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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

CHARLES OTTO, Trustee of the Otto Family Trust; TODD LOWE, Trustee of the Lowe Family Trust; V PARK LLC, a Nevada limited liability company, for themselves and on behalf of similarly situated residential property owners and taxpayers at Incline Village/Crystal Bay, Washoe County, Nevada;)	Case No. CV09-02534
)	
)	Dept. No. 6
)	
)	
)	
Petitioners.)	
v.)	
)	
BILL BERRUM, Washoe County Treasurer,)	
)	
Respondent.)	
)	

ORDER AND ISSUANCE OF WRIT OF MANDATE

This matter came on for hearing on the petition of Charles Otto, Trustee of the Otto Family Trust, Todd Lowe, Trustee of the Lowe Family Trust, and V Park LLC, a Nevada limited liability company, for themselves and on behalf of all similarly situated residential property owners and taxpayers at Incline Village/Crystal Bay, Washoe County, Nevada, for a writ of mandamus, the issuance and service upon the respondent, Bill Berrum, Washoe County Treasurer, of an order to show cause why the writ should not issue, and the appearance and submission of evidence and argument by counsel for petitioners and respondent. The Court, having considered

1 the petition, the evidence presented, and the arguments of counsel, finds and concludes as follows:

2 1. Petitioners were owners of residential parcels in Incline Village and Crystal Bay in
3 Washoe County valued and assessed for property taxes in the 2006-2007 tax year.

4 2. Respondent Washoe County Treasurer is, and was for the 2006-2007 tax year and
5 subsequent years, the tax receiver responsible for the collection and receipt of all taxes assessed
6 upon the county's real property assessment roll and for the refund of excess taxes paid. NRS
7 §361.475, §361.485, §361.486.

8 3. On March 8, 2006, the Washoe County Board of Equalization made a decision
9 pursuant to its obligation of geographic equalization ordering that the 2006/2007 valuation of all
10 residential properties in Incline Village and Crystal Bay "be reduced to the 2002/03 taxable values
11 for equalization purposes, that any parcel reduced subsequent to 2002 that was a lower amount be
12 rolled back to the lower of the two values, and that any improvements subsequent to 2002/03 be
13 adjusted accordingly."

14 4. The immediate implementation of the County Board of Equalization's March 8,
15 2006 decision was stayed by the Nevada Supreme Court.

16 5. The only basis for property taxation is the county assessment roll. NRS 361.445.
17 Because of the Supreme Court's stay order, the March 8, 2006 decision of the County Board of
18 Equalization reducing taxable values of all residential properties at Incline Village and Crystal
19 Bay was not reflected in the 2006-2007 assessment roll. The respondent Washoe County
20 Treasurer calculated, billed and collected taxes for the 2006-2007 tax year on the unreduced
21 taxable values of those properties.

22 6. In January of 2007, after the Supreme Court's December 2006 decision in State ex
23 rel State Board of Equalization v. Bakst, 122 Nev. 1403, 148 P.3d 717 (2006), became final, the
24 stay of the March 2006 County Board of Equalization decision expired. Accordingly, on January
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1 23, 2007, the clerk of the Washoe County Board of Equalization issued its formal written notice
2 of the March 8, 2006 decision. (Exhibit 1)

3 7. In January of 2007, pursuant to the March 8, 2006 order of the Washoe County
4 Board of Equalization as memorialized in the January 23, 2007 Notice of Decision, the Washoe
5 County Assessor corrected the assessment roll for the 2006-2007 tax year.

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7 8. Based on the corrected assessment roll, the respondent Washoe County Treasurer
8 had billed and collected excess amounts of property taxes from the owners of residential property
9 at Incline Village and Crystal Bay for the 2006-2007 tax year. Because of the application of the
10 property tax cap, additional excess amounts of property taxes were billed to and collected from
11 the Incline Village/Crystal Bay residential property owners for subsequent years.

12
13 9. The respondent Washoe County Treasurer has a mandatory, non-discretionary duty
14 to refund excess taxes billed and collected by his office. NRS §360.2935; §361.485; §361.486.

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16 10. Pursuant to his statutory duty, the Washoe County Treasurer has kept a record of
17 each tax payment made by or on behalf of the residential property owners of Incline Village and
18 Crystal Bay for the tax year 2006-2007 and subsequent years.

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20 11. The March 8, 2006 decision and order of the Washoe County Board of
21 Equalization as memorialized in the January 23, 2007 Notice of Decision, is in effect and is not
22 the subject of any stay.

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24 12. Petitioners have no plain, speedy or other adequate remedy in the ordinary course
25 of law.

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27 ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED that the petition for
28 writ of mandamus is granted, and the respondent, Bill Berrum, Washoe County Treasurer, is
mandated and commanded to forthwith comply with the March 8, 2006 decision and order of the
Washoe County Board of Equalization as memorialized in the Notice of Decision issued on

1 January 23, 2007, and as reflected on the real property assessment roll for Washoe County as
2 corrected by the Washoe County Assessor in January of 2007, by calculating the amount of excess
3 taxes paid by the owners of all Incline Village and Crystal Bay residential property for the tax year
4 2006-2007 and subsequent years, and refunding to taxpayers the amount of those excess taxes
5 with interest calculated pursuant to NRS §361.486 at the rate of 0.5 percent per month, or fraction
6 thereof, from the last day of the calendar month in which the overpayment was made to the last
7 day of the calendar month in which the refund is made.
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9 DATED this 23rd day of October, 2009.

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12 _____
13 DISTRICT JUDGE
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