

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

* * *

WASHOE COUNTY, NEVADA, a political subdivision of the State of Nevada,

Petitioner,

vs.

STATE OF NEVADA, STATE BOARD OF EQUALIZATION AND CERTAIN TAXPAYERS (UNIDENTIFIED),

Respondents.

PETITION FOR JUDICIAL REVIEW (NRS 233B.130)

Washoe County, Nevada, (herein referred to as "Washoe County"), by and through Richard A. Gammick, District Attorney of Washoe County, Nevada, and David Craskman, Chief Deputy District Attorney, file this "Petition for Judicial Review (NRS 233B.130)" of an October 9, 2009 written decision of the Nevada State Board of Equalization (herein referred to as "SBOE"). The SBOE's October 9, 2009 written decision is the final decision of the SBOE in SBOE Case Number 06-508 "In the Matter of the Nevada Supreme Court Order dated October 30, 2008 requiring

consideration of the County Assessor's appeal of the March 8, 2006 equalization decision of the Washoe County Board of Equalization." Petitioner alleges as follows:

A. The Parties

1. Petitioner Washoe County is and, at all times mentioned in this document, was a political subdivision of the State of Nevada, headed by its elected Board of County Commissioners.

2. Respondent Nevada State Board of Equalization is an agency of the State of Nevada, vested by law with the authority and responsibility to hear and determine appeals of property tax valuations from county boards of equalization.

3. Other respondents are unidentified "certain taxpayers" who were named as parties to the matter before the State Board of Equalization about which this "Petition for Judicial Review (NRS 233B.130)" is brought.¹

B. Jurisdiction and Venue

1. The Court's subject matter jurisdiction to hear this "Petition for Judicial Review (NRS 233B.130)" is found in Nevada's Administrative Procedure Act, NRS chapter 233B.

2. Petitioner Washoe County has standing to bring this

¹ The phrase "certain taxpayers" is used throughout the State Board of Equalization's October 9, 2009 decision which is the subject of this "Petition for Judicial Review." But the phrase "certain taxpayers" provides nothing close to certainty as to who these taxpayers might be nor does Exhibit A to the SBOE's decision which is filled with tax-exempt entities. This issue is discussed more fully in the accompanying "Motion for Stay (NRS 233B.140)" filed contemporaneously with this "Petition for Judicial Review."

action, pursuant to authority contained in Mineral County v. State Board of Equalization, 121 Nev. 533, 119 P.3d 706 (2005).

3. Venue is proper in this Court, pursuant to NRS 233B.130(2)(b).

C. Basis for this Petition for Judicial Review

1. The October 9, 2009 written decision of the SBOE is flawed in each of the following regards:

a. This action was an appeal of a county board of equalization decision, such appeals handled pursuant to NRS 361.400, yet the action is improperly characterized as a "Notice of Equalization Decision;"

b. Although agendized as an appeal of a county board decision, the SBOE's October 9, 2009 written decision is a "Notice of Equalization Decision" in direct contravention of Nevada's Open Meeting Law and, thus, void.

c. The legal standard of review to be employed by the SBOE in an appeal of a county board of equalization decision submitted pursuant to NRS 361.360 and NRS 361.400 is set forth as "upon the evidence and data submitted to the county board of equalization," NRS 361.400(2), and in regulations of the Nevada Tax Commission governing the operations of the SBOE, yet the SBOE improperly disregarded these legal standards and, instead, based its decision on a fairness standard contained in NRS 360.291(1)(a);

d. Washoe County was improperly denied intervenor status in the proceeding before the SBOE, contrary to the logic and rationale of Mineral County v. State Board of Equalization, 121 Nev. 533, 119 P.3d 706 (2005), even though Washoe County was a real party in interest before the SBOE;

e. Standing was improperly granted to an organization known as "Village League to Save Incline Assets, Inc.," as this organization does not meet the legal requirements for organizational standing because, in part, it neither owns real property in Washoe County, Nevada nor pays taxes in Washoe County, Nevada;

f. Many absent and un-represented taxpayers were improperly afforded party status to the proceeding before the SBOE, particularly insofar as there exists no indication of an attorney/client relationship between the unidentified "certain taxpayers" to whom the SBOE's October 9, 2009 decision applies and their purported attorney;

g. Many taxpayers previously afforded property tax relief were unlawfully and improperly before the SBOE as they were previously afforded assessment adjustments by the SBOE;

h. A number of tax exempt entities were improperly afforded assessment adjustments, even though they pay

Incline Village NV 89452

1 no taxes;

2 1. The record upon which the SBOE based its decision
3 contained no evidence of assessment irregularities,
4 thus rendering the SBOE's decision as one not
5 supported by substantial evidence in the record;

6 the law of this case, as set forth by the Nevada
7 Court in Village League v. State Board of
8 194 P.3d 1254 (2008), was improperly
9 by the SBOE;

10 the October 9, 2009 decision of the SBOE fails to
11 recognize that the decision of the County Board of
12 Equalization, which it was sitting in appellate review
13 of, was made without legal basis.

14 WHEREFORE, these petitioners pray for judgment as follows:

15 1. That the October 9, 2009 written decision of the SBOE
16 be declared void as in violation of statutory provisions, in
17 excess of the statutory authority of the SBOE, as made under
18 unlawful procedure, as affected by other errors of law, as
19 clearly erroneous in light of the evidence in the record and/or
20 as arbitrary, capricious and generally characterized by an abuse
21 of discretion.

22 2. That the petitioner recover costs and reasonable
23 attorney's fees, to the extent provided by law;

24 3. That the Court grant such other and further relief as
25 petitioner may be entitled to.

26 AFFIRMATION PURSUANT TO NRS 239B.030

1 The undersigned does hereby affirm that the preceding
2 document does not contain the social security number of any
3 person.

4 Respectfully submitted this 6th day of November, 2009.

5 RICHARD A. GAMMICK
6 District Attorney

7 By David C. Clark
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13 ATTORNEYS FOR WASHOE COUNTY