

R167-18



TAHOE LAKEFRONT OWNERS' ASSOCIATION

December 18, 2018

Nevada Legislative Commission
Attn: Sylvia Wiese
401 S. Carson Street
Carson City, Nevada 89701

Re: Comments Opposing Ratification of NDSL Proposed Regulations
Agenda Item V.A.322

Dear Commission Members:

On behalf of all private Nevada lakefront owners, Tahoe Lakefront Owners' Association (TLOA) respectfully requests the above item on the December 19, 2018, agenda not be ratified. The NDSL Registrar improperly and unlawfully administered SB512 through the regulatory process.

The NDSL Registrar has a duty to provide the basis on which the regulations were approved, including all evidence that qualify a decision. In this case, the Registrar has failed to provide such information, and has been derelict in his duty to produce reliable, probative, and substantive data as required by statute. The Registrar engaged in a process that failed to appropriately and actually determine the Fair Market Value of the submerged sovereign land and apply appropriate fees as required by statute.

When the legislature originally enacted pier and buoy fees in the 1990's, they did so consistent with public input and on a fair and reasonable basis. The TLOA is not opposed to an adjustment, however, the Registrar has decided unilaterally to completely change the method and fee structure. Further, he expanded the scope and purpose of the regulation well beyond the very clear language of the legislative authority. The NDSL Registrar is attempting to use his authority to modify the fee structure through regulation not sanctioned or even contemplated by the legislature. The public policy ramifications are significant, and TLOA strenuously objects to both the method and fees adopted by the NDSL Registrar.

The TLOA has represented lakefront owners for the past 45 years, and has substantial experience and expertise related to the valuation of submerged land. TLOA had completed an exhaustive study in 2016 and 2017 related to this topic which the NDSL Registrar completely ignored. Neither the NDSL Registrar nor the NDSL Appraiser considered any of this information prior to final recommendations and adoption of the regulation package. This is, by all accounts, unconscionable and derelict in consideration of all relevant and timely information by which to make an informed decision.

The TLOA insists the legislature did not intend for the NDSL Registrar to expand the scope and purpose of the regulation beyond the clearly stated authority. The Registrar asserts benefits and detriments that do not exist in statute to justify his extraordinarily faulty regulatory scheme, and the TLOA contends were never envisioned by the legislature upon adoption of SB512.

Box 7073
Tahoe City,
CA 96145

PH (530) 583-5253

FX (530) 583-0401

WWW.TLOA.NET

Agenda Item II (LEG COMM)
Meeting Date: 12-19-18

After hearing numerous protests, the NDSL hired Mr. Stephen Johnson of the firm Johnson and Perkins to prepare a report, ostensibly to consider Fair Market Value, however, this report failed on a number of levels. The TLOA provided this report and a professional review which clearly shows the report is sanctionable due to numerous violations of the USPAP standards, and incredulous as to how the findings support the recommendation of a 24,000% increase in the fee for piers. Again, the public policy implications are dire.

Mr. Johnson has a history of discredited appraisal misfeasance. During the early 2000's, with the praise and approval of Johnson, the Washoe County Assessor went rogue, applying never-before-imagined appraisal methods that increased land valuations by over 1,000% at Lake Tahoe. For his role in the Washoe County debacle, Johnson was sued by Tahoe lakefront property owners. The Nevada Supreme Court ultimately ruled against the County and State. Washoe County was required to return the excess taxes with interest in the amount of \$50 million dollars. Johnson's undisclosed conflict of interest should have disqualified him from conducting any appraisal of properties held by former plaintiffs against him and could explain the incredulous result. A parallel situation has developed and history may repeat itself without an immediate course correction.

The information and testimony of the NDSL Registrar and his staff in support of the process and final regulatory package were misleading and inconsistent with the documentation available in the record. The failure to even consider evidence from a sister state sharing the same body of water should raise suspicions by this legislative commission. The failure to analyze extensive information prepared by the California State Lands Commission staff in favor of the regulations before you today prove that the NDSL Registrar has not fulfilled his obligations, and discredit his testimony that he considered information prepared by western states.

Nevada lakefront owners expect fair and reasonable fees. Unfortunately, the Registrar went well beyond his authority, and without supporting documentation, putting the entire process and findings at risk. Most, if not all, of the piers and buoys at Lake Tahoe have existed for decades, and the legislature has been diligent in its application of fees. If the NDSL regulation is enacted, an unlawful and unfair burden will be placed on Nevadans who happen to own property adjacent to sovereign lands of the state. As neighbors, we have a duty to work cooperatively to find solutions.

The TLOA strongly urges this commission to not ratify the regulations. We look forward to a process that supports the legislative intent, and a proposal for fair fees that meet the statutory requirements.

Sincerely,



Jan Brisco
Executive Director