



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

BRIAN SANDOVAL
Governor

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DEONNE CONTINE
Secretary

In the Matter of)
)
 BR Summerlin Property LLC (Owner))
 Through its Lessee,)
 Leasehold Resources Group, LLC)
 APN: 137-36-413-005)
 Clark County, Nevada)
 PETITIONER)
)
 Michele Shafe)
 Clark County Assessor)
 RESPONDENT)
)
 Appeal of the Decision of the)
 CLARK COUNTY)
 BOARD OF EQUALIZATION)

Case No. 15-149

NOTICE OF DECISION

Appearances

Guy McCollum and Josh McCollum of McCollum Consulting appeared on behalf of Leasehold Resources Group, LLC (Taxpayer).

Doug Scott and Mary Ann Weidner appeared on behalf of the Clark County Assessor's Office (Assessor).

Summary

The matter of the Taxpayer's petition for review of the Clark County Board of Equalization (County Board) decision to not accept jurisdiction to hear the petition for review of property valuation for the 2015-16 Secured Roll within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on July 20, 2015 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 2015-2016. Although the appeal was filed timely to the State Board, the Clark County Board of Equalization ("County Board"), did not accept jurisdiction to hear the case. The question before the State Board is whether the County Board had a preponderance of the evidence before it to support its decision to not accept jurisdiction.

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. The Department provided evidence to show the Taxpayer received notice of the hearing. *See Record, SBE pages 51-53.*
- 4) Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15th. A tax agent included with the appeal to the Clark County Board of Equalization (County Board), an agent authorization form dated January 5, 2015. *See Record, SBE page 3.* Although the appeal was filed timely to the State Board, there was no documentation presented within 48 hours after the last day for filing the appeal to the County Board to show the signatory, Zachary Larson, was authorized to grant an agent authorization on behalf of the Leasehold Resource Group, LLC. The Taxpayer provided such documentation the following day. *See Record, SBE 40 and 45.*
- 5) The State Board found there was not a preponderance of evidence before the County Board to support the decision it made. The Taxpayer made a good faith effort to provide the information required to show the agent had authorization. Based on a lack of a record referenced by the County Board, the State Board found the CBE's decision should be reversed and remanded for further consideration. *See Tr., 7-20-15, p. 200, l. 8 through p. p. 203, l. 4.*
- 6) The State Board reversed the decision of the County Board to not take jurisdiction and remanded the case to the County Board to hear the substantive issues on the case. *See Tr. 7-20-15, p. 202, l. 7 through p. 203, l. 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 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 3rd 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 reversed the decision of the County Board. *See also NRS 233B.121(9) as amended by AB 53 (2015) requiring findings of fact to be based exclusively on a preponderance of the evidence and on matters officially noticed.*

- 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) 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

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 23RD DAY OF SEPTEMBER, 2015.



Deonne Contine, Secretary
DC/ter