



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

Broadstone Indigo Pty Owner LLC
APN: 124-26-207-012
Clark County, Nevada
PETITIONER

Michele Shafe
Clark County Assessor
RESPONDENT

Appeal of the Decision of the
CLARK COUNTY
BOARD OF EQUALIZATION

Case No. 13-321

NOTICE OF DECISION

Appearances

Jacqueline Zulka of Ryan LLC appeared on behalf of Broadstone Indigo Property Owner LLC (Taxpayer).

Jeff Payson and Gary Relyea 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 July 8, 2013 in Las Vegas, Nevada, after due notice to the Taxpayer and the Assessor.

The State Board incorporated the testimony and record of case no. 13-320, Azure Preferred JV, LLC heard on July 8, 2013 into the record of the current matter. *See Tr., 7-8-13, p. 240, ll. 16-18.*

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 Taxpayer did not file timely with the Clark County Board of Equalization (County Board) because no agent authorization was received by the

County Board within 48 hours of the deadline for appeal on January 15, 2013. The County Board did not accept jurisdiction to hear the case. See *Tr., 7-8-13 for case no. 13-320, p. 227, l. 17 through p. 228, l. 14, Record, SBE pages 14 and 30.* 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 32.*
- 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 11, 2013 and was timely filed.
- 4) Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15th. Although an agent filed a petition with the County Board on January 14, 2013, no agent authorization allowing a representative to file on the Taxpayer's behalf was timely received. The County Board did not accept jurisdiction to hear the Taxpayer's appeal because it was not properly filed. See *Record, pages 14 and 30; Tr., 7-8-13, p. 227, l. 17 through p. 228, l. 7; p. 230, ll. 6-22; Tr., 7-8-13, p. 239, l. 17 through p. 240, l. 11.*
- 5) The State Board found the County Board's decision to not take jurisdiction was supported by substantial evidence. See *Tr., 7-8-13, p. 241, ll. 2-5; p. 228, ll. 8-22.*
- 6) The State Board affirmed the decision of the County Board. See *Tr., 7-8-13, p. 237, l. 20 through p. 238, l. 17; p. 241, ll. 2-11.*
- 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

- 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 30th DAY OF AUGUST, 2013.


Christopher G. Nielsen, Secretary
CGN/ter