

STATE OF NEVADA STATE BOARD OF EQUALIZATION

BRIAN SANDOVAL Governor

1550 College Parkway, Suite 115 Carson City, Nevada 89706-7921 Telephone (775) 684-2160 Fax (775) 684-2020 CHRISTOPHER G. NIELSEN Secretary

In the Matter of)
)
Focus LV LLC)
APN: 138-30-812-005)
PETITIONER) Case No. 13-237
)
Michele Shafe)
Clark County Assessor)
RESPONDENT)

ORDER OF REMAND

Appearances

Michael Poura appeared on behalf of Focus LV, LLC (Taxpayer).

Rocky Steele appeared on behalf of the Clark County Assessor's Office (Assessor).

Summary

This case came before the State Board of Equalization (State Board) on an appeal by the Taxpayer of the 2013-2014 valuation 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 June 3, 2013 in Henderson, 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 year 2013-2014. See Record, page 1. Although the appeal was filed timely to the State Board, the appeal was not heard by the Clark County Board of Equalization (County Board). The County Board did not accept jurisdiction to hear the case because the appeal was improperly filed without a timely filed agent authorization. See Tr., 6-3-13, p. 55, LL. 11-19; Record, SBE pages 12, 20-25. Accordingly, the Secretary recommended to the State Board that the appeal be dismissed due to lack of jurisdiction.

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 Record, SBE page 27.
- 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 received on March 8, 2013 and was timely filed.
- Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15th. The Taxpayer filed a timely petition with the County Board however the County Assessor asserted the petition was signed by an unauthorized agent. See Tr., 6-3-13, p. 61, II. 18-23. The County Board did not accept jurisdiction to hear the Taxpayer's appeal because it believed the appeal was improperly filed. See Record, pages 12, 20-25; Tr., 6-3-13, p. 79, I. 21 through p. 80, I. 4.
- The State Board found the County Board did not provide the Taxpayer an opportunity to present information showing he was an owner of the property. See Tr., 6-3-13, p. 81, l. 22 through p. 82, l. 12.
- The State Board remanded the case to the County Board to consider evidence whether Mr. Poura is actually either an officer and/or member of the LLC and if so, whether the appeal was properly filed. If the County Board finds it has jurisdiction, it may proceed to hear the appeal. See Tr., 6-3-13, p. 82, I. 23 through p. 83, I. 1; p. 83, I. 13 through p. 84, I. 15.
- 7) 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

- The Taxpayer timely filed a notice of appeal, and the State Board accepted jurisdiction to determine this matter.
- 2) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board. In particular, the State Board has jurisdiction to hear Taxpayer's appeal for the 2013-2014 tax year pursuant to NRS 361.400.
- 3) The State Board has the authority to determine the taxable values in the State. NRS 361.395.
- 4) The State Board has the authority to remand a case to the county board of equalization if it determines the record of a case on appeal is inadequate because of an act or omission of the county assessor, district attorney, or county board of equalization. See NRS 361.360(6).
- 5) The State Board has the authority to direct the county board to develop an adequate record within 30 days after the remand. See NRS 361.360(6).
- 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.

ORDER

The Clark County Board of Equalization is instructed to hold a hearing to review the record of this matter and any supplemental evidence presented by the parties. Based on this review, the County Board is instructed to determine whether the Petitioner is actually either an officer and/or member of the LLC with the authority to file an appeal. If the County Board determines it has jurisdiction, then it may proceed to hear the appeal.

The Clark County Board is further instructed to hold the hearing within 30 days of receipt of this Order and to supplement the record for State Board case number 13-237 no later than 15 days after the hearing is held with the County Board's findings of fact and conclusions of law.

BY THE STATE BOARD OF EQUALIZATION THIS _____ DAY OF AUGUST, 2013.

Christopher G. Nielsen, Secretary

CGN/ter