



STATE OF NEVADA  
STATE BOARD OF EQUALIZATION

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DEONNE E. CONTINE  
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In the Matter of

APN 001-660-125  
ASPEN PLAZA PARTNERS, LLC  
PETITIONER

Elko County Assessor,  
RESPONDENT

Direct Appeal of the Decision of the  
ELKO COUNTY ASSESSOR

Case No. 17-167B

**NOTICE OF DECISION**

***Appearances***

John Fericks appeared on behalf of Aspen Plaza Partners, LLC (Taxpayer).

Curtis Moore, Elko District Attorney's Office, and Katrinka Russell, Elko County Assessor appeared on behalf of the Elko County Assessor's Office (Assessor).

***Summary***

The matter of the Taxpayer's petition for review of commercial property valuations for the 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, and 2015-16 Unsecured Roll within Elko County, Nevada, came before the State Board of Equalization (State Board) for hearing in Carson City, Nevada, on August 28, 2017, 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 years 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, and 2015-16. The question before the State Board is whether the State Board has jurisdiction to hear the late-filed appeal filed on May 15, 2017.

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 361.360, 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.
- 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) Pursuant to NAC 361.7014, the Secretary to the State Board examined the petition of the Taxpayer and found the Taxpayer's appeal filed on May 15, 2017 was untimely.
- 5) The State Board found the appeals were filed untimely and the Taxpayer did not show under what legal authority the State Board could hear the appeal for the 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, and 2015-16 tax years.
- 6) 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 did not accept jurisdiction to hear the late-filed appeal 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).
- 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 above Findings of Fact and Conclusions of Law, the State Board, by unanimous vote, dismissed the Taxpayer's Petition for Direct Appeal.

BY THE STATE BOARD OF EQUALIZATION THIS 27<sup>th</sup> DAY OF NOVEMBER, 2017.



Deonne Contine, Secretary  
DC/jm