



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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CHRISTOPHER G.
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Secretary

In the Matter of

Sunset Commercial, LLC
APN: 178-02-702-001
Clark County, Nevada
PETITIONER

Michele Shafe
Clark County Assessor
RESPONDENT

Appeal of the Decision of the
CLARK COUNTY
BOARD OF EQUALIZATION

Case No. 14-262

NOTICE OF DECISION

Appearances

Jonathan Jorgensen appeared on behalf of Sunset Commercial, LLC (Taxpayer).

Jeff Payson and Maryanne Weidner appeared on behalf of the Clark County Assessor's Office (Assessor).

Summary

This case came before the State Board of Equalization (State Board) on an appeal by the Taxpayer of the 2014-2015 valuation of Taxpayer's real property established by the Assessor. The Notice of Appearance to determine whether the State Board would accept jurisdiction of the case was heard by the State Board on June 23, 2014 in Las Vegas, Nevada 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 2014-15. The appeal was timely postmarked on March 10, 2014.¹ However, the appeal was not first heard by the Clark County Board of Equalization (County Board).² Accordingly, the Secretary recommended to the State Board that the appeal be dismissed due to lack of jurisdiction.

¹ See Record, SBE page 3, postmarked envelope

² See Record, SBE page 1, Petition for appeal from decision of CBE

The Taxpayer offered new evidence consisting of emails showing submission of the petition to the assessor's office, as well as evidence of value of the property. The State Board did not take up the matter of admitting the new evidence into the record.

The State Board, having considered all evidence, documents and testimony pertaining to the jurisdiction of the State Board, 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. The Department provided evidence to show the Taxpayer received notice of the hearing.³
- 4) The subject property is land with minor improvements, located on west Sunset Road in Henderson, Clark County, Nevada.⁴
- 5) 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 not first heard by the County Board.^{5, 6}
- 6) The Taxpayer asserted the appeal had been properly filed by January 15, 2014, however no confirmation was received.⁷ The Assessor reviewed the archived emails and could not substantiate the appeal had been filed.⁸ The State Board found the Taxpayer did not show

³ See Record, SBE page 11, Receipt of Certified Mail

⁴ See Record, SBE page 6, Property Record Card; Tr., 6-23-14, p. 163, ll. 10-13:

10 And with regard to the Chairman's 11 question about describing the property, it's land 12 with minor improvements, located on West Sunset Road 13 in Henderson.

⁵ See Record, SBE page 1, Petition to State Board

⁶ See Tr. 6-23-14, p. 162, ll. 4-19; p. 163, ll. 8-10, 14-19:

4 new evidence in this case this is on your -- it's a 5 recommendation by the secretary to dismiss. The 6 reason for that is that although the appeal was 7 timely postmarked on March 10, you can see that on 8 page three, the appeal was not first heard by the 9 Clark County Board of Equalization and, accordingly, 10 we're recommending that the appeal be dismissed due 11 to lack of jurisdiction. 12 CHAIRMAN MESERVY: Identify the property. 13 MR. PAYSON: No, I can't. Mr. Chairman, I 14 know that we're the respondents, but this didn't go 15 -- this is the first we've heard about this as a 16 case. So we don't have a county case reference or 17 anything like that. I don't really know even what 18 the deal is with other than appealed directly to the 19 state. Page 163: 8 MS. RUBALD: That's correct. And we're 9 recommending that the state board not accept 10 jurisdiction. 14 MS. BUONCRISTIANI: The standard is when it 15 doesn't go to the county is substantial 16 circumstances beyond the control of the taxpayer. 17 When the facts are that it should have gone to the 18 county board for appeal, and it did not. And they 19 are appealing first to the state board

⁷ See Tr., 6-23-14, p. 164, ll. 3-7:

3 MR. JORGENSEN: Jonathan Jorgenson, 4 J-o-n-a-t-h-a-n, J-o-r-g-e-n-s-o-n. We submitted 5 this along with four other ones to the county and we 6 sent a PDF through e-mail. They said they didn't 7 get it. They got the other four back fine.

⁸ See Tr., 6-23-14, p. 194, l. 4 through p. 196, l. 12:

4 MS. WIDENER: Mary Ann Widener with the Clark 5 County Assessor's office. I'm sorry, it took me a 6 while. I was familiar with the name on this 7 property, but after talking to Mr. Kelly, he's the 8 gentleman that originally supposedly sent this 9 e-mail, we checked over all the e-mails and 10 correspondence that appeared to go back and forth 11 from Mr. Shelton. And this particular one there was 12 no record of it. I remember having this 13 conversation with him now or at least someone that 14 was a representative that was handling this in Case No. 14-262, Sunset Commercial LLC

circumstances beyond the control of the Taxpayer as to why the appeal was not filed first with the Clark County Board of Equalization (County Board), and declined to accept jurisdiction of the case.⁹

- 7) 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 State Board has authority to determine whether it has jurisdiction to hear a matter. The State Board has the authority to determine matters necessary to carry out the power conferred on the State Board by statute. *Checker, Inc. et al. v. Public Serv. Comm'n*, 84 Nev. 623, 629-630, 446 P.2d 981 (1968).
- 2) The State Board found the Taxpayer did not show circumstances beyond the control of the Taxpayer as to why the appeal was not first filed to the County Board, and declined to accept jurisdiction of the case. *NRS 360.291(1)*.
- 3) 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

Based on the foregoing Findings of Fact and Conclusions of Law, the State Board held it is without jurisdiction to hear the above referenced appeal by the Taxpayer. 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

15 office. He forwarded an e-mail to us which is what 16 he's showing here as new evidence. But when you 17 forward an e-mail, you can change dates and times, 18 do all kinds of things with the forwarded e-mail. 19 So there wasn't enough evidence for us to say we in 20 fact got it. When he forwarded the e-mail, we did a 21 thorough search through all of our archived data and 22 all of our e-mails which we hold out if they're 23 important because it's important because the dates 24 are important when we receive an appeal, because the 25 appeal deadline of January 14. And there was not Page 195 1 one record we had of this particular e-mail. And so 2 because we had no record of this e-mail, we did not 3 consider the forwarded e-mail valid. And so we did 4 not consider this a timely filing, and we didn't 5 even consider it a case. So it never was made a 6 case to begin with. 7 MEMBER HARPER: And I don't know if you can 8 answer this question, but I don't see -- even if 9 this e-mail was sent in from Mr. Shelton, I don't 10 see that there was anything attached to it. 11 MS. WIDENER: We have something here where it 12 was -- we have an e-mail that was forwarded where it 13 was attached at this time, but that happened on the 14 27th. And we have nothing back in time that said 15 that there was an attachment to even an e-mail. And 16 I think he had spoken earlier when you were first 17 started to hear this case today, that this came with 18 several other attachments at the same time. We 19 looked through. There were other cases that were 20 filed with other parcel numbers where there was 21 three and four different attachments for the appeals 22 on those particular parcels, but none of them had 23 this particular parcel on it, nor did it have that 24 forwarded name for Sunset Commercial with what 25 you're seeing here on the detail with the forward on Page 196 1 this one. So we just have no evidence. We have no 2 record of this whatsoever, 3 All we have is a forwarded e-mail 4 that supposedly was sent to us. And when we delete 5 e-mails, just in case things get deleted, the way 6 that it happens is they don't really get deleted in 7 Clark County. So you can't really delete an e-mail. 8 We have an archive that everything goes into, and we 9 searched the full archive for the e-mail. So there 10 is no way for us to have just magically lost it. We 11 searched it in every possible way. Okay. We just 12 had no evidence of it.

⁹ See Tr., 6-23-14, p. 201, l. 23 through p. 202, l. 7:

23 MEMBER JOHNSON: Then in case 14-262, I find 24 that there is not reasons beyond the control that 25 the taxpayer justify us taking jurisdiction to hear Page 202 1 this appeal. 2 CHAIRMAN MESERVY: Any second? 3 MEMBER HARPER: Second. 4 CHAIRMAN MESERVY: All in favor. 5 THE BOARD PANEL: Aye. 6 CHAIRMAN MESERVY: Opposed? So it's 7 unanimous. We're denying jurisdiction. Thank you