

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 dated November 5, 2013, was made 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 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.*

In case number 13-137B, the State Board originally 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.*

In case number 13-137A, the State Board originally 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.*

The State Board did not reconsider the matter within the 60-day time frame specified in NAC 361.7475(4).

The State Board, having considered all evidence, documents and testimony pertaining to the Petition for Reconsideration 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.

- 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.
- 4) The second revised decision letter of the State Board notes that the State Board found the Taxpayer did not present sufficient evidence to support values different from that established by the Assessor. *See Record, SBE page 695.*
- 5) Taxpayer brought the reconsideration matter forward based on the assertion that the State Board's decision was affected by other error of law and was arbitrary and capricious. *See Record, SBE page 703; Tr. 7-28-14, p. 22, l. 10 through p. 25, l. 7.*
- 6) The State Board found that it had not overlooked any evidence or misinterpreted or misrepresented any statute or regulation. The State Board therefore determined it would not reconsider the matter. *See Tr., 7-28-14, p. 30, ll. 9-21.*
- 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 Petition for Reconsideration, and the State Board has jurisdiction to determine this matter pursuant to NRS 233B.130(4).
- 2) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board.
- 3) The State Board has the authority to determine if the above referenced matter should be reconsidered. NAC 361.7475(4) directs the State Board to grant or deny a timely filed petition for reconsideration within 60 days after the date of service of the final decision. The requirement is directory rather than mandatory. In view of the State Board's heavy caseload in 2013, the State Board scheduled the matter for review in July, 2014.
- 4) The standard for review the State Board used was whether the State Board overlooked, misapplied, or failed to consider a statute, procedural rule, regulation, or decision directly controlling a dispositive issue in the case; or overlooked or misapprehended a material fact in the record. The State Board found no evidence was presented by the Petitioner that would show the State Board's decision was unlawful, unreasonable or based on findings of fact or conclusions of law that are erroneous. *NAC 361.7475(1); Tr., 7-28-14, p. 28, l. 2 through p. 30, l. 8.*
- 5) 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 Taxpayer's Petition for Reconsideration is denied based on the above Findings of Fact and Conclusions of Law.

BY THE STATE BOARD OF EQUALIZATION THIS 20th DAY OF OCTOBER, 2014.


Christopher G. Nielsen, Secretary
CGN/ter