



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

STEVE SISOLAK
Governor

1550 College Parkway, Suite 115
Carson City, Nevada 89706-7921
Telephone (775) 684-2160
Fax (775) 684-2020

MELANIE YOUNG
Secretary

In the Matter of)	Case No. 19-145A
)	
APN: 001-660-125)	
)	
Aspen Plaza Partners, LLC)	
PETITIONER)	
)	
v.)	
)	
Katrinka Russell)	
Elko County Assessor,)	
RESPONDENT)	
)	
Direct Appeal of the Decision of the Elko)	
County Assessor)	

NOTICE OF DECISION

Appearances

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

Katrinka Russell, Elko County Assessor and Deputy District Attorney Rand Greenburg appeared on behalf of the Respondent, the Elko County Assessor's Office (Assessor).

Summary

The matter of the Taxpayer's direct appeal with respect to the 2018-2019 Unsecured Roll within Elko County, Nevada, came before the State Board of Equalization (State Board) for hearing in Carson City and Las Vegas, Nevada, on August 26, 2019 and was continued to and resumed on November 18, 2019, after due notice to the Taxpayer and the Assessor. The subject property is commercial and leased to the Taxpayer.

This matter was heard for argument by the parties on August 26, 2019. At that time a judicial challenge was pending in the District Court and a decision was expected soon. The State Board continued the hearing pending the court decision. The State Board concluded its business for the year with its meeting on November 18, 2019. No decision from the District Court was received. The State Board decided not to continue this matter any further and placed it on its agenda for its November 18, 2019 meeting.

As previously discussed at the hearing on August 26, 2019, the State Board reviewed the legislative history for AB644 (1997) which included revisions and discussions regarding the airport exemption.

The State Board, having considered all evidence, documents and testimony pertaining to the taxable value of the subject property in accordance with 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. Taxpayer and 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.
3. Taxpayer has the burden of proof pursuant to NAC 361.741.
4. Taxpayer leases the real property from the City of Elko, and its Elko Regional Airport.
5. Taxpayer constructed a commercial building on the property which is rented to various retail and office businesses.
6. Taxpayer claims the property is exempt from taxation by virtue of it being located on the Airport Layout Plan pursuant to NRS 361.157(2)(a).
7. Taxpayer appealed taxes for the same subject property previously resulting in a State Board decision for Case Number 17-167A.
8. The State Board decided in Case Number 17-167A that the subject property was not subject to the exemption because the subject property is located outside the airport security fencing and does not include businesses that service the airport.
9. In addition, the subject property is not located within the area of the airport operations and does not cater to the airport's aviation activities.
10. The legislative history for AB644 (1997) includes a discussion between the Clark County Assessor and a legislator wherein, the Clark County Assessor says shops within the airport pay personal property taxes on the property they own and the same is true for private parties who build hangars on the airport.
11. The legislative history also provides that airport owned property would be taxed if it was outside the operational grounds.
12. 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. Taxpayer and Assessor are subject to the jurisdiction of the State Board.
2. The State Board has the authority to determine exemptions to taxes in the State.
3. The legislative history indicates there was no intent to exempt private businesses from taxation, especially if it is outside the operational grounds of the airport.
4. "Tax exemptions are strictly construed in favor of finding taxability and any reasonable doubt about whether an exemption applies must be construed against the taxpayer. *Sierra Pac. Power v. Department of Taxation*, 96 Nev. 295, 297, 607 P.2d 1147, 1148 (1980)." *Jim L. Shetakis Distributing Co., Inc. v. State, Dept. of Taxation*, 108 Nev. 901, 907, 839 P.2d 1315, 1319 (1992).

5. 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 and by a preponderance of the evidence, the State Board decided by a unanimous vote (3 members present) that the subject property is not subject to a tax exemption pursuant to NRS 361.157. The petition is denied.

BY THE STATE BOARD OF EQUALIZATION THIS 19 DAY OF December, 2019.


Melanie Young, Secretary