



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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CHRISTOPHER G.
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Secretary

In the Matter of)	
)	
CIII Asset Management LLC)	
APN: 264-13-201-003, 264-13-601-003,)	
APN: 264-13-601-004)	
Clark County, Nevada)	
PETITIONER)	Case No. 14-208
)	
Michele Shafe)	
Clark County Assessor)	
RESPONDENT)	
)	
Appeal of the Decision of the)	
CLARK COUNTY)	
BOARD OF EQUALIZATION)	

NOTICE OF DECISION

Appearances

Bretta Ferrie of Ryan and Co. appeared on behalf of C III Asset Management, LLC (Taxpayer).

Rocky Steele and Maryanne Weidner 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.

The Assessor requested the testimony of Mary Ann Weidner in case number 14-178 be incorporated into the record of the current case by reference.¹

¹ See Tr., 6-23-14, p. 230, l. 25 through p. 231, l. 5:

25 MR. STEELE: Okay. By reference, I would like Page 231 1 to incorporate the testimony of Mary Ann Widener 2 from Case 178. I thought I had done that earlier. 3 CHAIRMAN MESERVY: Yeah. Unfortunately, the 4 other side I don't think heard that. So that's 5 partly why --

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 2014-2015.² The owner of record is 1955 South Casino Dr. Holdings, LLC and the asset manager is C-III Asset management. There was no documentation presented within 48 hours of the filing of the appeal to show the signatory, Michael Ludden, was authorized to grant an agent authorization on behalf of C-III. Although such documentation was provided at the hearing, the County Board did not accept jurisdiction to hear the case on the basis that the documentation was late-filed.³ The question before the State Board is 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. The tax agent filed an appeal dated January 15, 2014 (Record, SBE page 14) and an agent authorization form with the Clark County Board of Equalization (County Board) on January 15, 2014 (See Record, SBE page 15) but the signer, Michael Ludden, could not be verified as a person authorized to sign the agent authorization on behalf of CIII Asset Management or the owner of the property. Additional information linking the signatory to the owner was provided at the hearing.⁵ The County Board did not accept jurisdiction to hear the Taxpayer's appeal because the agent authorization and documentation supporting Michael Ludden's authority to sign the agent authorization was filed beyond the 48-hour filing period.⁶

² See Record, SBE page 1, Taxpayer Petition for Appeal

³ See Record, SBE pages 11, CBE Decision Letter and SBE pages 83-84, CBE Minutes

⁴ See Record, SBE page 86, Receipt of Certified Mail.

⁵ See Tr., 6-23-14, page 232, l. 15 through p. 233, l.16:

15 MS. WIDENER: She said about the notice of 16 appearance. The notice of appearance is letting 17 them know they will have to appear before the board 18 and provide whatever information that they can to 19 make a decision. I know Ms. Ferrie was not here 20 earlier, but we do have a team of folks that have 21 been working with us to try to look at the Secretary 22 of State's web site, verify the ownership, verify 23 that the person that signed the authorization is 24 truly the owner. And we did contact the tax agents 25 as we could, if we had contact information, to let Page 233 1 them know something was missing. So I don't think 2 there is anything that says we have to do that, but 3 we did attempt to do that. And in this case there 4 was several -- if not Ms. Ferrie, Tammy Case's, she 5 filed several appeals on properties that end up just 6 getting withdrawn, because there was no 7 authorization that even came forward on those. So 8 we did have contact with that office, and we were 9 communicating with them with regards to information 10 was missing, we needed further documentation. This 11 documentation that you're seeing in the record 12 beyond just the appeal form or agency's 13 authorization was provided at the time of the 14 hearing. We did not get that in the 48 hour period. 15 That is why the county board ruled that it was 16 untimely, and that's what we're here to defend.

⁶ See Tr., 6-23-14, p. 237, l.4 through p. 238, l. 25:

4 MS. WIDENER: That is certified that as signed 5 by a secretary on January 15, but that was not 6 provided to us on January 15. That was provided at 7 the county board hearing. 8 CHAIRMAN MESERVY: But you never saw it before 9 the hearing? 10 MS.

WIDENER: That's correct. 11 CHAIRMAN MESERVY: Interesting. Okay. 12 Anything more? 13 MR. STEELE: And just to finish, on SBE 15 14 which would be typical on how we handle these, and 15 the signature is Mike Gluden (phonetic), however you 16

- 6) The State Board found the County Board's decision was not made in error and was based on a preponderance of the evidence.⁷
- 7) The State Board made no change to the decision of the County Board because the motion to uphold the County Board failed due to lack of a majority vote.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).
- 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) NRS 361.375(9) requires a majority of the State Board to determine any action.

pronounce it, went to the Secretary of State's web 17 site which is SBE 80, and it indicates that the 18 officers are James R. DiAngelo and U.S. Bank 19 National Association. 20 SB 82, to further research U.S. 21 Bank National Association, it was a dead end. So 22 that in itself at that point, the only two 23 individuals that could have signed off was – if 24 they would have brought information to show that 25 that individual was from the bank and/or that Page 238 1 DiAngelo would have been appropriate signers to 2 authorize them. 3 CHAIRMAN MESERVY: Is that the same entity, 4 C-III, Roman numeral I, Asset Management, LLC? 5 MR. STEELE: After they provided additional 6 information at the county board, I went through that 7 information, and the power of attorney that they had 8 provided, the U.S. Bank hired C-III Asset Management 9 as the manager. So that might have been good in 10 itself, but then there is another layer in that on 11 SB 60. 12 CHAIRMAN MESERVY: This looks like one of 13 those they had too many lawyers involved. Nothing 14 against attorneys. 15 MR. STEELE: That was provided. And it gives 16 a list of the officers. 17 CHAIRMAN MESERVY: When did you receive that 18 document? 19 MR. STEELE: That was also on the day of the 20 hearing. Then on SB 29, the secretary for the C-III 21 Asset Management, LLC, this Genovet Junell 22 (phonetic), then she authorized signatories 23 servicing officers. And that's where you find Mike 24 Gluden. So another layer of authorization that was 25 not provided, another link. That's all I have.

⁷ See Tr., 6-23-14, p. 248, l. 24 through p. 249, l. 9:

24 MEMBER JOHNSON: I know we had some cases this 25 morning where I mean there was some questionable Page 249 1 circumstances, but at the end of the case we're not 2 deciding this issue as a first impression. It's 3 already been decided by the county board. We're 4 just reviewing it for if they made a reasonable 5 decision based on a preponderance of the evidence, 6 and that's the lowest standard we can have as a 7 board. And I don't think they made an unreasonable 8 decision based on the evidence that has been 9 presented. That's the way I'm interpreting it.

⁸ See Tr., 6-23-14, p. 249, l. 11 through p. 250, l. 4:

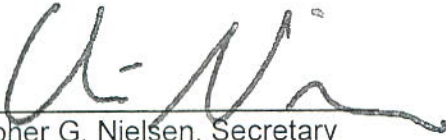
11 MEMBER JOHNSON: I'm make a motion in Case 12 14-208 that we uphold the county board decision to 13 deny jurisdiction as we feel the county board's 14 decision was based on a preponderance of the 15 evidence. 16 CHAIRMAN MESERVY: Do we have a second? 17 MEMBER HARPER: Second. 18 CHAIRMAN MESERVY: Anymore conversation? 19 Again, you know, what my stand is. So I don't think 20 that has not been performed here. All right. All 21 in favor. 22 MEMBER HARPER: Aye. 23 MEMBER JOHNSON: Aye. 24 CHAIRMAN MESERVY: All against? Nay. So I 25 guess it goes back to what the county hearing was. Page 250 1 MEMBER JOHNSON: Yeah. 2 CHAIRMAN MESERVY: So basically it fits what 3 the county did. No jurisdiction. All right.

- 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

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