

WRITTEN STATEMENT REQUESTED TO BE INCLUDED IN THE WRITTEN MINUTES OF THIS SEPTEMBER 9, 2019 TAX COMMISSION MEETING – AGENDA ITEM I – PUBLIC COMMENT – APPEAL OF THE EXECUTIVE DIRECTOR’S DECISION REFUSING TO DETERMINE THAT THE INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT (“IVGID”) IS AN ENTERPRISE DISTRICT PURSUANT TO THE PROVISIONS OF NRS 360.710

The undersigned is an aggrieved resident of Incline Village and taxpayer.

1. Given the Commission is “the head of the Department” [NRS 360.120(2)], NRS 360.130(2) vests it with “the power to authorize the Executive Director or any other officer of the Department...the...authority to...conduct investigations.”

2. Accordingly, on March 14, 2019 I wrote to Commissioner Lipman sharing a series of alleged IVGID irregularities and the Department’s refusal to take remedial action. In response, on March 28, 2019, Chairman DeVold directed Jennifer Crandell, Office of Attorney General (“OAG”) Special Counsel to the Commission, to send me an e-mail in which she stated the Executive Director would “look into the issues (I) present...consult with the Attorney General assigned to the Department as needed, to determine what, if any, course of action can be taken... (and directed I should) follow up with Ms. Young directly.” Ms. Crandell copied the Executive Director and instructed “this matter...(be) turn(ed)...over to the Department of Tax for review.”

3. NRS 360.620(3) instructs that “the Executive Director (*shall*) determine (whenever) ...a governmental entity...is an enterprise district;”

4. Given IVGID is a governmental entity and the Executive Director has failed to determine it is an enterprise district, on March 21, 2019 I made request she determine IVGID is an enterprise district “pursuant to the provisions of NRS 360.710;”

5. NRS 360.293 instructs that “within 30 days after (the Department) receives (*any*)... written request submitted by (a) taxpayer...(it) *shall* provide a taxpayer with a written response;”

6. On July 8, 2019 when I had not received any substantive response to my March 21, 2019 request, I reiterated my request to the Executive Director. Since far in excess of thirty days had lapsed, I informed her that if a response were not received within the next ten (10) days, I would construe her action to be a *de facto* refusal decision;

7. Given NAC 360.065(1) instructs that “any party (may) appeal...*a(ny)* decision of (a) hearing officer...to the Commission,” and the only pre-requisites are that a decision has been rendered and that the person who appeals is aggrieved [NRS 360.245(1)(b)], on July 22, 2019 I appealed to the Commission the Executive Director’s *de facto* refusal to satisfy her duty to determine IVGID is an enterprise district;

8. Notwithstanding, the Executive Director failed to agendize my appeal for possible action at the Commission’s August 2, 2019 meeting;

9. Further notwithstanding, the Executive Director failed to agendize my appeal for possible action at the Commission’s August 12, 2019 meeting;

10. Meanwhile on August 30, 2019, the OAG issued a written advisory opinion [“NAC 360.042(2) only allows Taxpayers to request *written advice* from the Department regarding (a) their rights and responsibilities; and (b) common errors made by taxpayers”] to my March 21, 2019 request on the Executive Director’s behalf. Therein the Executive Director refused to determine that IVGID is an enterprise district, notwithstanding the fact I never requested an advisory opinion pursuant to NAC 360.190(1), NAC 360.042, nor otherwise.

11. The bases for the Executive Director’s advisory opinion decision were:

a) A taxpayer has no standing to request that “the Executive Director...make a determination pursuant to NRS 360:710;” and,

b) Since “there has been no *decision* by the (Executive) Director or the Department,” and presumably there is going to be none, I have/had no “basis for an appeal (to the Commission) pursuant to NRS 360.245;”

12. Notwithstanding, the Executive Director has failed to agendaize for possible action the Executive Director’s response my appeal at this (the Commission’s September 9, 2019) meeting;

13. Now that the Executive director has rendered an actual written decision refusing to determine that IVGID is an enterprise district, I will be filing another notice of appeal to the Commission;

14. I therefore request the Commission understand I have appealed the Executive Director’s refusal to determine that IVGID is an enterprise district, and that at its next meeting (October 7, 2019), it direct the Executive Director to administer the appeal as provided in NAC 360.175, et seq., and that it determine IVGID is an enterprise district; and,

15. I also request that the Commission, at its next meeting, direct staff to adopt regulations providing for the public’s standing to request that the Department and the Executive Director satisfy their duties under the NRS and NAC, such as those under NRS 360.620(3), when as here they refuse to perform said duties.

When the Executive Director refuses to perform duties mandated by statute, and the Department refuses to “exercise general supervision and control over the entire revenue system of the State” as NRS 360.200 mandates, the Commission as “the head of the Department” must intervene.

I thank the Commission for its consideration of my requests, and its hopeful positive

response.



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