



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

ASP Realty
APN: 178-21-615-002
Clark County, Nevada
PETITIONER

Michele Shafe
Clark County Assessor
RESPONDENT

Appeal of the Decision of the
CLARK COUNTY
BOARD OF EQUALIZATION

Case No. 13-318

NOTICE OF DECISION

Appearances

Jacque Zulka of Ryan, LLC, appeared on behalf of ASP Realty (Albertsons) (Taxpayer).

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

Summary

The matter of the Taxpayer's petition for review of property valuations for the 2013-14 Secured Roll within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on September 17, 2013 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, this matter is an appeal of the Clark County Board of Equalization (County Board) decision to not accept jurisdiction to hear the case. *See Tr, 9-17-13, p. 27, ll. 18-20; Record, SBE pages 16 and 47.*

The testimony received in Case No. 13-316 was incorporated into this case for consideration. *See Tr., 9-17-13, p. 46, l. 9 through p. 47, l. 4.*

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 State Board is mandated to hear all appeals of property tax assessments pursuant to NRS 361.360 and NRS 361.400.
- 3) 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 49.*
- 4) The subject property consists of a supermarket containing 57,728 square feet, built in 2001 and currently occupied by Albertson's. The supermarket is located on South Stephanie Street in Henderson, Clark County, Nevada. *See Record, SBE pages 10 and 30.*
- 5) 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 11, 2013 and was timely filed. *See SBE page 6.*
- 6) The State Board found the County Board's decision to not take jurisdiction was supported by substantial evidence. The authorization letter signed by Diane B. Skay dated June 22, 2012 on behalf of Supervalu/Albertsons does not show the agency relationship to ASP Realty, the owner of the property, nor did subsequent filings submitted by the Taxpayer. *See Record, SBE pages 23; 31-41; Tr., 9-17-13, p. 44, l. 18 through p. 45, l. 6.*
- 8) The State Board affirmed the decision of the County Board. *See Tr., 9-17-13, p. 47, ll. 2-12.*
- 9) 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 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.
- 3) Substantial evidence is defined as "what a reasonable mind might accept as adequate to support a conclusion." *Bing Construction Co., v. Department of Taxation, 109 Nev. 275, 278 (1993).* Based on the State Board's finding that the County Board's decision to not take jurisdiction was supported by substantial evidence, and the Taxpayer did not overcome the burden to show the County Board's decision was not supported by substantial evidence, the State Board upheld the decision of the County Board.

- 4) 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

The Petition of the Taxpayer is denied based on the above Findings of Fact and Conclusions of Law. The Clark County Comptroller is instructed to certify the assessment roll of the county consistent with this decision.

BY THE STATE BOARD OF EQUALIZATION THIS 27th DAY OF NOVEMBER, 2013.

A handwritten signature in black ink, appearing to read 'C. Nielsen', written over a horizontal line.

Christopher G. Nielsen, Secretary
CGN/ter