



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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In the Matter of

ABS NV-O, LLC
APN: 125-34-515-002
Clark County, Nevada
PETITIONER

Michele Shafe
Clark County Assessor
RESPONDENT

Appeal of the Decision of the
CLARK COUNTY
BOARD OF EQUALIZATION

Case No. 14-197

NOTICE OF DECISION

Appearances

Bretta Ferrie appeared on behalf of ABS NV-O, LLC (Taxpayer).

Lisa Wilson 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, originally 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.

The State Board incorporated by reference the record of case 14-190 through 14-196 into the current case.¹

¹ See Tr., 6-24-14, p. 54, l. 2 through p. 55, l. 12: 2 So what I would like to do, Mr. Chairman, with 3 your blessing, is Cases 14-190 through -- all the 4 Albertsons -- through 14-203 -- and I guess it does also 5 include, then, 14-235, 14-265, and 14-241 -- I would 6 like to incorporate by reference the comments that were 7 made in all of these cases, so there's outstanding 8 incorporation by reference to any of those cases listed 9 to the other cases and discussions we've had herein, so 10 we don't have to keep doing it, and that way someone can 11 go back and pick up one case and say, Keith wasn't -- 12 didn't consider X, Y, or Z, or Ben was sounding like an 13 idiot again. 14 CHAIRMAN MESERVY: Well, my only concern there 15 is you're talking about cases we haven't even heard yet. 16 Don't try to incorporate it when we haven't taken a 17 stance on those. 18 MS. WILSON: I would actually like to also point 19 out that 235, 241, and 265, I don't believe are subject 20 to the service transaction, so neither of those comments 21 would be relevant. 22 CHAIRMAN MESERVY: I think we should make it 23 more all the cases that we've heard prior to the case in 24 numerical sequence. 25 MR. JOHNSON: Or we can do it again in 203, Page 55 1 because she is correct that the last three didn't 2 include that service transaction. And that's just based 3 on -- I'm reading the case files that were all 4 similar -- very similar issues and similar presentation 5 and data. 6 CHAIRMAN MESERVY: Well, we have reviewed those 7 cases, so I guess I have no problem with that. 8 Do you have any objection.

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 241.020.²
- 4) The subject property consists of an Albertson's, containing a 58,014 square foot supermarket constructed in 2000, situated on one 5.35 acre parcel and located at 7065 West Ann Road just east of U.S. 95, on the southwest corner of Ann Road and Rio Vista, in Clark County, Nevada.³
- 5) The Clark City Board of Equalization (County Board) ordered the total taxable value for the subject property, APN 125-34-515-002 of \$4,387,477 be upheld on the 2014-2015 secured roll.⁴
- 6) The State Board found the Taxpayer presented sufficient evidence to support values different from that established by the County Board. The State Board found the Assessor used an 8% capitalization rate (cap rate) in the income approach. However, the State Board found the cap rate did not sufficiently reflect the amount of risk associated with possible vacancy and lack of alternative uses for a "big box" retail store. The State Board tested the taxable value using the income approach by applying a capitalization rate of 9 per cent to the net operating income (NOI) of \$374,678, developed by using \$0.65 rent per square foot and using the same vacancy loss and expense ratios estimated by the Assessor, which resulted in an indicated value of \$4,163,085. The State Board found the use of \$0.65 rent per square foot was still within market parameters and reflected the age of the property. The State Board found the 9% capitalization rate better reflected the investment risk in this type of property.⁵
- 7) The State Board adjusted the decision of the County Board by reducing the value from \$4,387,477 to \$4,163,085.⁶

either party? 9 MS. FERRIE: No. 10 CHAIRMAN MESERVY: The Assessors have now -- 11 MR. JOHNSON: And that would apply at 14-190 12 through 14-203

² See Record, SBE page 182, Receipt of Certified Mail.

³ See Record, SBE pages 149-151, Maps; and 157, Capitalization Summary; Tr., 6-24-14, p. 71, ll. 7-12: The subject property is the Albertsons store 8 located at 7065 West Ann Road on the southwest corner of 9 Ann Road and Rio Vista just east of US-95. It's a 10 58,014 square-foot supermarket constructed in 2000, 11 situated on a 1.35-acre parcel. The map and aerial 12 photo can be found of SBE 178 and 179.

⁴ See Record, SBE page 11, CBE Decision Letter and SBE page 180, CBE Minutes.

⁵ See Tr., 6-24-14, p. 73, l. 20 through p. 74, l. 22: 20 MR. HARPER: I will state that I think this is a 21 little bit better location than a couple of the previous 22 cases. But referencing my comments from Cases 14-190 23 through 14-196, you know, again just because of the size 24 of the store, I still think that the \$0.65 is supported 25 by the market parameters. Page 74 1 So using the \$0.65 rent, 8 percent vacancy, 2 10 percent expenses equates to a net operating income of 3 \$374,678; 9 percent cap rate comes to a value or a 4 taxable value of \$4,163,085. 5 CHAIRMAN MESERVY: So if the place is a better 6 location, why are we using the same cap rate? 7 MR. HARPER: Again just because of the risk and 8 the grocery store, big-box arena. Because again, I know 9 that we're not supposed to consider who the tenant or 10 necessarily the operator is; so, you know, just looking 11 at it from a market-value viewpoint of, you know, these 12 big-box retail stores, there's just a lot of -- I 13 shouldn't say a lot of risk, but there is risk in these. 14 Because as Board Member Johnson has stated, and 15 I totally concur, then the issue if one of these things 16 goes vacant -- and I know this one's not vacant as of 17 the date of value -- but I just think that any market 18 participants, even with an Albertsons or a Vons or any 19 of the major grocery store operators, that they did a 20 sale/leaseback situation, any investor would take that 21 risk into account and require getting a cap rate or a 22 return of 9 percent

⁶ See Tr., 6-24-14, p. 77, l. 3 through p. 78, l. 7: 3 MR. HARPER: I'll make a motion on Case 14-198, 4 based on the -- 5 MS. RUBALD: 197. 6 CHAIRMAN MESERVY: 197. 7 MR. HARPER: Thank you for correcting me. 8 -- 14-197, that the taxable value be set at 9

- 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) The State Board has the authority to determine the taxable values in the State.
- 4) The subject property is appraised at the property taxable value as adjusted, in accordance with NRS 361.227.
- 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 Petition of the Taxpayer is granted based on the above Findings of Fact and Conclusions of Law. The Clark County Comptroller is instructed to correct the assessment roll by adjusting the assessed valuation of the subject property as follows:

2014-2015 Secured Roll

Parcel Number 125-34-515-002	Taxable Value		Assessed Value	
	Established by County Board of Equalization	Revised By State Board	Established by County Board of Equalization	Revised by State Board
Land	\$1,048,706	\$1,048,706	\$367,047	\$367,047
Improvements	\$3,338,771	\$3,114,379	\$1,168,570	\$1,090,033
TOTAL	\$4,387,477	\$4,163,085	\$1,535,617	\$1,457,080

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.



Christopher G. Nielsen, Secretary
CGN/ter

\$4,000,163.85 -- \$4,163,085, and a slight change to be 10 taken off the improvements. And that's based on a net 11 operating income of \$374,678, and an overall 12 capitalization rate of 9 percent, which is very well 13 supported by the market data and the information 14 submitted by both the petitioner and respondent. 15 CHAIRMAN MESERVY: Okay. Just to clarify, this 16 won't be the same method of math. I'm rounding. The 17 Assessors have been using, I think, your -- they're 18 indicating that the math, and I was rounding with the 19 cap rate from the -- it's not 374,678. It's the 20 rounding number on that that we're using; is that 21 correct? 22 MR. HARPER: Correct. 23 CHAIRMAN MESERVY: Okay, so do we have a second? 24 MR. JOHNSON: I will second the motion. 25 CHAIRMAN MESERVY: Any more comments? Page 78 1 (No response.) 2 CHAIRMAN MESERVY: All in favor? 3 MR. JOHNSON: Aye. 4 MR. HARPER: Aye. 5 CHAIRMAN MESERVY: Any opposed? 6 (No response.) 7 CHAIRMAN MESERVY: It's unanimous.