



2015 be dismissed for lack of jurisdiction due to untimely filing of the appeal. See *Tr.*, 7-18-16, p. 188, *ll.* 1-13.

In addition, the appeal of the 2013-2014 tax year was not timely filed to the County Board. The County Board made no change to the taxable value because the appeal was not timely filed and the County Board did not take jurisdiction to hear the appeal. In addition, the County Board determined it did not have jurisdiction to hear the 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2014-2015 tax years because those appeals should have been filed directly with the State Board.

The appeal of the County Board's decision to the State Board was timely filed. The questions before the State Board are whether the County Board had sufficient evidence before it to support its decision to not accept jurisdiction and whether the State Board has jurisdiction to hear late-filed appeals. See *Tr.*, 7-18-16, p. 188, *l.* 14 through p. 189, *l.* 18.

The State Board, having considered all evidence, documents and testimony pertaining to the jurisdiction of the State Board in accordance with the requirements of NRS 361.340 and 361.360, 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* page 84.
- 4) The subject property is the business personal property of a telemarketing center located at 4495 East Sahara Avenue in Las Vegas, Clark County, Nevada. See *Record*, *SBE* pages 33-39; *Tr.*, 7-18-16, p. 189, *l.* 24 through p. 190, *l.* 6.
- 5) The Taxpayer was billed for each tax year on the following dates:

<u>Tax Year</u>	<u>Date Billed</u>
2008-2009	April 24, 2009
2009-2010	March 19, 2010
2010-2011	April 22, 2011
2011-2012	April 20, 2012
2012-2013	March 22, 2013
2013-2014	November 26, 2013
2014-2015	April 1, 2015

See *Record*, *SBE* pages 33-39.

- 6) Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15<sup>th</sup> of the year of assessment. The Taxpayers did not file a petition with the County Board until January 15, 2016 for the 2013-2014 unsecured roll tax year which should have been filed no later than January 15, 2013; and was three years late.



- 7) Similarly, the other years appealed, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2014-2015 were filed with the County Board. Based on the bill dates, the appeals should have been made directly to the State Board no later than May 15<sup>th</sup> of the appropriate assessment year. For example, the appeal for 2008-2009 should have been made directly to the State Board no later than May 15, 2009 but was not filed until March 3, 2016 and was nearly 7 years late. The appeals for the other tax years were similarly late. The County Board did not accept jurisdiction to hear the Taxpayer's appeals because they were either filed late pursuant to NRS 361.340(11) or should have been filed directly to the State Board pursuant to NRS 361.360(3).
- 6) The State Board found the County Board had a preponderance of evidence before it to support the decision it made. The County Board record was clear as to why the County Board did not take jurisdiction. The State Board found appeals were either filed late to the County Board or the County Board did not have jurisdiction to hear the appeal. The State Board found the County Board had not erred in its decision. *See Tr., 7-18-16, p. 217, ll. 3-12.*
- 7) The State Board affirmed the decision of the County Board. *See Tr., 7 -18-16, p. 217, l. 3 through p.221, l. 11.*
- 8) Pursuant to NRS 361.360(3), any taxpayer whose real or personal property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 may protest directly to the State Board no later than May 15 in the current assessment year. The appeal for 2008-2009 to the State Board was postmarked on March 3, 2016 and was more than 7 years late. Each subsequent year, except 2013-2014, was similarly late as a direct appeal to the State Board. *See Record, SBE page 1; NRS 361.360(3).*
- 9) The State Board found the Taxpayer untimely filed appeals for prior years; and did not show under what legal authority the State Board could hear the appeals for the, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2014-2015. tax years. The State Board declined to accept jurisdiction. *See Tr., 7-18-16, p. 221, l. 12 through p. 224, l. 18.*
- 10) 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 from the decision of the County Board, and the State Board accepted limited jurisdiction to determine whether the County Board had a preponderance of evidence before it to make the decision that it did.
- 2) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board.
- 3) Preponderance of the evidence" means evidence that enables a trier of fact to determine that the existence of the contested fact is more probable than the nonexistence of the contested fact. *NRS 233B.0375. See also 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 supported by a preponderance of the evidence, and the Taxpayer did not overcome 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 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).

- 6) The State Board did not accept jurisdiction to hear late-filed appeals for tax years 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2014-2015, based on the failure of the Taxpayer to show any legal authority which would allow the State Board jurisdiction to hear the appeal. *First American Title Company v. State of Nevada*, 91 Nev. 804, 543 P2d 1334 (1975)
- 7) 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 with regard to the decision of the County Board to take jurisdiction is denied based on the above Findings of Fact and Conclusions of Law. In addition, based on the foregoing Findings of Fact and Conclusions of Law, the State Board held it is without jurisdiction to hear late-filed appeals for tax years 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2014-2015. 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 27 DAY OF SEPTEMBER, 2016.



Deonne Contine, Secretary  
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