



STATE OF NEVADA  
STATE BOARD OF EQUALIZATION

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In the Matter of

William Benbassat

APN 163-20-516-013, 163-20-516-014,

APN 163-20-117-002, 163-28-112-003,

APN 163-17-114-002

PETITIONER

Case No. 14-207

Michele Shafe

Clark County Assessor

RESPONDENT

Appeal of the Decision of the

CLARK COUNTY

BOARD OF EQUALIZATION

**NOTICE OF DECISION**

***Appearances***

Tan Nguyen appeared on behalf of William Benbasset (Taxpayer).

Rocky Steele, Chief Deputy, Clark County Assessor's Office, appeared on behalf of the Clark County Assessor (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.

The Taxpayer withdrew that portion of the appeal concerning APN 163-17-114-002 and APN 163-28-112-003.<sup>1</sup>

Pursuant to NAC 361.7014, the Secretary to the State Board examined the petition of the Taxpayer and found the petition was timely filed to the State Board.<sup>2</sup> The Clark County Board of Equalization (County Board) determined the Taxpayer withdrew his appeal regarding APN 163-17-114-

<sup>1</sup>See Tr., 6-23-14, p. 28, ll.3-5: 3 MR. NGUYEN: Mr. Chairman, we're not here to 4 address the two cases that were withdrawn. Only the 5 three that were heard by the county board.

<sup>2</sup>See Record, SBE page 1, Petition for Appeal from the Decision of the County Board

002 (CBE Petition No. 4170) and APN 163-28-112-003 (CBE Petition No. 4174).<sup>3</sup> In addition, the County Board denied jurisdiction with regard to APN 163-20-117-02 (CBE Petition No. 4171), APN 163-20-516-013 (CBE Petition No. 4172), and APN 163-20-516-014 (CBE Petition No. 4173).<sup>4</sup> The question before the State Board is whether the County Board had sufficient evidence before it to support its decision to deny jurisdiction in CBE Petition No. 4171, 4172, and 4173.

The State Board, having considered all evidence, documents and testimony pertaining to the decision of the County Board to deny jurisdiction, 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>5</sup>
- 4) 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 10, 2014 and was timely filed.<sup>6</sup>
- 5) The subject properties consist of land and improvements containing executive office mini-suites. APN 163-20-117-002 is located at 9191 W. Flamingo Road.<sup>7</sup> APN 163-20-516-013 and 163-20-516-014 are located at 8871 W. Flamingo Road, in Las Vegas, Clark County, Nevada.<sup>8</sup>
- 6) For APN 163-20-117-002, 163-20-516-014, and 163-20-516-013, The Taxpayer did not file a petition with the County Board until February 20, 2014.<sup>9</sup> Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15<sup>th</sup>. The County Board did not accept jurisdiction to hear the Taxpayer's appeal because it was filed late.<sup>10</sup>
- 7) As a result of the County Board decision to not accept jurisdiction, the taxable value of the land and buildings for the three parcels remained the same, as follows:  
APN 163-20-117-002 (CBE Petition No. 4171), \$596,154.<sup>11</sup>  
APN 163-20-516-013 (CBE Petition No. 4172), \$839,988.<sup>12</sup>  
APN 163-20-516-014 (CBE Petition No. 4173), \$839,988.<sup>13</sup>

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<sup>3</sup> See Record, SBE p. 11 and 96; p. 382 and 467.

<sup>4</sup> See Record, SBE p. 102; pp. 187-190; p. 196; pp 281-284; p. 290; pp. 374-376.

<sup>5</sup> See SBE page 473.

<sup>6</sup> See SBE page 5.

<sup>7</sup> See Record, SBE page 128.

<sup>8</sup> Record, SBE pages 124 and 126.

<sup>9</sup> See SBE page 282; Tr., 6-23-14, p. 31, ll. 19-25:

So getting to the crux **22** of our case, if you'll turn to page SBE 9, which is **23** the actual date and signature that the appeal was **24** filed, which was February 20, signed off on by both **25** the owner and the representative.

<sup>10</sup> See Record, pages 284; Tr., 6-23-14

<sup>11</sup> See Record, SBE page 37, 102 187, and 222.

<sup>12</sup> See Record, SBE page 33, 196, and 373.

<sup>13</sup> See Record, SBE page 35, 281, and 290.



- 8) The Taxpayer testified that the change of address provided to the Assessor's office in June 2013 was not processed until January, 2014, after the notice of values were mailed. As a result, the notice of value was sent to the Taxpayer's former address.<sup>14</sup>
- 9) The Assessor testified he relied on NRS 361.300(8) which provides that "failure by the taxpayer to receive notice does not invalidate the appraisal or reappraisal." He stated the Assessor's office routinely publishes the date of appeal and the values on the website and in the newspaper; and provides instructional materials on the appeal date. He stated the owner has been noticed for 20 years what the date of appeal is.<sup>15</sup>
- 10) The State Board found the County Board made its decision based on the testimony that the petitioner should be familiar with the process because of prior appeals, and as a result, found there was not a preponderance of evidence before the County Board to support the decision not to accept jurisdiction.<sup>16</sup>

<sup>14</sup> See Tr., 6-23-14, p. 29, l. 3 through p. 31, l. 4:

3 MR. NGUYEN: Thank you, Mr. Chairman. This 4 case was heard by the county board February 28th, 5 and they failed to accept jurisdiction on three 6 commercial properties. What happened in this case 7 is that in May of 2013, the property owner filed a 8 change of address with the county assessors office. 9 That change of address was acknowledged by the 10 assessor as being received in June of 2013, June 11 5th, 2013, however was not processed until after the 12 notice of values were mailed out. So the change of 13 address was submitted about seven months prior to 14 the notice of values going out. When that notice of 15 values did go out, they went out to the property 16 owner's former address. So the property owner did 17 not receive them timely. The county board believed 18 after hearing arguments from the assessors that, 19 well, because the taxpayer had in previous years 20 filed appeals, that he should have known better, but 21 that makes an assumption on the taxpayer's part that 22 there would never have been amendments to or change 23 to the filing date. The taxpayer relies on the 24 notice of value to first see what was assessed and 25 then refer to the notice to look at certain rights Page 30 1 or deadlines as outlined in the notice of value. 2 If I may read into the record 3 Nevada Revised Statute 361.300 subsection 6(a). 4 Reads, the county assessor shall on or before 5 December 18 of the fiscal year in which the 6 appraisals or reappraisal was made deliver or mail 7 to each owner of such property a written notice 8 stating assessed evaluation of the property as 9 determined from appraisal or reappraisal. In this 10 case clearly that didn't happen. Our position is 11 that there is a chronological set of events. The 12 assessor assesses or appraises the property, sends a 13 notice of value to the property owner. The property 14 owner then he decides at that point whether he's 15 going to appeal and refers to that notice for 16 certain rights. In this case that didn't happen. 17 The county board in its decision the assessor 18 clearly in the record acknowledges that the notice 19 of value was mailed to the wrong address and not 20 processed on time. But the decision by the board 21 puts the prejudice on the property owner that these 22 properties are grossly overvalued and it was a 23 mistake by the assessors office, not a mistake by 24 the property owner. The property owner did 25 everything he was supposed to do. He filed, moved, Page 31 1 he filed the notice change of address on the 2 assessors form. Mailed it seven months prior to the 3 notice of value and still did not receive it in a 4 timely manner. Thank you board members.

<sup>15</sup> See Tr., 6-23-14, p. 31, ll. 7-18; l. 25 through p. 33, l. 12:

The 9 representative is correct. He did file or the owner 10 filed a request to change the mailing address but in 11 reference to the statute that he mentioned 361.300, 12 there are times when we do mail out notices of value 13 that don't make it to the property owner and 14 subsection 9 in that same statute, 361.300, it 15 indicates that taxpayer -- I'm sorry. Subsection 8, 16 it says, "failure by the taxpayer to receive notice 17 by this section does invalidate the appraisal or 18 reappraisal." Then if you Page 32 1 reference SBE 20 which is again the reiteration of 2 the statute that we follow as far as the timeliness 3 of the appeal, and that date hasn't changed in the 4 25 years that I've worked in the office and also the 5 statute referenced to filing an appeal on behalf of 6 an owner. 7 And if you'll turn to the next 8 page, in addition to it, the notice of value, we 9 also have published on our web site in the 10 publication of the roll and in our instructional 11 videos that date of the appeal deadline of January 12 15. And the subject properties that are under 13 appeal have been owned by the owner since 1991, and 14 that is on page SB 44. So he's been noticed for 20 15 years that the appeal deadline is January 15. And 16 in addition to, these properties have been appealed 17 by this property taxation and by the owner over the 18 last three years. So they're well-aware of the 19 property deadline, and the property tax agent has 20 made citations in the information on page SB 81 21 where he references statutes. So he's familiar with 22 our statutes and is a fairly sophisticated 23 individual relative to, you know, NRS. And, finally, on page 87, the 25 representative also maintained an office as a Page 33 1 property manager for the owner. So he is fluent 2 with the property as well as property rentals and 3 I'm sure with our web site and the availability of 4 values. In addition to the notice of values, you 5 can go on our web site as early as December, midpart 6 of December and get those values. So to rely solely 7 on notice of value there has got to be so me 8 incumbency upon the property owner to educate 9 themselves as far as the new value. I'm sorry. And 10 also we publish it as required by NRS in the 11 newspaper as well. So there are many ways to be 12 noticed of the new values and of the appeal date.

<sup>16</sup> See Tr., 6-23-14, p. 38, l. 25 through p. 41, l. 2:

25 MEMBER HARPER: Okay. I've read and re-read Page 39 1 the notes from the county hearing. And I guess the 2 part that I'm having difficulty with is their 3 discussion. It says noted based on previous appeal 4 filing the petitioner should be familiar with the 5 process. So it appears to me like that's their 6 evidence that the petitioner should be familiar with 7 the process. I just, I think I have a problem with 8 that. 9 CHAIRMAN MESERVY: Any other comment? I have 10 a problem with that too, so I'm, you know, being the 11 facts seem to be that once they got that notice they 12 filed quickly and within a reasonable period. So 13 I'm having a hard time with it. 14 MEMBER JOHNSON: What I guess bothers me, I'm 15 fairly comfortable that the assessors office before 16 the county



- 11) The State Board remanded the case to the County Board to hear the substantive issues on the case.<sup>17</sup>
- 12) 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 not supported by a preponderance of the evidence, and the Taxpayer overcame 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) The Assessor is required to publish in the newspaper a notice that the secured roll is completed, prepare a list of all taxpayers on the secured roll and the total valuation of property on which they severally pay taxes; mail to each owner an assessment notice on or before December 18<sup>th</sup> annually; and post the information on the assessment notice on the Assessor's website. Failure to receive a notice does not invalidate the appraisal. *See NRS 361.300.*
- 5) The State Board may remand a case to the county board if it determines the record of a case on appeal is inadequate because of an act or omission by the assessor, district attorney or county board of equalization. *See NRS 361.360(6).*
- 6) 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

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board would have said the same thing as 17 they said here today and although the record we get 18 is very truncated, I think they would have given a 19 very similar presentation and listened to the county 20 is it reasonable for the board to make the decision 21 they did? I think so. I just, I am bothered by the 22 validity of the decision, but I think it's 23 reasonable given the context of it is where I'm at, 24 but I support the motion by Keith. 25 CHAIRMAN MESERVY: So sounds like you want to Page 40 1 make a motion, Mr. Harper? 2 MEMBER HARPER: Sounds to me like my motion 3 won't get anywhere. 4 CHAIRMAN MESERVY: You never know. 5 MEMBER HARPER: I make a motion in 14-207 that 6 there was not a preponderance of evidence that 7 county board made the right decision. 8 MEMBER JOHNSON: And I'm going to second that 9 with the comment from the record I have before me in 10 the line that Keith cited. It's not overly clear to 11 me that the county did in fact make the right 12 decision based on the preponderance of evidence. 13 And therefore, I think when it's not overly clear 14 and we're up here being a less uncertain, let's send 15 it back to the county, and I think that is the right 16 way. 17 CHAIRMAN MESERVY: Was that part of the motion 18 to send it back to the county or is that set for a 19 separate motion? 20 MEMBER JOHNSON: That would be a separate 21 motion. I won't go into that now, but I am 22 seconding the motion. 23 CHAIRMAN MESERVY: Any other comment? All in 24 favor. 25 THE BOARD PANEL: Aye. 1 CHAIRMAN MESERVY: Any opposed? Okay. That 2 is unanimous. Now where do we want to go.

<sup>17</sup> See *Tr.*, 6-23-14, p. 42, l. 23 through p. 43, l. 9:

23 MEMBER HARBER: Okay. So my motion would be 24 in case 14-207 that based on the recommendation to 25 remand it to the county board that they take Page 43 1 jurisdiction and hear the case based on the evidence 2 submitted at that time. 3 MEMBER JOHNSON: I would second that. 4 CHAIRMAN MESERVY: Any other comments? All in 5 favor? 6 THE BOARD PANEL: Aye. 7 CHAIRMAN MESERVY: Any opposed? None. So 8 it's unanimously approved the motion, okay. Thank 9 you.

Based on the foregoing Findings of Fact and Conclusions of Law, the State Board reversed the decision of the County Board and remanded the case to the County Board to hear the substantive issues.

BY THE STATE BOARD OF EQUALIZATION THIS 30<sup>th</sup> 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