

MAY 16 2008

DAVID NAVARRO
COURT CLERK

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Case No. CV-OT-0716638

IN RE: FACILITIES AND EQUIPMENT
PROVIDED BY THE CITY OF BOISE

MEMORANDUM DECISION
AND ORDER

Before the Court for decision is the City of Boise's Petition to Set Aside Administrative Order dated October 9, 1980. Hearing was held before the Fourth Judicial District Judges *en banc* on April 18, 2008.

Introduction

Prior to 1971, the courts of limited jurisdiction in Idaho consisted of probate courts, justice of the peace courts and municipal or police courts. Probate judges and justices of the peace had jurisdiction over both civil and criminal matters. IDAHO CONST., art V, §§ 20, 21 (repeal of these sections was proposed by 1961 Idaho Sess. Law 1077, H.R.J. Res 10 and ratified in the 1962 general election). Police judges had criminal jurisdiction only. Idaho Code §§ 49-333, 49-121 (repealed 1967 Idaho Sess. Laws, ch. 429, § 472). The entire cost of the probate and justice of the peace courts was provided by the county. Funding for the operation of police courts was paid for by the city.

The court reform process that took effect on January 11, 1971, eliminated all of these lower courts and established the Magistrate's Division of the District Court. 1969 Idaho Sess. Laws chs. 100-28. Three hundred mostly part time probate, justice of the peace and police judges were

1 transformed into sixty full-time magistrate judges. Hon. Alfred C. Hagan and Carl F. Bianchi, *Justice*
2 *for the Times*, ch. 7, p. 179 (1990). Judicial salaries, which had been paid for by either the county or
3 the city, became the responsibility of the State of Idaho. 1969 Idaho Sess. Laws ch. 104, § 15.

4 Having shifted the funding of the salaries of the lower court judges to the State, the court
5 reform legislation made provisions for who would be responsible for providing courtroom facilities,
6 support staff, equipment and supplies. 1969 Idaho Sess. Laws ch. 121. These provisions are codified
7 as Idaho Code §§ 1-2217 and 1-2218, set forth below:

8 § 1-2217. Facilities and equipment provided by county
9

10 Each county in the state shall provide suitable and adequate quarters for the
11 magistrate's division of the district court, including the facilities and equipment
12 necessary to make the space provided functional for its intended use, and shall provide
13 for the staff personnel, supplies, and other expenses of the magistrate's division.

14 § 1-2218. Facilities and equipment provided by city
15

16 Any city in the state shall, upon order of a majority of the district judges in the
17 judicial district, provide suitable and adequate quarters for a magistrate's division of
18 the district court, including the facilities and equipment necessary to make the space
19 provided functional for its intended use, and shall provide for the staff personnel,
20 supplies, and other expenses of the magistrate's division.

21 Idaho Code §§ 1-2217, 2218.

22 Under § 1-2217, the county is responsible for providing magistrate court facilities and court
23 staff unless, under § 1-2218, a majority of the district judges in the judicial district order a city to
24 provide magistrate court facilities and court staff.

25 The court reform legislation also added a new section, Idaho Code § 31-3201A, establishing a
26 schedule of fees to be charged for criminal and traffic convictions, and apportioning those fees
between the state and the county. 1969 Idaho Sess. Laws. ch. 139. This section was amended later to

1 authorize apportioning fees with a city if the magistrate court facilities were provided by a city. 1978
2 Idaho Sess. Laws ch. 72; 1980 Idaho Sess. Laws ch. 125; 1996 Idaho Sess. Laws ch. 96. Currently,
3 this section provides, in pertinent part, as follows:

4 31-3201A. Court Fees.

5 (b) A fee of seventeen dollars and fifty cents (\$17.50) shall be paid, but not in
6 advance, by each person found guilty of any felony or misdemeanor, except when the
7 court orders such fee waived because the person is indigent and unable to pay such fee.
8 If the magistrate court facilities are provided by the county, five dollars (\$5.00) of such
9 fee shall be paid to the county treasurer for deposit in the district court fund of the
10 county; and twelve dollars and fifty cents (\$12.50) of such fee shall be paid to the
11 county treasurer who shall pay such fees to the state treasurer for deposit in accordance
12 with subsection (p) of this section. If the magistrate court facilities are provided by a
13 city, five dollars (\$5.00) of such fee shall be paid to the city treasurer for deposit in the
14 city general fund, two dollars and fifty cents (\$2.50) of such fee shall be paid to the
15 city treasurer for deposit in the city capital facilities fund for the construction,
16 remodeling and support of magistrates court facilities, and ten dollars (\$10.00) of such
17 fee shall be paid to the county treasurer who shall pay such fees to the state treasurer
18 for deposit in accordance with subsection (p) of this section.

19 (c) A fee of sixteen dollars and fifty cents (\$16.50) shall be paid, but not in
20 advance, by each person found to have committed an infraction or any minor traffic,
21 conservation or ordinance violation; provided that the judge or magistrate may in his
22 or her discretion consolidate separate nonmoving traffic offenses into one (1) offense
23 for purposes of assessing such fee. If the magistrate court facilities are provided by the
24 county, five dollars (\$5.00) of such fee shall be paid to the county treasurer for deposit
25 in the district court fund of the county; and eleven dollars and fifty cents (\$11.50) of
26 such fee shall be paid to the county treasurer, who shall pay such fees to the state
treasurer for deposit in accordance with subsection (p) of this section. If the magistrate
court facilities are provided by a city, five dollars (\$5.00) of such fee shall be paid to
the city treasurer for deposit in the city general fund, two dollars and fifty cents (\$2.50)
of such fee shall be paid to the city treasurer for deposit in the city capital facilities
fund for the construction, remodeling and support of magistrate court facilities, and
nine dollars (\$9.00) of such fee shall be paid to the county treasurer who shall pay such
fees to the state treasurer for deposit in accordance with subsection (p) of this section.

23 Idaho Code § 31-3201A(b), (c).

Facts and Proceedings

On January 11, 1971, the precise effective date of the legislation creating the Magistrate's Division of the District Court, all of the district judges of the Fourth Judicial District entered an order pursuant to Idaho Code § 1-2218 as follows:

It is hereby Ordered that, pursuant to Section 1-2218, Idaho Code, the City of Boise, Idaho, shall provide **suitable and adequate quarters for two magistrates** of the Fourth District Court Magistrates Division, including two courtrooms with related facilities and equipment necessary to make the space provided functional for its intended use, and the necessary supplies and non-judicial staff personnel to operate said courts.

(January 11, 1971 Order.) (emphasis added.) The City of Boise complied with this Order by providing magistrate court facilities and support personnel for two magistrate judges in an old fire station on Kootenai Street in Boise. The Kootenai Street facility was a misdemeanor and traffic court facility. The remaining magistrate facilities and functions were provided by Ada County at the Ada County Courthouse. In 1974, Ada County built a juvenile court and detention facility on West Denton Street. See <http://www.adaweb.net/departments/JuvenileCourt/default.asp>. All magistrate juvenile proceedings have been conducted at this facility since 1974.

On October 9, 1980, all of the district judges of the Fourth Judicial District entered a new order pursuant to Idaho Code § 1-2218. This Order provided as follows:

Pursuant to the authority of section 1-2218, Idaho Code, the City of Boise City, Idaho, be, and

HEREBY IS ORDERED to provide **suitable and adequate quarters for a Magistrate's Division** of the District Court, including the facilities and equipment necessary to make the space provided functional for its intended use, and shall provide for the staff, personnel, supplies, and other expenses of the Magistrate's Division.

1 (October 9, 1980 Order.) (emphasis added.) The City of Boise complied with this Order by building
2 a new court facility on Barrister Drive. This new court facility was owned by Boise City. The
3 Barrister court facility had five courtrooms and was opened in August 1981.

4 There is some indication that the parties originally intended for the Barrister court to handle
5 only misdemeanor and infraction filings by the City of Boise. However, the Barrister court eventually
6 handled all misdemeanor and infraction cases filed by Boise City and Ada County, as well as
7 misdemeanor and infraction filings by the Idaho State Police, Idaho Fish and Game, and the cities of
8 Meridian, Garden City, Kuna and Eagle. All other magistrate court functions were conducted at
9 either the Ada County Courthouse or the juvenile court on Denton Street. The Barrister court also
10 was used for the initial appearance of any person charged with a felony offense. The \$5.00 and the
11 \$2.50 fees authorized by Idaho Code § 31-3201A(b) and (c) were paid to Boise City for the cases
12 filed at the Barrister courthouse.
13

14 Initially, all of the court clerks, other staff, equipment and supplies at the Barrister courthouse
15 were provided by Boise City. Over time, Ada County supplemented the court personnel at the
16 Barrister courthouse with Ada County employees.
17

18 In 1992, the Trial Court Administrator for the Fourth Judicial District sought contributions
19 from Meridian and Garden City to support the Barrister courthouse operations. In 1994, the district
20 judges of the Fourth Judicial District entered another order pursuant to Idaho Code § 1-2218. This
21 order provides as follows:

22 Having reviewed the Petition filed by the City of Boise and Ada County, the
23 undersigned District Judges of the Fourth Judicial District have concluded that the
24 volume of work generated by the processing of citations and complaints through the
Magistrate Division of the Fourth District have reached such levels that it is no longer

1 reasonable for the City of Boise and Ada County to bear sole financial responsibility
2 for the processing of citations and complaints issued by other municipalities.

3 NOW, THEREFORE, IT IS HEREBY ORDERED THAT, the City of Garden
4 City, Idaho, pursuant to authority provided in Idaho Code 1-2218, provide by October
5 1, 1994 suitable and adequate quarters for the magistrate's division of the Fourth
6 Judicial District, including the facilities and equipment necessary to make the space
7 provided functional for its intended use, and shall provide for the staff personnel,
8 supplies and other expenses of the magistrate's division. The suitability and adequacy
9 of said quarters, facilities, equipment, staff personnel, supplies and other expenses are
10 subject to final approval by this Court.

11 FURTHER, THAT the City of Meridian, Idaho, pursuant to authority provided
12 in Idaho Code 1-2218, IS HEREBY ORDERED to provide by October 1, 1994
13 suitable and adequate quarters for the magistrate's division of the Fourth Judicial
14 District, including the facilities and equipment necessary to make the space provided
15 functional for its intended use, and shall provide for the staff personnel, supplies and
16 other expenses of the magistrate's division. The suitability and adequacy of said
17 quarters, facilities, equipment, staff personnel, supplies and other expenses are subject
18 to final approval by this Court.

19 (August 12, 1994 Order.) This Order was not implemented, although there was no formal order
20 vacating or rescinding the Order.

21 During the 1990's, Ada County began work on plans to build a new Ada County Courthouse
22 and County Administration building on land it owned on Front Street in Boise. The new Ada County
23 Courthouse would include all district court and magistrate court functions, except for juvenile
24 proceedings. While construction of the new courthouse and county administration building would
25 not begin until 2000, Boise City and Ada County recognized that the new courthouse would obviate
26 the need for the Barrister courthouse.

In October 1999, Ada County and the City of Boise entered into a Memorandum of
Agreement ("Agreement"). This Agreement made significant changes in the manner in which Boise
City had been providing for suitable and adequate quarters for a Magistrate's Division of the District
Court. In this Agreement, the City of Boise transferred all of its Barrister court employees to the

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1 employ of Ada County. Ada County accepted the Boise City employees at the same wages as were
2 being paid by Boise City. Ada County would provide Ada County employment benefits to these
3 transferred employees on the same basis as all Ada County employees. The City of Boise agreed to
4 compensate Ada County for the actual expense of these employees, as well as for other court
5 operation and maintenance expenses. Pursuant to this Agreement, all Boise City employees at the
6 Barrister courthouse became employees of Ada County on October 1, 1999. Boise City agreed to
7 continue to provide the use of the Barrister courthouse until the new county courthouse was built. In
8 the Agreement, Boise City agreed to continue to compensate Ada County for the cost of the
9 transferred employees, as well as certain operation and maintenance expenses, even after Ada County
10 opened the new courthouse.
11

12 In approving this Agreement, the Boise City Council passed Resolution 15642 which
13 acknowledged that Boise City had continuing obligations by virtue of the October 9, 1980 Order.
14 Boise City did not assert in 1999, as it does now, that the proposed new county courthouse would
15 nullify its obligation to provide suitable and adequate quarters for a Magistrate's Division of the
16 District Court.
17

18 The new Ada County Courthouse and Administrative Building was completed in about
19 January 2002. All of the functions of the Ada County District Court and all of the functions of the
20 Magistrate's Division of the District Court, except for juvenile proceedings, were moved and
21 consolidated into the new courthouse facility. Ada County is the owner of the new county courthouse
22 and administration building. Boise City did not pay for any part of the construction of this facility.
23 All of the employees of the Barrister court facility, and the magistrates who had been chambered at
24

1 the Barrister courthouse, moved into the new Ada County Courthouse. The court facility on Barrister
2 Drive was converted into office space used by the Ada County Sheriff.

3 Once the Barrister court functions were consolidated into the new county courthouse, Boise
4 City no longer received any of the Idaho Code § 31-3201A(b) and (c) fees. However, pursuant to
5 negotiations between Boise City and Ada County, Ada County has been giving the City of Boise a
6 credit equal to the \$5.00 fees it used to receive under Idaho Code § 31-3201A(b) and (c) for
7 misdemeanor and infraction cases filed by Boise City. This credit effectively decreases the amounts
8 that Boise City agreed to pay Ada County pursuant to the 1999 Agreement. In late 2007, the City of
9 Boise stopped making payments to Ada County as called for by the Agreement.
10

11 For the fiscal year that ended on September 30, 2007, there were a total of 99,371
12 misdemeanor and infraction filings in the Magistrate's Division of the Ada County District Court.
13 Of these, Boise City accounted for 50,927¹ or more than 51% of all misdemeanor and infraction
14 filings in Ada County. The figures and percentages for this last fiscal year are consistent with the
15 figures and percentages of prior years. For instance, for the last full fiscal year that misdemeanors
16 and infractions were filed at the Barrister courthouse, there were a total of 112,543 cases filed, of
17 which Boise City accounted for 57,832,² or more than 51%. Boise City accounts for, and for some
18 time has accounted for, the largest number and percentage of misdemeanor and infraction filings in
19 Ada County.
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24 ¹ 58,901 (total Boise City) less 7,974 (Meridian City) = 50,927. (See Second Affidavit of Larry D. Reiner, Exhibit B.)

25 ² 65,113 (total Boise City) less 7,281 (Meridian City) = 57,832. (See Second Affidavit of Larry D. Reiner, Exhibit B.)

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1 On September 14, 2007, the City of Boise filed this Petition asking the district judges of the
2 Fourth Judicial District to set aside the Order of October 9, 1980. On October 12, 2007, Ada County
3 and the Board of Ada County Commissioners moved to intervene in this action. Over the City's
4 objections, the District Judges³ granted Ada County's motion to intervene in an Order entered
5 December 19, 2007.

6 The City of Boise and Ada County have stipulated to submit facts by affidavit and have
7 submitted briefing on their respective positions. The validity and effect of the Agreement is not
8 before us in this proceeding.⁴ Ada County has supplemented its brief with a number of rebuttal
9 affidavits. Boise City has filed a reply brief and an additional affidavit.
10

11 Sitting *en banc*, the District Judges heard argument on Boise City's Petition on April 18,
12 2008. The City of Boise was represented by attorneys Gary L. Cooper, Cooper & Larsen, Chartered,
13 and deputy Boise City Attorney, R. Stephen Rutherford, argument by Mr. Cooper. Ada County was
14 represented by deputy Ada County Prosecuting Attorneys Sherry K. Morgan and Lorna K. Jorgensen,
15 argument by Ms. Morgan. For the reasons set forth below, we deny Boise City's Petition to vacate
16 the Order of October 9, 1980.
17

18 **Applicable Standard and Burden of Proof**

19 In this case, the City of Boise seeks relief from the Order dated October 9, 1980. The request
20 to set aside, vacate, or modify a prior court order normally is a matter committed to the sound
21 discretion of the court and will not be disturbed absent a showing that the court abused its discretion.
22

23 _____
24 ³ District Judge Mike Wetherell recused himself from this proceeding.

⁴ Order Granting Motion to Intervene, p. 5.

1 *E.g. Noble v. Fisher*, 126 Idaho 885, 888, 894 P.2d 118 (1995) (motion to modify order of child
2 support is within sound discretion of the court). We will apply this standard in reviewing the request
3 by Boise City to set aside the earlier Order. As the moving party, the City of Boise has the burden of
4 demonstrating that there is good and sufficient cause to set aside the October 9, 1980 Order.

5 **Analysis and Discussion**

6
7 In its Petition, Boise City argues that the October 9, 1980 Order is no longer valid as a result
8 of a 2006 decision by the Idaho Supreme Court in *Twin Falls County v. Cities of Twins Falls and*
9 *Filer*, 143 Idaho 398, 146 P.3d 664 (2006). There is only one courthouse in Twin Falls County and it
10 houses both the district court and the magistrate's division of the district court. The courthouse is
11 owned by Twin Falls County. For many years, the cities of Twin Falls, Kimberly, Hansen, Filer and
12 Buhl paid the County a pro rata share of the costs of the courthouse for the use of the magistrate's
13 division facilities and personnel. In 2003, the Cities and the County could not agree on a cost sharing
14 agreement. Citing Idaho Code § 1-2218, as well as their inherent authority, in 2004 the district judges
15 of the Fifth Judicial District Court ordered the Cities to pay a pro rata contribution for the cost of
16 using the Magistrate's Division of the District Court. The Supreme Court reversed, holding that the
17 language of Idaho Code § 1-2218 did not give the district judges authority to order the Cities to make
18 a pro rata contribution for the use of the county's courthouse.

19
20 Boise City argues that under the reasoning of the *Twin Falls* case, the October 9, 1980 Order
21 is invalid since this Court cannot order Boise City to contribute to the cost of the Ada County
22 Courthouse. However, there is nothing in the October 9, 1980 Order which orders Boise City to pay a
23

1 pro rata share for the cost of operating and maintaining the Ada County Courthouse. The Order
2 directs Boise City to:

3 Provide suitable and adequate quarters for a Magistrate's Division of the District
4 Court, including the facilities and equipment necessary to make the space provided
5 functional for its intended use and shall provide for the staff, personnel, supplies, and
6 other expenses of the Magistrate's Division.

7 (October 9, 1980 Order.) It is obvious that the language of the Order was taken almost word for word
8 from the language of Idaho Code § 1-2218, upon which it is based. While the opinion in the *Twin*
9 *Falls* case did not quote all the language of the order which the Court vacated, it is clear that the
10 judges ordered the Cities to pay for "the actual level of usage" of the court. *Twin Falls County* above,
11 143 Idaho at 407 (dissent of Chief Justice Schroeder). Because there is nothing in the October 9,
12 1980 Order which requires Boise City to contribute to the costs of operating the Ada County
13 Courthouse, the decision in *Twin Falls County v. Cities of Twin Falls and Filer*, provides no reason
14 to vacate the Order.

15 Boise City also argues that the Order should be vacated because Ada County decided, on its
16 own, to provide a new consolidated courthouse on Front Street. While it is certainly true that Ada
17 County wanted to provide its citizens with a new courthouse and administration building, it is equally
18 true that Boise City decided to fulfill its obligations under the October 9, 1980 Order by allowing the
19 Barrister courthouse functions to be transferred to the new Ada County Courthouse and by agreeing
20 to pay for some of the costs of providing the Magistrate's Division of the District Court. Both the
21 1999 Agreement and the Boise City Council Resolution approving execution of the Agreement
22 acknowledged that Boise City remained obligated by the 1980 Order to continue to provide suitable
23

1 facilities for a magistrate's division of the district court. By virtue of this Agreement, before the
2 Barrister functions were transferred to the new Ada County Courthouse, Boise City fulfilled its
3 obligations under the 1980 Order by owning and providing the Barrister courthouse and by
4 reimbursing Ada County for the expenses of the Boise City employees transferred to Ada County.
5 After the Barrister magistrate functions were transferred to the new Ada County Courthouse in 2002,
6 Boise City fulfilled its obligations by paying for a portion of the operating expenses of the new
7 courthouse and by reimbursing Ada County for the expense of those Boise City employees who
8 became Ada County employees. The decision by Boise City to fulfill its obligations to provide
9 suitable magistrate's facilities by contracting with Ada County is not an appropriate basis to set aside
10 the October 9, 1980 Order.
11

12 Boise City also argues that the Court should vacate the Order because circumstances have
13 changed substantially since 1980. While it is certainly undeniable that Ada County and Boise City
14 have seen significant changes since 1980, one aspect of community affairs that affects the court
15 system remains unchanged: Boise City accounts for the greatest percentage and the greatest number
16 of misdemeanor and infraction filings in Ada County. This unchanged fact alone militates against
17 setting aside the Court's Order of October 9, 1980.
18

19 While not raised in its Petition, Boise City now argues that the 1980 Order violates the
20 constitutional prohibitions against duplicate and non-uniform taxation as set forth in Article VII,
21 Section 5 of the Idaho Constitution. This section provides as follows:
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1 All taxes shall be uniform upon the same class of subjects within the territorial
2 limits, of the authority levying the tax, and shall be levied and collected under general
3 laws, which shall prescribe such regulations as shall secure a just valuation for
4 taxation of all property, real and personal: provided, that the legislature may allow
5 such exemptions from taxation from time to time as shall seem necessary and just, and
6 all existing exemptions provided by the laws of the territory, shall continue until
7 changed by the legislature of the state: provided further, that duplicate taxation of
8 property for the same purpose during the same year, is hereby prohibited.

9 IDAHO CONST., art. VII, § 5.

10 Ada County taxes Boise City residents for court services in two different ways. First, Boise
11 City residents pay ad valorem taxes to Ada County's general fund. Ada County uses a portion of the
12 general fund to pay for the operations of the Court Clerk. Boise City residents also pay a "District
13 Court" special levy to Ada County. Ada County uses the special levy to contribute to Ada County's
14 district court fund. The special levy accounts for approximately one-half of the funding of the district
15 court fund. The district court fund pays for district court clerks, secretaries for district judges, all jury
16 costs, the operations of the office of the Trial Court Administrator, mediation, interpreter and
17 guardian services, and the operations of the marshall's office. Boise City concedes that both the ad
18 valorem taxes which go into the general fund and the special levy that funds a portion of the district
19 court fund are valid and constitutional taxes.

20 Boise City argues that the payments it formerly made to Ada County under the Agreement are,
21 in effect, a third tax which Ada County uses to provide court services. Boise City asserts that these
22 payments are unconstitutional as duplicative and non-uniform taxes.

23 The argument, while creative, is unsupported by the facts. No tax was levied on the citizens
24 of Boise City. In 1980, Boise City was ordered to provide a suitable facility for a magistrate's
25 division of the district court pursuant to Idaho Code § 1-2218. By entering into the Agreement with

1 Ada County in 1999, Boise City decided to fulfill its obligations by making payments to Ada County
2 in lieu of providing a separate courthouse. Boise City was not ordered to enter into the Agreement
3 nor to make payments to Ada County.

4 Similarly, the payments Boise City made to Ada County pursuant to the 1999 Agreement are
5 not the equivalent of “taxes” assessed by, and paid to, Ada County. Ada County did not coerce Boise
6 City to enter into the 1999 Agreement. Boise City voluntarily entered into that Agreement for its own
7 reasons and certainly recognized that it would utilize its own tax resources to pay for its obligations.
8

9 Even if the payments to Ada County could be seen as the equivalent to a tax, these payments
10 would not constitute either duplicative or non-uniform taxes. The Cities in the *Twin Falls* case made
11 this same argument that payments to a county for proportionate costs of a shared courthouse was
12 actually an unconstitutional tax. However, the Court did not reach this issue because the case was
13 decided solely on grounds of statutory construction. Chief Justice Schroeder did address this
14 argument in his dissent. The prohibition against duplicate taxation is directed “against the taxing of
15 the same property twice during the same year for the same purpose, while other like and similar
16 property is only taxed once during the same period for the same purpose.” *Humbird Lumber Co. v.*
17 *Kootenai County*, 10 Idaho 490, 79 P. 396 (1904). The Agreement in this case only requires Boise
18 City to pay in proportion to the costs attributable to the usage by Boise City. The payments are
19 proportionate to its use of the courthouse. As a result, the payments Boise City agreed to make
20 pursuant to the Agreement do not result in unconstitutional duplicative taxation.
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1 Article VII, Section 5 of the Idaho Constitution also requires that if a tax is to be levied by a
2 taxing authority, it must be uniform upon the same class of subjects within the territory of that
3 authority. This provision was construed in *Independent School Dist. No. 6 v. Common School Dist.*
4 *No. 38, 64 Idaho 303, 131 P.2d 786 (1942)*. In that case, two school districts that did not have a
5 school contracted to have their students taught in another district in exchange for a specified cost per
6 student, pursuant to a statute authorizing such agreements. Because the contract rate was less than the
7 actual cost of schooling, the district that accepted the students argued that as a result of the
8 agreement, one district had a higher tax rate than the others, and that this was a prohibited non-
9 uniform tax. The Idaho Supreme Court held that such an arrangement did not entail a non-uniform
10 tax, stating that it is constitutional for one taxing unit within the state to have a higher or lower tax
11 rate than another. *Id.* As long as the rate within each district was uniform, the taxing districts could
12 have different rates. *Id.*

14 The citizens of Ada County, whether residents of Boise City, Meridian, Garden City or Kuna
15 are assessed for ad valorem taxes and the special levy for the district court fund at the same rate. The
16 decision to pay money to Ada County was made by Boise City using tax funds of the city. Thus, any
17 tax here was levied by Boise City and affects only the residents of Boise City. The constitution
18 requires that Boise City's tax must be uniform throughout Boise City. Meridian City and Garden City
19 may have a lesser tax rate because these cities may not be paying their pro rata share of the costs of
20 the magistrate's division. Residents of Boise City may have a higher tax rate due to the payments
21 Boise City makes to Ada County pursuant to the 1999 Agreement. However, there is no
22 constitutional requirement that residents of every city within a county be taxed at the same rate. The
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24

1 only constitutional requirement is that, within Boise City, all taxes are uniformly imposed. There is
2 no evidence that Boise City taxes its residents at different rates.


3 For the foregoing reasons, as an exercise of our discretion, we find that Boise City has failed
4 to meet its burden in demonstrating that there is sufficient and good cause to set aside the October 9,
5 1980 Order. Accordingly, the Petition of Boise City is denied.

6 IT IS SO ORDERED.

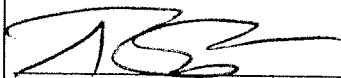
7 Dated this 16 day of May 2008.

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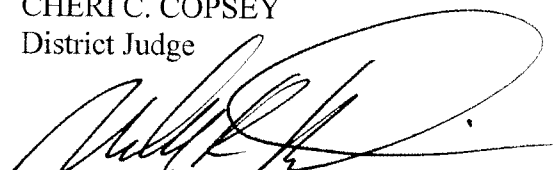
11 DEBORAH A. BAIL
12 District Judge

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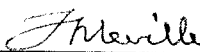
12 CHERI C. COPSEY
13 District Judge

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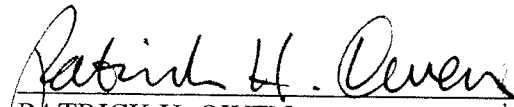
14 TIMOTHY HANSEN
15 District Judge

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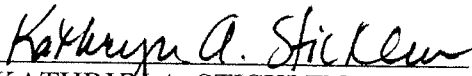
14 MICHAEL R. MCLAUGHLIN
15 District Judge

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17 THOMAS F. NEVILLE
18 District Judge

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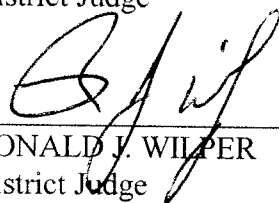
17 PATRICK H. OWEN
18 District Judge

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20 KATHRYN A. STICKLEN
21 District Judge

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20 DARLA S. WILLIAMSON
21 Administrative District Judge

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22 RONALD J. WILPER
23 District Judge

CERTIFICATE OF MAILING

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, one copy of the MEMORANDUM DECISION AND ORDER as notice pursuant to Rule 77(d) I.R.C.P. to each of the attorneys of record in this cause in envelopes addressed as follows:

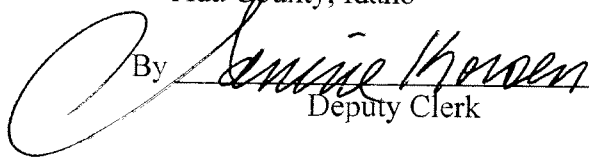
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J. DAVID NAVARRO
Clerk of the District Court
Ada County, Idaho

Date: May 16, 2008

By 
Deputy Clerk

MEMORANDUM DECISION AND ORDER
IN RE: FACILITIES AND EQUIPMENT PROVIDED BY THE CITY OF BOISE
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