. III, p. 480.

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

decisions.” The Department responded that NAC 361.652 is not isolated from other definitions and regulations about equalization. Level of assessment is not just a mathematical thing but the Department looks for “the quality and uniformity of assessment through statistical analysis.” JA Vol. III, p. 483. The Department stated if removal of the unconstitutional methods results in valuations that are too low or too high, then part of the equalization process is to correct such unjust valuations. JA Vol. III, p. 484. NAC 361.652. The Department pointed out that the regulations in LCB File No. RO31-03, adopted on August 4, 2004, codify each of the methods that were formerly held unconstitutional by the Supreme Court. JA Vol. III, p. 484.

The Chairman closed the hearing and the State Board discussed the Incline issues and options. One member stated the right option is to reappraise the properties whose taxable value was determined by applying one of the methods held to be unconstitutional at the time. Reappraisal would be fair across the board. JA Vol. III, pp. 487-491.

However, this is in conflict with Incline’s opinion that reappraisal is not an option pursuant to Supreme Court decisions and the remedy is to return valuations to the 2002 tax year level. JA Vol. III, pp. 487-490, 492. Another member disagreed stating that the values should remain unchanged because lowering the values is in conflict with the market values of land going up at that time. JA Vol. III, pp. 491-492. Equalization of valuation is the issue. JA Vol. III, p. 496. Another member stated that the values should not remain the same because the values were developed applying unconstitutional methods and the Supreme Court has closed the door to other options. JA Vol. III, pp. 494-495.

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

Court cases is not applying the State Board's discretion to raise, lower or leave unchanged taxable values. JA Vol. III, p. 497.

Another member asked legal counsel for the State Board "I've heard Ms. Fulstone's testimony that's [reappraisal] something we can't do because the Supreme Court told us we can't. What can we or can't we do as a board?" Legal counsel agreed with the member who referenced the Writ that leaves the State Board's options open to "raise, lower or leave unchanged the taxable value of any property for the purpose of equalization." JA Vol. I, pp. 49-50; Vol. III, p. 498. Such member struggled with the solution of lowering valuations 1.9 billion dollars in Washoe County creating a level of assessment that is not in conformance with the law. NRS 361.333. Reappraisal would get the values right by applying regulations that were correct at the time of the tax years at issue. JA Vol. III, p. 499. The other State Board members agreed. JA Vol. III, pp. 500-502.

By motion, the State Board voted unanimously to direct the Assessor of Washoe County to "reappraise all properties for the ...03-04, 04-05, and 05-06... in those three tax years that were unconstitutionally appraised or identified as unconstitutionally appraised and to determine the new taxable value. And in the event that any of those valuations increase, to assure that we comply with NRS 363.395(2) (sic)." NRS 361.395(2). JA Vol. III, p. 503. Further, "whatever the results are from the Washoe County assessor's office that Terry [Department] prepare a sales ratio study on those to determine if they're at the level of assessment required by law." NAC 361.652; NRS 361.333. JA Vol. III, p. 504. The Assessor had twelve (12) months to complete the reappraisal. JA Vol. III, pp. 505-506; Vol. IV, p. 668. The State Board's foregoing equalization actions are called "Equalization Order" in the following arguments. JA Vol. IV, pp. 660-670.

IV. SUMMARY OF ARGUMENTS

The District Court correctly dismissed Intervenor's PJR and Objection. The

State Board's Equalization Order is not subject to judicial review pursuant to NRS Chapter 233B because the State Board heard no contested cases at the equalization hearings. The State Board's equalization decisions are legislative actions, not adjudicative actions. Such actions are reviewable but not pursuant to NRS Chapter 233B. Therefore, the State Board's Equalization Order, although not final, is not an intermediate order subject to judicial review pursuant to NRS 233B.130(1)(b).

Many of Intervenor's legal arguments are incorrectly based on the assumption that the process for developing and appealing an assessment of taxable value is the same as the process for developing and appealing an equalized property value. However, the assessed taxable values of Intervenor's property as developed by the Assessor and adjusted by this Court in the *Bakst* and *Barta* cases are adjustable through an equalization action by the State Board. Adjustment of taxable values by equalization is proper because assessment and equalization are two different procedures for establishing the value of a property. The Assessor assesses the individual property to arrive at taxable value. NRS 361.227; NRS 361.260. The State Board equalizes the taxable value of properties, but does not hear individual cases to equalize entire areas of the State. NRS 361.395. After the State Board has equalized the residential property values in Incline Village and Crystal Bay, any property owner whose property value is increased will be noticed for a hearing "where the person may appear and submit proof concerning the valuation of the property." NRS 361.395.

Additionally, collateral estoppel does not apply in the matter under *Sunnen*, as argued by Intervenor because the foregoing legal principles and rules that apply to assessment by the Assessor and equalization by the State Board are different. *Sunnen*, 333 at 599-600.

Accordingly, the State Board Equalization Order is entitled to deference because reappraisal was a reasonable action to take as such action is a permissible

construction of NRS 361.395 because it provides for constitutional valuations and remedies inequality within Washoe County and State.

V. LEGAL ARGUMENTS

A. STANDARD OF REVIEW

In reviewing a motion to dismiss, this court is to determine whether or not the challenged pleading sets forth allegations sufficient to make out the elements of a right to relief. In making its determination, this court is bound to accept all the factual allegations in the complaint as true. Further, a claim should not be dismissed ... unless it appears to a certainty that the plaintiff is not entitled to relief under any set of facts which could be proved in support of the claim. (citations omitted) (quotation marks omitted).

Pemberton v. Farmers Ins. Exch., 109 Nev. 789, 792, 858 P.2d 380, 381 (1993).

B. Because the State Board's Equalization Decision was a Legislative Action of General Applicability, Not an Adjudicatory Action, the State Board's Equalization Order is not Subject to judicial Review Pursuant to NRS Chapter 233B.

Contrary to Intervenor's arguments, State Board's Equalization Order is not subject to judicial review pursuant to NRS 233B.130. Brief, pp. 6-7. If the Equalization Order was subject to NRS Chapter 233B, Intervenor would have been entitled to individual notice of the Equalization Hearings along with a hearing on individual properties. NRS 233B.121. However, 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. No notice and hearing were required by NRS 233B.121. Consequently, there is no "intermediate order" subject to review pursuant to NRS 233B.130(1)(b).

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

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

The State Board equalization action pursuant to NRS 361.395, like those in *Bi-Metallic Inv. Co. v. State Bd. of Equalization*, 239 U.S. 441 (1915), are legislative actions.² The *Bi-Metallic* case has “assumed major importance in administrative law as foundation for the differing treatment given legislative functions as opposed to adjudicative or quasi-judicial responsibilities.” *Board of Sup'rs of Linn County*, 263 N.W.2d at 239. The *Linn* court found that the state agency functioned legislatively when it equalized “assessed property values on a statewide basis.” *Id.* at 239.

Here, the State Board did not adjudicate specific facts. The State Board’s action was a legislative action. Petition, Exhibit 1, pp. 1-10. The State Board made a decision of general applicability directing the Washoe County Assessor “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.” JA Vol. IV, p. 668. 361.665. The State Board also directed the Department of Taxation to conduct a ratio study to determine if the reappraised taxable values “meet the level of assessment required by law...” JA Vol. IV, p. 668. NAC 361.658; NAC 361.662.

Since the State Board’s equalization action was a legislative action, no individual notice or hearing was required because there was no contested case and there was no intermediate order subject to NRS 233B.130(1)(b). The facts of this matter are similar to those in *May Department Stores* in which the court held the equalization order was not reviewable under the administrative procedure act. “The order here affected counties and classes of taxpayers, and not ‘specific

² The *Bi-Metallic* appellants appealed an equalization order that increased “the valuation of all taxable property in Denver 40 percent.” *Bi-Metallic Inv. Co.*, 239 U.S. at 443.

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). *See also, Woolfolk v. Board of Fire and Police Com'rs of Village of Robbins*, 398 N.E.2d 226, 229, (Ill.App. 1 Dist., 1979)(“The Administrative Review Act...cannot be used to provide for review of legislative acts of legislative bodies.”). The matter before this Court is similar to the *May Department Stores* case because the Equalization Order affected classes of taxpayers. JA Vol. IV, p. 668. The equalization hearings before the State Board were not contested cases, therefore; the State Board’s decision is not subject to review pursuant to a petition for judicial review.

1. This District Court Lacked Jurisdiction Pursuant to NRS Chapter 233B Because the Decision to Equalize was Not Based on a Contested Case Pursuant to NRS 233B.130; Equalization Hearings May be Distinguished from the hearing in the *Marvin* Case.

The State Board has been granted the authority by the Nevada Legislature to equalize property valuations. NRS 361.395. As discussed in Section III above, the State Board met three times during the year 2012 to equalize property valuations. Intervenor now attempt to appeal such decision by arguing the State Board action is an “intermediate order” in a contested case; however, the hearings were not contested cases pursuant to NRS 233B.130. Brief pp. 7-10. The court in *Emmet County v. State Tax Commission*, 244 N.W.2d 909, 912 (Mich. 1976) opined that there is no contested case in an equalization hearing.

The act [Administrative Procedure Act] refers to a ‘contested case’. Who are the contestants in state equalization proceedings? Apparently, the argument is that they are the 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.

Id. The Michigan Administrative Procedure Act did not apply to statewide equalization proceedings. *Id.* Similarly, the equalization hearings before the State Board were not contested cases. The Department of Taxation, Assessor and property owners testified providing information for the State Board to consider for any equalization order it might make. JA Vol. IV, pp. 660-670.

NRS 233B.130 provides for judicial review of an agency decision to a party who is aggrieved by a decision in a *contested case*. In *Citizens for Honest & Responsible Gov’t v. Secretary of State*, 116 Nev. 939, 951-52, 11 P.3d 121, 129 (2000), the Nevada Supreme Court in addressing *Atherley*, *supra*, strictly construed the definition of “contested case.” 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 was no “contested case” within the meaning of NRS 233B.032. *Id.*

As in the *Citizens* case, no individual notice and opportunity for a hearing for Intervenors to present evidence in support of an individual case is required by law under NRS 361.395 before the State Board makes an equalization decision. NAC 361.666; 361.667. In contrast, there are specific notice, hearing and evidentiary requirements contained in NRS Chapter 361 and NAC Chapter 361 that pertain to appeals to the State Board from county board of equalization decisions. NRS 361.360(2); NAC 361.702; NAC 361.703; NAC 361.714; NAC 361.723; NAC 361.739; NAC 361.741; NAC 361.747.

The State Board is required to provide notice of and hearing for a property owner when there is an increase in value pursuant to NRS 361.395. However, prior to the increase in a property value, it would be wholly impracticable for the State

Board to hear individual contested cases with each party receiving 15 minutes of oral argument and a rebuttal of 5 minutes. NAC 361.741. *May Dept. Stores Co.*, 308 S.W.2d at 756. “A common rule of statutory construction requires the court to avoid interpretation that will result in absurd consequences.” *Board of Com'rs of Nye County v. Schmidt*, 157 P. 1073, 1075 (1916). It would lead to absurd consequences to determine that the State Board general equalization action is an action like the the one in *Marvin* where taxpayer/property owners would each have individual notice and an opportunity to be heard. NRS 361.360; NRS 361.400; NRS 361.355. *Marvin v. Fitch*, __Nev.__, 232 P.3d 425, 431 (2010).

Additionally, if the State Board hearings had been adjudicative in nature with contested hearings providing notice and opportunity to be heard, the State Board would not have been able to even consider statewide equalization. As in *Bi-Metallic*, it would have been impracticable for the State Board to provide individual notices to all property owners prior to the hearings. The Bi-Metallic Court addressed notice in the context of a state agency’s act of equalization. The plaintiff was the owner of real property in Denver, Colorado and complained that plaintiff “was given no opportunity to be heard, and therefore its property will be taken without due process of law...” *Bi-Metallic Inv. Co.*, 239 U.S. at 443. Such Court held:

[I]f certain property has been valued at a rate different from that generally prevailing in the county, . . . the owner has had his opportunity to protest and appeal as usual in our system of taxation. The question, then, is whether all individuals have a constitutional right to be heard before a matter can be decided in which all are equally concerned, . . . Where a rule of conduct applies to more than a few people, it is impracticable that everyone should have a direct voice in its adoption. The Constitution does not require all public acts to be done in town meeting or an assembly of the whole. General statutes within the state power are passed that affect the person or property of individuals, sometimes to the point of ruin, without giving them a chance to be heard. Their rights are protected in the only way that they can be in a complex society, by their power, immediate or remote, over those who make the rule.

Bi-Metallic Inv. Co. at 444-445 (citation omitted). The equalization decision in *Bi-Metallic* is analogous to the State Board's Equalization Order. In *Bi-Metallic* notice to and an individual hearing for every individual impacted by the equalization decision was not required. Here, without notice and a contested case hearing, there is no intermediate order to review pursuant to NRS Chapter 233B.

Additionally, the *Marvin* case does not provide binding authority that notice and an individual hearing pursuant to NRS Chapter 233B are applicable in equalization hearings. The *Marvin* Court discussed equalization within the context of NRS 361.355 for disputing an unequal assessment which an individual property owner could appeal to the county board of equalization or State Board. The valuation would not be developed by a State Board act of equalization pursuant to NRS 361.395. The following quotation from *Marvin* provides support that the valuation in such case was developed through assessment by the county assessor.

At the meetings, an individual may challenge a property's valuation recorded on the county tax rolls and submit evidence for the State Board's consideration 'with respect to the valuation of his or her property or the property of others.' *Id.*; NRS 361.355. We conclude that the ability to contest the **assessed value of one's own property or present evidence questioning the value of the property of others** is a quintessential indication of the adversarial nature of the equalization process. Thus, we deem the State Board's equalization process to be adversarial in nature and "functionally comparable" to an adjudicatory proceeding. (emphasis added) (citation omitted).

Marvin v. Fitch, 232 P.3d at 431. Hence, equalization pursuant to NRS 361.355 is in the form of a contested case appealing a county board of equalization decision. In contrast, here, the equalization action was a legislative action affecting classes of taxpayers not specific parties in a contested case hearing. Therefore, NRS Chapter 233B does not apply to this matter. Accordingly, the District Court correctly dismissed the PJR because there is no "contested case" pursuant to NRS Chapter 233B when the State Board holds equalization hearings;

therefore, there is no State Board “intermediate order” that is reviewable pursuant to NRS Chapter 233B.

C. COLLATERAL ESTOPPEL PURSUANT TO THE *SUNNEN* CASE DOES NOT APPLY TO THIS MATTER BECAUSE THE LEGAL PRINCIPLES AND RULES APPLYING TO ASSESSMENT AND EQUALIZATION ARE DIFFERENT.

Contrary to Intervenor’s argument, collateral estoppel does not apply to this matter under the *Sunnen* case upon which Intervenor’s rely heavily for their collateral estoppel argument. Brief, pp. 10-15. Intervenor’s argument that a final court order on taxable value resulting from the appeal of individual contested cases cannot be disturbed under *Sunnen* is without merit. The *Sunnen* Court opined that “[i]t [collateral estoppel] must be confined to situations where the matter raised in the second suit is identical in all respects with that decided in the first proceeding and where the controlling facts and applicable legal rules remain unchanged. If the legal matters determined in the earlier case differ from those raised in the second case, collateral estoppel has no bearing on the situation.” *Sunnen*, 333 U.S. at 599-600. Here, assessment and equalization are different means to set a value on property. Assessment and equalization are subject to different statutes and legal rules legal rules. NRS 361.227. NRS 361.395. Also, appeal or review of taxable value and the value set by equalization differ. NRS 361.340; NRS 361.360; NRS 361.420; NRS 361.395. The controlling legal principles and rules are not the same as those applicable in the *Bakst* and *Barta* cases. Therefore, under the *Sunnen* case collateral estoppel does not apply to this matter.

The Assessor develops taxable values and the State Board equalizes taxable values. NRS 361.260; NRS 361.395. Assessment and equalization are different processes to reach a value on property.

Assessment is the act of placing a value for tax purposes upon the property of a particular taxpayer. Equalization, on the other hand, is the act of raising or lowering the total valuation placed upon a class, or subclass, of property in the aggregate. Equalization deals with all

the property of a class or subclass within a designated territorial limit, such as a county, without regard to who owns the individual parcels making up the class or subclass. Assessment relates to individual properties; equalization relates to classes of property collectively.

Board of Sup'rs of Linn County, 263 N.W.2d at 236 (citation omitted). Accordingly, the underlying legal principles, rules and procedures are different for equalization than those for assessment. Intervenor's taxable values developed pursuant to assessment are still subject to equalization by the State Board. Contrary to Intervenor's argument, a remand to the State Board to complete its statewide duty to equalize is appropriate. Brief, pp. 15-18. "[I]t is the statutory duty of the county assessor to initially set the assessment percentage on all property within the county...it was the overriding constitutional and statutory duty of the Board to make such adjustments as will achieve uniformity and equality of taxation on a statewide basis..." *State ex rel. Poulos v. State Bd. of Equalization for State of Okl.*, 646 P.2d 1269, 1273 (Okl., 1982) (citation omitted) (internal quotations omitted). See also, *Idaho State Tax Com'n v. Staker*, 663 P.2d 270, 274 (Idaho, 1982) (court "concluded that the tax commission [state board of equalization] does have the constitutional authority to override the counties' valuation...").

Like the *Staker* case, the procedures to appeal an individual assessment do not apply to a State Board equalization action. *Staker*, 663 P.2d at 273-274 (citation omitted) (internal quotation marks omitted). The procedures to appeal valuation in a contested case before State Board are different than those for an equalization action and necessarily so. To appeal to the State Board, a property owner must first appeal to a county board of equalization. Property owners must strictly follow the appeal procedures. NRS 361.360. "Taxpayers must exhaust their administrative remedies before seeking judicial relief." *County of Washoe v. Golden Road Motor Inn, Inc.*, 105 Nev. 402, 403, 777 P.2d 358, 360 (1989). See also, *First Am. Title Co. of Nevada v. State*, 91 Nev. 804, 806, 543 P.2d 1344,

1345 (1975). The property owner, only after having protested the payment of taxes pursuant to NRS 361.420(1), and after having been denied relief by the State Board, may seek judicial review. NRS 361.410(1). These requirements are jurisdictional; failure to exhaust administrative remedies deprives the district court of subject matter jurisdiction. *Golden Road Motor Inn*, 105 Nev. at 403.

The State Board did not hear the property owner appeals in the *Marvin* case because they did not first go to the county board of equalization. *Marvin*, 232 P.3d at 427 (“The State Board conducted a hearing on the matter and determined that it lacked jurisdiction because the Taxpayers had failed to first petition the County Board, as required by NRS 361.360.”). The *Marvin* Court did not accept appellants’ Motion to Take Judicial Notice that “the matter of statewide equalization did not appear on any State Board agenda for the relevant term.” *Id.* Hence, the State Board hearing under consideration by the *Marvin* Court was a contested case pursuant to NRS 361.360, appeal of a county board decision. *Id.* The *Marvin* Court did not address the procedures of a State Board hearing regarding statewide equalization except to the extent of notice pursuant to NRS 361.395(2). *Id.* at 431. The *Marvin* case is not binding authority that the State Board’s statewide equalization hearings were contested cases. The *Marvin* case demonstrates that the procedures for appeal of assessments differ from the procedures for equalization.

Even if the State Board’s equalization action was based on some characteristics of a quasi-judicial nature, the review need not be subject to NRS Chapter 233B. The *Staker* Court opined that the equalization board was “clothed by statutory authority with quasi-judicial powers in regard to the assessment of certain classes and kinds of property.” *Staker*, 663 P.2d at 273. Still the action of the equalization board was reviewable by writ of certiorari because “no method of appeal was pointed out by statute...” *Id.* Similarly, in this matter NRS 361.395

does not provide for appeal of a State Board decision like NRS 361.420 provides for appeals by property owners whose cases were heard in individual appeals. NRS 361.360; NRS 361.355; NRS 361.400. Therefore, judicial review pursuant to NRS Chapter 233B is not appropriate. In the equalization hearing there was no contested case with notice and hearing pursuant to the statutes and regulations applicable when an individual appeals pursuant to NRS 361.420. In the equalization hearing there was no requirement the individuals exhaust administrative remedies before the county board of equalization and appeal to the State Board as required in contested appeals of individual cases.

Contrary to Intervenor's allegations, the *Bakst* and *Barta* Courts also distinguished between the State Board's duty to hear individual appeals pursuant to NRS 361.360 and NRS 361.400, and the State Board's duty to equalize statewide. Brief, pp. 15-18. The *Bakst* Court opined:

The State Board, which is responsible for equalizing all property valuations in this state, also considers taxpayer appeals from the actions of the County Boards of Equalization. NRS 361.360; NRS 361.400.

Bakst, 122 Nev. at 1412. The *Barta* Court specifically opined in response to Taxpayers' request to:

address the State Board's duty to equalize taxes statewide. Under NRS 361.395(1), the State Board clearly has a duty to equalize property valuations throughout the state: "the [State Board] shall ... [e]qualize property valuations in the State." [NRS 361.395(1)(a)]. Furthermore, **NRS 361.400 establishes a requirement, separate from the equalization duty**, that the State Board hear appeals from decisions made by the county boards of equalization. The two statutes create separate functions: equalizing property valuations throughout the state and hearing appeals from the county boards. (Emphasis added).

Barta, 124 Nev. at 628.

Accordingly, the *Marvin*, *Bakst*, and *Barta* cases support State Board's argument that assessment by the Assessor and the review and equalization of such

assessments by the State Board are separate functions. The *Marvin* Court's analysis was about the State Board's duty to hear appeals pursuant to NRS 361.355 which was an appeal pursuant to NRS 361.400(2) from a county board of equalization action. The *Marvin* case is distinguishable from the present action. The *Bakst* and *Barta* cases identify equalization as a separate duty from hearing taxpayer appeals. The present action before this Court is based on the State Board's separate duty to equalize statewide pursuant to NRS 361.395, not the State Board's duty to hear contested case appeals. NRS 361.360; NRS 361.355; NRS 361.400. Different legal principles and legal rules apply to State Board equalization hearings. *Sunnen* is distinguishable from the matter before this Court and such case provides no authority for the properties of Intervenor to be free of the effects of the State Board's Equalization Order to reappraise certain properties in Incline Village and Crystal Bay.

D. PROPERTY OWNERS HAVE A REMEDY TO REVIEW A STATE BOARD EQUALIZATION ORDER IF SUCH ORDER INCREASES THE VALUE OF THEIR PROPERTY.

Contrary to Intervenor's argument, Appellant does have a remedy if the State Board increases the taxable value of Intervenor's property. NRS 361.395(2). Brief, pp. 6, 8-10. After the State Board completes this legislative action, it may consider raising the valuation on individual properties. JA Vol. IV, p. 669. At this point, if the State Board "proposes to increase the valuation of any property on the assessment roll," the State Board shall give notice and an opportunity to be heard to "interested persons." NRS 361.395(2). Such interested persons "may appear and submit proof concerning the valuation of the property." NRS 361.395.

Pursuant to *Marvin*, the matter may become a contested case.

NRS 361.395(2) . . . require[s] notice be given to property owners when equalization results in a proposed or actual increase to a property's valuation. . . In the event that the State Board proposes to increase the valuation of any property, the State Board is required to give specific notice to the interested property owner detailing when

and where the property owner may appear and submit evidence of the property's value. NRS 361.395(2).

Marvin, 232 P.3d at 430-431.

Hence, prior to proposing an increase in value, the State Board's equalization actions are legislative in nature. Otherwise, it would be impossible for the State Board to equalize pursuant to NRS 361.395, because it would be impracticable for the State Board to provide individual notice and a hearing to the entire State. "It will not be assumed that one part of a legislative act will make inoperative or nullify another part of the same act, if a different and more reasonable construction can be applied." *Schmidt*, 157 P. at 1075. "Where possible, a statute should be construed so as to give meaning to all of its parts." *Nevada State Personnel Division v. Haskins*, 90 Nev. 425, 427, 529 P.2d 795, 796 (1974) (citation omitted). With the foregoing interpretation of NRS 361.395, each part of NRS 361.395 is given meaning, no part is nullified, and the interpretation is consistent with *Marvin* as well. *Marvin*, 232 P.3d at 431. See *American Federation*, 681 N.E.2d at 1005. ("Although the Commission has quasi-judicial powers, the Commission's required approval of the reclassification plan was a quasi-legislative function.") Similar to the hearing procedures in NRS 361.395, in *American Federation* after individuals had the opportunity to present their views at a legislative hearing by providing information to the Commission, the legislature allowed the Commission to hear appeals of employees who did not accept the decision of the Commission. *Id.*

Additionally, although review pursuant to NRS Chapter 233B is not an appropriate means to review the State Board's Equalization Order, the State Board did not state the Equalization Order was not reviewable at all. Brief, pp. 22-23. *Richardson v. Board of Ed. of School Dist. No. 100*, 290 N.W.2d 803, 808 (Neb., 1980) (citations omitted) (internal quotations omitted).

E. THE STATE BOARD HAS A DUTY TO EQUALIZE STATEWIDE; THE STATE BOARD SHOULD BE ACCORDED LATITUDE IN THE EXERCISE OF ITS DISCRETION TO EQUALIZE.

The State Board exercised its discretion by following its equalization regulations in order to equalize property in the State; in this matter such discretion resulted in the State Board lawfully ordering a reappraisal of certain Incline Village and Crystal Bay Properties. The State Board has a duty to equalize property valuations across the State. *Barta*, 124 Nev. 619. The District Court pursuant to the Writ ordered the State Board to equalize statewide for certain past tax years. JA Vol. I, pp. 49-50. The State Board complied with the Writ and exercised its discretion as reported in its Report on Execution of Writ (Report). JA Vol. III, pp. 411-551; IV, pp. 660-670. The Writ enforced the duty of the State Board to equalize statewide pursuant to NRS 361.395. JA Vol. III, pp. 40-50. The Writ can “require the exercise of discretion, it will not serve to control the discretion.” *Gragson v. Toco*, 90 Nev. 131, 133, 520 P.2d 616, 617 (1974). What Intervenor requested was that the District Court require the State Board to exercise its discretion in a particular manner. JA Vol. III, pp. 569-643. Brief, p. 17. The District Court was without the authority to so order. *State v. Boerlin*, 30 Nev. 473, 98 P. 402 (1908) (in an equalization action “mandamus lies to compel commissioners to consider a petition to reduce a tax levy, but not to control exercise of their discretion in making a levy...”). The District Court correctly permitted the State Board to exercise its discretion to equalize.

Contrary to Intervenor’s allegation, the State Board should also be accorded latitude in its discretion executing equalization pursuant to NRS 361.395 even if the equalization regulations do not apply retroactively. Brief, p. 18. *Grant County v. State Bd. of Equalization and Assessment*, 63 N.W.2d 459, 467 (Neb. 1954) (“The statute does not require any particular method of procedure to be followed by the State Board in equalizing the assessment of range and grazing lands

between the various counties. It [state board] may adopt any reasonable method for that purpose.”) *Also, Boyd County v. State Bd. of Equalization and Assessment*, 296 N.W. 152, 156 -157 (Neb. 1941) (“The statute . . . does not require any particular kind nor standard of evidence. The method to be used is left to the discretion of the state board. No formal hearing is required. In addition to the evidence mentioned in the record, the State Board may take into consideration matters within the general knowledge of its members.” (citation omitted)).

A district court should not foreclose the exercise of the State Board’s independent judgment on matters within its competence. *Washoe County v. John A. Dermody, Inc.*, 99 Nev. 608, 612, 668 P.2d 280, 282 (1983). To the extent these are fact-based legal issues, the State Board is entitled to deference because the State Board has a specialized skill and knowledge to inquire into the facts of the case and interpret the language of the statute [NRS 361.395] the State Board is charged with administering. *Int’l Game Tech., Inc. v. Second Judicial Dist. Court of Nevada*, 122 Nev. 132, 157-158, 127 P.3d 1088, 1106 (2006). The State Board’s interpretation is reasonably consistent with the language of the statute; therefore, the State Board’s determination regarding the equalization is entitled to deference. *Id.*

Here, NRS 361.395 does not require any particular method to follow when the State Board equalizes. The State Board exercised its discretion and determined that reappraisal was the proper means to equalize the Incline Village and Crystal Bay properties. JA Vol. IV, p. 668. The State Board correctly applied its equalization regulations to arrive at this decision. However, even if the equalization regulations were not correctly applied, under *Grant County* and *Boyd*, the State Board adopted a reasonable method for the purpose of equalization statewide after inquiring into the facts; therefore, the State Board properly acted within its authority and discretion. Brief, pp. 18-23. *See Carpenter v. State Bd. of*

Equalization and Assessment, 178 N.W. 2d 611, 629, 134 N.W. 2d 272, 283 (Neb. 1965) (“The Board alone is vested with this [equalization] power and may exercise wide latitude of judgment and discretion. In order to reverse the order of the Board, we would be required to hold the Board utterly failed to follow a reasonable course of action and that its decision was illegal, arbitrary, and capricious.”) Here, reappraisal was a reasonable course of action and its decision was not illegal, arbitrary, and capricious.

Even if the equalization regulations do not apply to equalizing the properties in the current matter, this Court has held that in the absence of a regulation a reasonable interpretation of the statute will be upheld. *State Farm Mut. Auto Ins. Co. v. Comm'r of Ins.*, 114 Nev. 535, 542, 958 P.2d 733, 737 (1998). *See Coan v. Board of Assessors of Beverly*, 211 N.E.2d 50, 52 - 53 (Mass. 1965) (revaluation appropriate where illegal and discriminatory practices alleged); *see also, McNayr v. State ex rel. Dupont Plaza Center, Inc.*, 166 So.2d 142, 143, 145 (Fla. 1964) (reassessment is appropriate remedy where improper “method of fixing the valuation of property” was found to be discriminatory). Reappraisal is a reasonable remedy because it provides for intercounty equalization statewide. *See Village of Ridgely Park v. Bergen County Bd. of Taxation*, 157 A.2d 829, 835 (N.J. 1960) (reappraisal remedies inequality countywide); *Kindsfater v. Butte Cnty.*, 458 N.W.2d 347, 351 (S.D. 1990) (invalidity of the unconstitutional first assessment was cured by valid reassessment). It was reasonable and appropriate for the State Board to order reappraisal of certain Incline Village and Crystal Bay properties subject to unconstitutional assessment methods. If Intervenor’s taxable values are not submitted to the equalization process, the taxable values set by this Court may create an inequity with the rest of Washoe County and the rest of the State. Brief, pp. 21-23. JA Vol. III, pp. 499, 467, 485.

Here, the State Board followed a reasonable course of action as it

determined the remedy to equalize Incline Village and Crystal Bay with the rest of Washoe County and the State. The *Carpenter* court found that where “*it is impossible to secure both the standard of the true value, and the uniformity and equality required by law, the latter requirement is to be preferred* as the just and ultimate purpose of the law.” (citation omitted) (emphasis supplied). *Carpenter*, 178 Neb. at 617. Similarly, equalization with the rest of Washoe County and the State should be preferred.

Accordingly, contrary to Intervenor’s argument, the State Board does have jurisdiction to order reappraisal. The State Board’s decision to order the reappraisal as within its jurisdiction to equalize, should be accorded deference. Brief, pp. 18-21. NAC 361.665(c). The United States Supreme Court issued an opinion expanding on the *Chevron* standard of deference to give an executive branch agency’s determinations including issues of jurisdiction. *City of Arlington, Tex. v. F.C.C.*, 2013 WL 2149789, 6 (U.S.) (U.S. 2013). There are no “separate ‘jurisdictional’ questions on which no deference is due. . .” *Id.* The Nevada Supreme Court has cited to *Chevron* in support of its opinion giving deference to a state executive branch agency’s determination. *Thomas v. City of North Las Vegas*, 122 Nev. 82, 102, 127 P.3d 1057, 1070 (2006) (“We give deference to administrative interpretations.”). Here, the State Board’s interpretation of NRS 361.395 is entitled to deference under *Chevron* and *Thomas*.

This Court need not puzzle over whether the State Board acted beyond its jurisdiction. The question for this Court is whether the State Board’s interpretation of NRS 361.395 is based on a permissible construction of the statute. *City of Arlington*, 2013 WL 2149789 at 1, quoting *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 842 (1984). Here, NRS 361.395 does not address methods to equalize classes of property. This Court should give deference

to the State Board's permissible construction of NRS 361.395. Intervenor's request for relief should be denied.


Accordingly, the State Board's Equalization Order is not subject to judicial review pursuant to NRS Chapter 233B because no contested cases are heard at an equalization hearing: equalization actions are legislative in nature, not adjudicative. Because equalization actions are subject to different legal principles and legal rules, *Sunnen* is not authority for Intervenor's taxable values to go unequalized with the rest of Washoe County and the State. The State Board's equalization action is entitled to deference because such action was a reasonable and a permissible construction of NRS 361.395. Intervenor has a remedy to review any resulting increase in the value of their property.

V. CONCLUSION

The Court should uphold the District Court's Order granting the Motion to Dismiss the PJR and denying the Objection. Upon the foregoing reasoning and authorities, the State Board respectfully requests the Court deny Intervenor's request for relief, remand the matter back to the State Board to continue the equalization process, lift the stay on the reappraisal of the properties, and permit the reappraisal to move forward within the time limit provided by the State Board.

DATED this 29th day of December, 2013.

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☐ This brief has been prepared in a proportionally spaced typeface using [state name and version of word-processing program] in [state font size and name of type style]; or

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2. I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

☒ **Proportionately spaced, has a typeface of 14 points or more, and contains 10,029 words;** or ☐ Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

☐ Does not exceed 30 pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 24 day of December, 2013.

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ADDENDUM

The following are printouts of the relevant Nevada Revised Statutes and Nevada Administrative Codes in Respondent's Answering Brief.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General, and on this 24th day of December, 2013, I served a copy of the foregoing, **RESPONDENT STATE BOARD OF EQUALIZATION'S ANSWERING BRIEF**, by mailing a copy thereof, postage-prepaid, addressed to:

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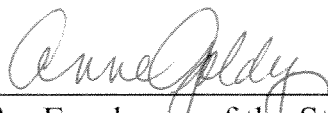
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