

IN THE SUPREME COURT OF THE STATE OF NEVADA

VILLAGE LEAGUE TO SAVE INCLINE ASSETS, INC., A NEVADA NON-PROFIT CORPORATION, ON BEHALF OF THEIR MEMBERS AND OTHERS SIMILARLY SITUATED; MARYANNE INGEMANSON, TRUSTEE OF THE LARRY D. AND MARYANNE B. INGEMANSON TRUST; DEAN R. INGEMANSON, INDIVIDUALLY AND AS TRUSTEE OF THE DEAN R. INGEMANSON TRUST; J. ROBERT ANDERSON; AND LES BARTA, ON BEHALF OF THEMSELVES AND OTHERS SIMILARLY SITUATED,
Appellants,

vs.

THE STATE OF NEVADA ON RELATION OF THE STATE BOARD OF EQUALIZATION; WASHOE COUNTY; AND BILL BERRUM, WASHOE COUNTY TREASURER,
Respondents.

No. 56030

FILED

FEB 24 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING

This is an appeal from a district court order dismissing a petition for a writ of mandamus in a property tax action. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

In 2003, appellant Village League to Save Incline Assets, Inc. filed a complaint in district court concerning property tax assessments against the Nevada Department of Taxation, the Nevada Tax Commission, the State Board of Equalization, the Washoe County Assessor, and the Washoe County Treasurer. Village League alleged, in relevant part, that the Washoe County Assessor used unconstitutional methodologies to

assess property values in Incline Village and Crystal Bay for the 2003-2004 tax year, and that the State Board of Equalization had failed to carry out its constitutional obligation to equalize property valuations statewide. Because Village League failed to exhaust its administrative remedies before bringing suit, the district court dismissed the complaint and Village League appealed the dismissal.

In 2009, this court affirmed in part and reversed in part the district court's order. See Village League v. State, Dep't of Taxation, Docket No. 43441 (Order Affirming in Part, Reversing in Part and Remanding, March 19, 2009). While agreeing that Village League failed to exhaust available administrative remedies on the majority of its claims, this court concluded that "[i]t is not clear, however, that Village League had available any means to administratively challenge the State Board of Equalization's alleged failures to carry out its equalization duties." Id. Consequently, the case was remanded to the district court for the limited purpose of determining the viability of Village League's equalization claim. Id.

On remand, Village League amended its complaint to seek a writ of mandamus, alleging that the State Board of Equalization (the State Board) failed to equalize valuations throughout the state, as well as between Washoe and Douglas counties, for the 2003-2004 tax year, and that writ relief was warranted to compel it to do so. Respondents the State Board, Washoe County, and the Washoe County Treasurer filed a motion to dismiss, arguing, in relevant part, that a writ of mandamus was unavailable to control the State Board's discretion in effecting equalization for that tax year and that Village League had an adequate remedy at law. The district court agreed and denied the petition for a writ of mandamus. Village League appealed the dismissal of its petition.

We affirm in part, reverse in part, and remand this case to the district court. As the parties are familiar with the facts, we do not recount them further except as necessary to our disposition.

The State Board has an obligation to act and the proper forum for a taxpayer to request statewide equalization is before the State Board

Generally, the district court's denial of a writ petition is reviewed for an abuse of discretion; however, when the petition contains questions of law, we review the district court's decision de novo. Reno Newspapers v. Gibbons, 127 Nev. ___, ___, ___ P.3d. ___, ___ (Adv. Op. No. 79, December 15, 2011).

The Nevada Constitution guarantees "a uniform and equal rate of assessment and taxation" with respect to real property. Nev. Const. art. 10, § 1; see State, Bd. of Equalization v. Bakst, 122 Nev. 1403, 1413, 148 P.3d 717, 724 (2006). Also, it is well settled that the State Board had a duty in 2003-2004, as it does now, to equalize property valuations in the state. NRS 361.395(1) ("[T]he State Board of Equalization shall . . . [e]qualize property valuations in the State."); see Marvin v. Fitch, 126 Nev. ___, ___, 232 P.3d 425, 430 (2010) ("NRS Chapter 361 . . . obligates the State Board to equalize property valuations throughout the state The State Board's predominant concern . . . should be the guarantee of a uniform and equal rate of taxation."); State, Bd. of Equalization v. Barta, 124 Nev. 612, 627-28, 188 P.3d 1092, 1102 (2008) (recognizing that the State Board has a duty to equalize property valuations statewide).

In this case, the district court correctly stated that the State Board has an obligation to determine the proper equalization of property valuations throughout the state of Nevada, as well as between Washoe County and Douglas County. The district court, further, correctly

concluded that the proper forum for a taxpayer to request or discuss the need for the adjustment of property valuations is before the State Board.

The district court erred in concluding that Village League had an adequate remedy at law


Village League argues that the district court erred in determining that it had an adequate remedy at law, and in dismissing its petition for a writ of mandamus. We agree.


A writ of mandamus will not issue if the petitioner has “a plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.170. The petitioner bears “the burden of demonstrating that extraordinary [writ] relief is warranted.” Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). A petition for a writ of mandamus “should be dismissed only if it appears beyond a doubt that [petitioners] could prove no set of facts, which, if true, would entitle [them] to relief.” Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008); see also NRS 34.300 (the “Nevada Rules of Civil Procedure relative to civil actions in the district court are applicable to and constitute the rules of practice in [mandamus] proceedings”).


Here, Village League petitioned for a writ of mandamus to direct the State Board to equalize property valuations throughout the state. As noted above, the district court properly determined that the only available forum for taxpayers to be heard regarding the statewide adjustment of taxable property valuation is in front of the State Board. The State Board has repeatedly stated in its motions and briefs that no hearings have been held to equalize all property values in the state. The State Board has previously met to discuss how to implement the requirements of NRS 361.395, but has not held a public hearing during which taxpayers could air their grievances with the equalization process, nor has it affirmatively acted to equalize property values. The State

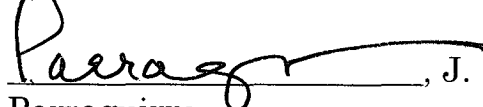
Board's failure to conduct public hearings with regard to statewide equalization has denied Village League an adequate remedy at law. See Pan, 120 Nev. at 224, 88 P.3d at 841 (concluding that a writ of mandamus is appropriate if the petitioner does not have an adequate remedy at law); see also NRS 34.170. The district court erred in determining that Village League had an adequate remedy at law. The State Board is required to hold a public hearing, and its failure to do so has precluded Village League from availing itself of available administrative remedies.¹ For the foregoing reasons, we

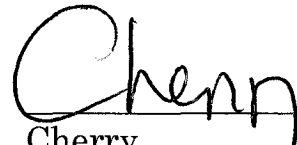
ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.²

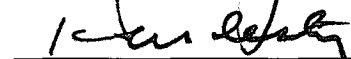

Saitta, C.J.


Douglas, J.


Gibbons, J.


Parraguirre, J.


Cherry, J.


Hardesty, J.

¹Because we have determined that Village League did not have an adequate remedy at law, and are remanding this case to the district court, we do not reach the substantive merits of Village League's arguments.

²The Honorable Kristina Pickering, Justice, voluntarily recused herself from participation in the decision of this matter.

cc: Hon. Patrick Flanagan, District Judge
Morris Peterson/Reno
Washoe County District Attorney/Civil Division
Attorney General/Carson City
Washoe District Court Clerk