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Nevada Supreme Court denies request to clarify tax ruling

Order comes hours after state equalization board requests clarification

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INCLINE VILLAGE, Nev. — The Nevada Supreme Court will not clarify a ruling it made in October 2008 regarding a case involving 8,700 Incline Village/Crystal Bay properties, according to an order handed down Wednesday.

The Supreme Court's ruling came just hours after the Nevada State Board of Equalization on Wednesday delayed a ruling and asked for clarification from the high court.

SBOE was scheduled to offer an opinion in a Wednesday meeting in Carson City, but held off because of confusion with the hearing's logistics, said David Creekman, a deputy district attorney with Washoe County who is representing the assessor's office — hence the order for the high court to clarify.

According to Wednesday's high court ruling, the SBOE decision was preempted by a motion filed on Monday by the Village League to Save Incline Assets, the nonprofit group representing the Incline taxpayers in the case, which requested the Supreme Court clarify its October 2008 opinion. Furthermore, SBOE on Tuesday filed a document, indicating it did not oppose the Village League's request to clarify.

Wednesday's Supreme Court order took into account Monday's motion, Tuesday's SBOE document and Wednesday's SBOE decision, ruling that "having reviewed the motion and the State Board's June 9 document, we conclude that clarification of our opinion is not warranted and that the factors this court considers in determining a grant to stay ... do not militate in favor to stay. Accordingly, we deny the motion."

"They are basically saying it needs to go back to the state board and deal with what they got," Creekman said. "I anticipate to file a motion for (SBOE) to hear this case as soon as possible."

Reno attorney Suellen Fulstone, who represents the Village League, said one of the reasons she requested clarification involves whether the 8,700 taxpayers should be respondents in the case.

Wednesday's hearing, which took place at 1919 College Parkway in the Gaming Control Board Room in Carson City, was set up for SBOE to hear the case between the Washoe County Board of Equalization and the Washoe County Assessor — meaning the taxpayers wouldn't get a chance to argue their case, Fulstone said, save for a 5-minute public comment session per taxpayer.

“When it was agendized, it was decided it would be the assessor versus the county board — the whole problem is the taxpayers were effectively excluded, and they're the ones who are in the case,” she said in a phone interview after the meeting.

Creekman agreed, saying he presented a similar case at Wednesday's SBOE hearing.

“From my position, on behalf of the assessor, it's wrong to deny these taxpayers the status as a respondent,” Creekman said. “I don't even know why it's being disputed.”

Another reason for the request to clarify, Fulstone and Creekman said, regards the record compiled for the case.

According to the case's history, on March 8, 2006, the Washoe County Board of Equalization issued a general equalization decision for the 2006-2007 tax year, rolling back taxable valuations for the 8,700 IV/CB properties.

The Washoe County Assessor (at the time, Bob McGowan) appealed the decision to the SBOE, which failed to consider the case until April 2007, and subsequently remanded the case to the WCBOE. Prior to that meeting, the other 300 parcel holders involved in the 2006-2007 tax year negotiated settlements with the county based on the general equalization decision.

This week's confusion revolves around those 300 parcel holders and whether they should be on the record, the attorneys said.

If the cases were on the record that the SBOE originally heard in April 2007, then they should be on the record now, Creekman said, and vice versa.

“It's really not that particularly complicated an issue,” Creekman said. “The Supreme Court said (in its October 2008 decision) the record is complete. When the SBOE held it's first hearing, were those 300 cases on the record? That's what the state board needs to figure out.

“If the record did not include the 300 cases, and the Village League wants to fight that, then we will fight it.”

Fulstone said the 300 cases should be on the record, considering they included a general equalization ruling, which is what the 8,700 other cases are pursuing.

After SBOE ruled in April 2007 to remand the case back to WCBOE, the Village League then filed suit against the state board, Washoe County, the Washoe County Assessor and Washoe County Treasurer, asking for the Supreme Court to declare that the SBOE's decision to remand the case to the WCBOE to be in “excess of its jurisdiction or an arbitrary exercise of its discretion,” the opinion reads.

According to the Oct. 30 opinion — which can be viewed in its entirety in a PDF format at tahoebonanza.com — the court agreed the SBOE did have jurisdiction to hear the cases and demanded the SBOE “vacate its remand order and proceed with its consideration of the Assessor's appeal of the County Board's equalization decision on the merits.”

A decision in favor of the taxpayers equates to a roll back of assessed property values for those properties from 2006-2007 to the 2002-2003 tax year — estimated at $12 million — a rollback Washoe County would have to refund.

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