



STATE OF NEVADA  
STATE BOARD OF EQUALIZATION

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In the Matter of

ABS NV-O, LLC  
APN: 138-22-418-010  
Clark County, Nevada  
PETITIONER

Michele Shafe  
Clark County Assessor  
RESPONDENT

Appeal of the Decision of the  
CLARK COUNTY  
BOARD OF EQUALIZATION

Case No. 14-201

**NOTICE OF DECISION**

***Appearances***

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

Lisa Wilson and Jeff Payson 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 24, 2014 after due notice to the Taxpayer and the Assessor.

The State Board incorporated by reference the record of case 14-190 through 14-200 into the current case.<sup>1, 2</sup>

<sup>1</sup> 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.

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.<sup>3</sup>
- 4) The subject property consists of an Albertson's supermarket containing 58,672 square foot constructed in 2001, and a 17,053 square foot discount store constructed in 2000, occupied by CVS, situated on a 7.20 acre parcel and located at 1600 North Buffalo, on the northeast corner of Buffalo and Vegas in Clark County, Nevada.<sup>4</sup>
- 5) The Clark City Board of Equalization (County Board) ordered the total taxable value for the subject property, APN 138-22-418-010 of \$5,925,794 be upheld on the 2014-2015 secured roll.<sup>5</sup>
- 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 a 8.0% 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 and adjacent discount 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 \$514,478, developed by using \$0.65 rent per square foot for the supermarket and \$0.80 rent per square foot for the discount store; and using the same vacancy loss and expense ratios estimated by the Assessor. The resulting income indicator of value was \$5,716,422. The State Board found the 9% capitalization rate better reflected the investment risk in this type of property.<sup>6</sup>

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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, 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

<sup>2</sup> See also *Tr.*, 6-24-14, p. 100, ll. 17-22: 17 MR. HARPER: In Case Number 14-201, I am going 18 to make a motion to adjust the taxable value to 19 \$5,716,422, which is based on the parameters, the market 20 data presented, and references my comments from the 21 previous cases, 14-190 through 14-197 and 14-199 and 22 14-200.

<sup>3</sup> See *Record*, SBE page 64, *Receipt of Certified Mail*.

<sup>4</sup> See *Record*, SBE pages 38, *Capitalization Summary*; and SBE pages 43-45, *Maps*; *Tr.*, 6-24-14, p. 91, l. 20 through p. 92, l. 2: 20 MS. WILSON: The subject property is located at 21 1600 North Buffalo on the northeast corner of Buffalo 22 and Vegas. This property includes a 58,672 square-foot 23 supermarket constructed in 2001, I believe currently 24 occupied by Albertsons, and a 17,053 square-foot 25 discount store constructed in the year 2000 occupied by Page 92 1 CVS. Both are situated on one 7.2-acre parcel, and 2 there's a map and aerial photo on SBE Pages 43 and 45

<sup>5</sup> See *Record*, SBE page 11, *CBE Decision Letter*; and SBE page 62, *CBE Minutes*.

<sup>6</sup> See *Tr.*, 6-24-14, p. 98, l. 11 through p. 100, l. 14: 11 MR. HARPER: I have. Yeah, this is a good 12 location, although there is quite a bit of competition 13 in the area; several other grocery stores and drugstores 14 and things. 15 This is -- these are separate, and you can see 16 on the aerial that CVS is a smaller, separate building. 17 They have a common wall between them but, you know, 18 there are -- they're two separate operations. You know, 19 it's along, basically, the east side of Summerlin, 20 pretty much. 21 So, but -- boy, I don't know that I can totally 22 support the \$0.75 on the Albertsons. I ran a couple of 23 different scenarios at \$0.65 and \$0.80, and at \$0.70 and 24 \$0.80, so I've got two different numbers here. I've 25 got, using the \$0.65 for the grocery store and \$0.80 for Page 99 1 the discount store,



- 7) The State Board adjusted the decision of the County Board by reducing the value from \$5,924,794 to \$5,716,422.<sup>7</sup>
- 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:

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calculates to an NOI of \$514,478, 2 and then it comes down to the cap rate. I applied 9 1/2 3 just because of the drugstore risk. I mean, I think the 4 9 percent could be supported. At 9 1/2, it's 500 -- I'm 5 sorry -- \$5,415,559. At a 9 percent cap rate, it's 6 \$5,716,422. 7 CHAIRMAN MESERVY: I've got 5,719,000. Let me 8 go back and do that again. You said it was on 514,748? 9 MR. HARPER: No, 478. \$514,478. So, yeah, I 10 guess it's \$5,716,422. And with this location, I think 11 that that 9 percent is probably well supported in the 12 market, so I tend to think that's a very well supported 13 overall taxable value. 14 CHAIRMAN MESERVY: And that was at 65 and 80? 15 MR. HARPER: Yes. 16 CHAIRMAN MESERVY: 7 percent on the monthly 17 rate? 18 MR. HARPER: Yes. Now, going to a 70 percent 19 rent for the grocery store and 80 percent on the CVS, 20 gives you an NOI of \$543,626, and at a 9 percent cap 21 rate that's over \$6 million, \$6,040,290, which obviously 22 is slightly higher than the Assessor's recommended 23 value. 24 So if I can of take some input from you Board 25 members? Page 100 1 MR. JOHNSON: I don't have -- I mean, my number 2 was 5.878 million, which is slightly lower. I used a 3 9 percent cap rate when I did mine. I brought the rent 4 down a little bit on the supermarket. I think I ran 5 mine at 67 1/2 cents, and then I ran the discount store 6 at \$0.80 a square foot. So we're all in the same area. 7 I think we could go down a little bit. I mean, 8 your way might have been cleaner than mine, but I think 9 that we're seeing the potential that there is a little 10 bit of a reduction here. When you run your numbers and 11 consider those in addition to mine, I do think that's a 12 much more credible case from a different approach. You 13 didn't allow -- it's just a little bit under the taxable 14 value, so I would fully support a motion by you.


<sup>7</sup> See Tr., 6-24-14, p. 100, l. 17 through p. 101, l. 11: 17 MR. HARPER: In Case Number 14-201, I am going 18 to make a motion to adjust the taxable value to 19 \$5,716,422, which is based on the parameters, the market 20 data presented, and references my comments from the 21 previous cases, 14-190 through 14-197 and 14-199 and 22 14-200. 23 CHAIRMAN MESERVY: Any second? 24 MR. JOHNSON: I will second that with a comment 25 that my way of getting there to reasonably support what Page 101 1 Keith is thinking here, so we're coming at it from a few 2 different ways, using the data and getting to a 3 reasonable similar value, I think is credible. 4 CHAIRMAN MESERVY: Any other comments? 5 (No response.) 6 CHAIRMAN MESERVY: All in favor? 7 MR. JOHNSON: Aye. 8 MR. HARPER: Aye. 9 CHAIRMAN MESERVY: Any opposed? 10 (No response.) 11 CHAIRMAN MESERVY: Passes unanimously.

2014-2015 Secured Roll

Parcel Number 138-22-418-010	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	\$1,881,791	\$1,881,791	\$658,627	\$658,627
Improvements	\$4,044,003	\$3,834,631	\$1,415,401	\$1,342,121
<b>TOTAL</b>	<b>\$5,925,794</b>	<b>\$5,716,422</b>	<b>\$2,074,028</b>	<b>\$2,000,748</b>

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 30<sup>th</sup> DAY OF SEPTEMBER, 2014.

  
 Christopher G. Nielsen, Secretary  
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