



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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CHRISTOPHER G.
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Secretary

In the Matter of	)	
	)	
Toreson Industries, Inc.	)	
APN: 010-121-01 et al	)	
Lincoln County, Nevada	)	
PETITIONER	)	
	)	Case No. 13-137 A and B
Melanie McBride	)	
Lincoln County Assessor	)	
RESPONDENT	)	
	)	
Appeal of the Decision of the	)	
LINCOLN COUNTY	)	
BOARD OF EQUALIZATION	)	

SECOND REVISED NOTICE OF DECISION

Appearances

James S. Toreson appeared on behalf of Toreson Industries, Inc. (Taxpayer).

Melanie McBride appeared on behalf of the Lincoln County Assessor's Office (Assessor).

Summary

This case came before the State Board of Equalization (State Board) on an appeal by the Taxpayer of valuations of Taxpayer's real property established by the Assessor. The Notice of Appearance to determine whether the State Board would accept jurisdiction of the case was heard by the State Board on July 8, 2013 in Las Vegas, Nevada, after due notice to the Taxpayer and the Assessor.

Pursuant to NAC 361.7014, the Secretary to the State Board examined the petition of the Taxpayer and found the Taxpayer's appeal was for the tax years 2008-2009; 2009-2010; 2010-2011; 2011-12; 2012-13; and 2013-2014. The appeal was postmarked on March 2, 2013. The secretary bifurcated the appeal into the current year 2013-14 and assigned case number 13-137A. Case 13-137B was assigned for the matters concerning tax years 2008-2009; 2009-2010; 2010-2011; 2011-12; and 2012-2013. The appeal for case 13-137A was considered to be timely filed.

The appeal for case number 13-137B for the tax year 2008-2009 was due on March 10, 2008 and was therefore late. Each subsequent year's appeal was also due on March 10th of that fiscal year and were also filed late. Accordingly, the Secretary recommended to the State Board that the appeals for the years 2008-2009, 2009-2010, 2010-2011, 2011-12, and 2012-2013 be dismissed for lack of jurisdiction due to untimely filing of the appeal. *See Tr., 7-8-13, p. 172, l. 11 through p. 173, l. 3.*

The original Notice of Decision dated August 30th, 2013 was revised on September 6, 2013, intending to reflect a clerical error in the heading from "Clark" to "Lincoln" County Board.

This second revision comes at the request of the Lincoln County Assessor to review the transcript of proceedings and the final decision of the State Board. The original Finding of Fact #7 recited:

7) In case number 13-137A, the State Board found the Taxpayer did not present sufficient evidence to support values different from that established by the County Board. *See Tr., 7-8-13, p. 212, l. 24 through p. 214, l. 17.*

The second revision reflects that the actual motion of the State Board was to uphold the original Assessor's value of \$543,244 and not the County Board's decision.

The State Board, having considered all evidence, documents and testimony pertaining to the jurisdiction of the State Board in accordance with the requirements of NRS 361.360, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

- 1) The State Board is an administrative body created pursuant to NRS 361.375.
- 2) The Taxpayer and the Assessor were given adequate, proper and legal notice of the time and place of the hearing before the State Board, and the matter was properly noticed pursuant to the Open Meeting Law, at NRS 241.020. *See Tr., 7-8-13, p. Record, SBE page 635.*
- 3) Pursuant to NRS 361.360 (1), any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 in the current assessment year. The appeal to the State Board was postmarked on March 2, 2013 and was timely filed for the 2013-2014 tax year. The appeals for 2008-2009, 2009-2010, 2010-2011, 2011-2012, and 2012-2013 were filed from one to five years late.
- 4) The subject properties consist of 1,068 vacant lots under 129 parcel numbers located in the Lincoln Estates Subdivision, Units 1, 2, 3, and 4 near Rachel in Lincoln County, Nevada. *See Record, SBE pages 3 and 9; Tr., 7-8-13, p. 173, ll. 9-11.*
- 5) The Lincoln County Board of Equalization (County Board) ordered that the total taxable value for a portion of the subject properties be reduced to \$432,500.87 to be applied on a per acre basis; except APN 10-111-13 which value was upheld for the 2013-2014 secured roll. *See Record, SBE pages 1 and 628.*
- 6) In case number 13-137B, the State Board found the Taxpayer did not show under what legal authority the State Board could hear the appeal for the 2008-2009, 2009-2010, 2010-2011,

2011-2012, and 2012-2013 tax years and declined to accept jurisdiction of case No. 13-137B. See *Tr.*, 7-8-13, 174, l. 4 through p. 176, l. 10.

- 7 REVISED) In case number 13-137A, the State Board found the Taxpayer did not present sufficient evidence to support values different from that established by the Assessor. The State Board found the County Board's decision should be reversed and the original value established by the Assessor of \$543,244 be restored because there was no substantial evidence to support the County Board's decision. See *Tr.*, 7-8-13, p. 207, l. 2 through p. 208, l. 22; p. 212, l. 24 through p. 214, l. 17.
- 8 ADDED) The State Board found the Assessor had market evidence to support the Assessor's taxable values developed for the subject properties. See *Tr.* 7-8-13, p 203, p. 208, ll. 17-22.
- 9 REVISED) The assessed value as adjusted by the State Board is 35% of taxable value.
- 10) Any finding of fact above construed to constitute a conclusion of law is adopted as such to the same extent as if originally so denominated.

CONCLUSIONS OF LAW

- 1) The State Board has authority to determine whether it has jurisdiction to hear a matter. The State Board has the authority to determine matters necessary to carry out the power conferred on the State Board by statute. *Checker, Inc. et al. v. Public Serv. Comm'n*, 84 Nev. 623, 629-630, 446 P.2d 981 (1968).
 - 2) The State Board did not accept jurisdiction to determine case number 13-137B, based on the failure of the Taxpayer to show any legal authority which would allow the State Board jurisdiction to hear the case. *First American Title Company v. State of Nevada*, 91 Nev. 804, 543 P2d 1334 (1975).
 - 3) The Taxpayer timely filed a notice of appeal in case number 13-137A, and the State Board accepted jurisdiction to determine this matter.
 - 4) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board.
 - 5) The State Board has the authority to determine the taxable values in the State.
- 6 REVISED) The subject property is appraised, as adjusted by the State Board, at the proper taxable value in accordance with NRS 361.227.
- 7) Any conclusion of law above construed to constitute a finding of fact is adopted as such to the same extent as if originally so denominated.

DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the State Board held it is without jurisdiction to hear case number 13-137B. The Lincoln County Comptroller is instructed to certify the assessment roll of the county consistent with this decision.

The Petition of the Taxpayer in case number 13-137A is denied based on the above Findings of Fact and Conclusions of Law. The Lincoln County Comptroller is instructed to certify the assessment roll of the county consistent with this decision.

2013-2014 Secured Roll

	Taxable Value		Assessed Value	
Parcel Number 010-121-01 et al	Established by County Board of Equalization	Revised By State Board	Established by County Board of Equalization	Revised by State Board
Land	\$315,632	\$543,244	\$110,471	\$190,135
TOTAL	\$315,632	\$543,244	\$110,471	\$190,135

BY THE STATE BOARD OF EQUALIZATION THIS 8th DAY OF NOVEMBER, 2013.



Christopher G. Nielsen, Secretary
CGN/ter