



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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CHRISTOPHER G.
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In the Matter of

Anaheim Coachman Inn, LLC et al
APN: 140-04-301-024
Clark County, Nevada
PETITIONER

Michele Shafe
Clark County Assessor
RESPONDENT

Appeal of the Decision of the
CLARK COUNTY
BOARD OF EQUALIZATION

Case No. 14-163

NOTICE OF DECISION

Appearances

William Ryan of Pivotal Tax Solutions appeared on behalf of Anaheim Coachman Inn, LLC et al (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 2014-15 Secured Roll within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on June 23, 2014 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 2014-2015.¹ Although the appeal was filed timely to the State Board, the assessor testified the agent authorization form was not turned in to the CBE until the day of the hearing.² Based on the late filing of the agent authorization form, the County Board did not accept jurisdiction to hear the case.³ The question before the State Board is

¹ See Record, SBE page 1.

² See Minutes, SBE page 38.

³ See CBE Decision letter, SBE page 11; and CBE Minutes, SBE page 38.

whether the County Board had sufficient evidence before it to support its decision to not accept jurisdiction.

The State Board, having considered all evidence, documents and testimony pertaining to the valuation of the property in accordance with NRS 361.227, 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 241.020.⁴
- 4) Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15th. An appeal was filed on January 14, 2014, however, it was signed by someone purporting to be the tax representative of the Taxpayer.⁵
- 5) NRS 361.362 requires an agent authorization form to be filed from the owner of the property that authorizes the person to file the appeal. If an appeal is timely filed, the written authorization must be provided within 48 hours after the last day allowed for filing the appeal, which would have been January 17, 2014. The Clark County Board of Equalization (County Board) found the tax agent filed an agent authorization form dated January 14, 2014 on the day of the County Board hearing on February 14, 2014. As a result, the County Board denied jurisdiction to hear the appeal based on the failure to timely receive an agent authorization from the owner of the property.⁶
- 6) The State Board found the County Board had a preponderance of evidence before it to support the decision it made. The State Board found the appeal form dated January 15, 2014 was not signed by the owner and the person purporting to be the tax representative did not check the box indicating that the authorization form was attached. The State Board found the issues surrounding the agent authorization form were clearly raised before the County Board, and the State Board found the County Board had not erred in its decision.⁷

⁴ See Record, Signed receipt for certified mail, SBE page 41.

⁵ See Record, Appeal to County Board, SBE page 9.

⁶ See Record, CBE decision letter, SBE page 11; CBE Minutes, SBE page 32; and Tr., 6-23-14, p. 81, ll. 7-25:

7 as long as it provides clarity. The issue with this 8 jurisdictional appeal, if you'll turn to page SBE 9, 9 the appeal to the County Board of Equalization was 10 filed timely, however, it did not have a letter of 11 authorization at all. And the representative while 12 not being Mr. Ryan, the initial representative 13 Mr. Palmer, he didn't provide the letter of 14 authorization until the day of the hearing which was 15 February 14, well past the 48 hours. So that's why 16 the state or the county board ruled that it wasn't a 17 valid appeal and didn't take jurisdiction of it. 18 CHAIRMAN MESERVY: So this agency 19 authorization real property management wasn't 20 presented to you at the time? 21 MR. STEELE: It was presented to us and the 22 county board on the date of the hearing which was 23 February 14. It wasn't supplied with the appeal, 24 nor within 48 hours which would have been January 25 17th. That's pretty much it.

⁷ See Tr., 6-23-14, p. 84, l.12 through p. 85, l.5; p. 85, l. 16 through p. 87, l. 11:

12 SBE 38, there are the notes from the meeting. 13 It says the assessor is satisfied that the appeal 14 form was completed by Pivotal Tax Solutions and 15 Brandt Palmer signed as the agent representative. 16 An authorization form was not included in the appeal 17 packet and assessor's office did not receive an 18 authorization form at a later date. The appellant's 19 representative addressed the board. Advised there 20 were multiple levels of the limited liabilities 21 company. And based on the board interpretation of 22 the Case No. 14-163 Anaheim Coachman Inn, LLC et al
Notice of Decision

- 7) The State Board affirmed the decision of the County Board to deny jurisdiction.⁸
- 8) 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) A preponderance of the evidence is defined as whether "the fact sought to be proved is more probable than not." *Kent K. v. Bobby M.*, 110 P.3d 1013, 1018 (Ariz., 1995). Based on the State Board's finding that the County Board's decision to not take jurisdiction was supported by a preponderance of the evidence, and the Taxpayer did not overcome the burden to show the County Board's decision was not supported by a preponderance of the evidence, the State Board upheld the decision of the County Board.
- 4) NRS 361.362 states that at the time a person files an appeal pursuant to NRS 361.356, 361.357 or 361.360 on behalf of the owner of a property, the person shall provide to the county board of equalization or the State Board of Equalization, as appropriate, written authorization from the owner of the property that authorizes the person to file the appeal concerning the assessment that was made. If the person files the appeal in a timely manner without the written authorization required by this section, the person may provide that written authorization within 48 hours after the last day allowed for filing the appeal.
- 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.

deadline and submitted evidence, he agreed to **23** accept the board's decision to deny jurisdiction. **24** On questioning the appellant's representative, **25** advised that the authorization form was submitted **Page 85 1** but additional documentation was not attached to the **2** authorization. So he was saying that he had **3** submitted it, but we did not receive it. And he did **4** provide it at the time of the hearing is what I am **5** trying to clarify here. **16** MEMBER HARPER: She took my glory. I was **17** going to read that into the record, because that's **18** what jumped out at me, was what was said at the **19** county board by the authorized representative of the **20** property owner, Mr. Palmer. **21** And then the other issue I have is **22** going back to SBE 9, I believe, which is the **23** authorization form or, I'm sorry, the appeal form **24** that is dated January 15, 2014, and again, not **25** signed by the owner signature of authorized agent **Page 86 1** slash attorney, I assume that is Mr. Palmer's **2** signature. And right below it, he doesn't check **3** either one. If the authorization per NRS 361.362 is **4** attached, he doesn't sign. Just doesn't check yes **5** or no. And, I mean, this form to me is as crystal **6** clear as a form can be. And I with all due respect, **7** and, sir, I'm not picking on you or your firm, but **8** these tax firms should understand that. You know, **9** it's the business you're in, and I can say that to **10** any other tax firms that are here. I just – I **11** don't know why they can't meet that rule. And the **12** statute is clear and, you know, showing up at a **13** county hearing saying, hey, I did submit it, I did **14** submit it, well, check the box if you submitted it **15** and attached it. I just have a hard time **16** understanding why these rules can't be followed by **17** property owners and the representatives. **18** CHAIRMAN MESERVY: Any other comments? **19** MEMBER JOHNSON: The strongest argument I **20** would see here but it wasn't really raised, is that **21** SBE 38 says the appellant indicated they submitted **22** an agent authorization form. So if -- but then **23** there's no evidence here today, and we don't even **24** have the individual that showed up from the county **25** board or declaration of anything saying, yes, I did **Page 87 1** submit it and the county lost it. That's not even **2** what is before us today. It's, well, I think it was **3** submitted, but we really don't know. Was it **4** February 14? Was it January 14? And there is **5** nothing in here that causes me to question the **6** county board's judgment. These issues were clearly **7** raised before the county. The appellant was clearly **8** before the county saying that I submitted an **9** authorization form, and county board found it wasn't **10** persuasive. And I don't see where the county board **11** erred here.

⁸ *Tr.*, 6-23-14, p. 87, ll. 14-24:

14 MEMBER JOHNSON: In Case 14-163, I will make a **15** motion to uphold the County board's decision to deny **16** jurisdiction as it appears to be based on a **17** preponderance of evidence. **18** CHAIRMAN MESERVY: Any second? **19** MEMBER HARPER: Second. **20** CHAIRMAN MESERVY: Anymore comments? All in **21** favor. **22** THE BOARD PANEL: Aye. **23** CHAIRMAN MESERVY: Any opposed? Okay. It's **24** unanimous. Call the next case.

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 SEPTEMBER, 2014.

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

Christopher G. Nielsen, Secretary
CGN/ter