



STATE OF NEVADA  
STATE BOARD OF EQUALIZATION

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**In the Matter of:**

Schultz Partners, LLC )  
Parcel No. 1318-10-310-009 )  
Douglas County, Nevada ) **RESPONSE TO NEVADA**  
 ) **FIRST JUDICIAL DISTRICT COURT**  
Case No. 08-1254 SECRP ) **ORDER ON REMAND TO THE**  
PETITIONER ) **STATE BOARD OF EQUALIZATION**  
 )  
Doug Sonnemann )  
Douglas County Assessor )  
RESPONDENT )

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

***Appearances***

Harry W. Swainston appeared on behalf of Schultz Partners LLC (Taxpayer).

Doug Sonnemann and Zach Wadley, Douglas County Deputy District Attorney appeared on behalf of the Douglas County Assessor's Office (Assessor).

***Summary***

This case came before the State Board of Equalization (State Board) on order of remand from the First Judicial Court of the State of Nevada, Department I, Case Number 08-OC-00354 1B (Order on Remand). The District Court found there was cause to remand the matter before it to the State Board for the sole purpose of identifying the land upon which the Taxpayer is assessed pursuant to NRS 361.227. *See Tr., 9-18-12, p. 85, ll. 5-13.* In response to the Order of Remand, the State Board convened a hearing on September 18, 2012 in Carson City, Nevada.

At the first hearing convened on May 16, 2012, after due notice to the Taxpayer and the Assessor, the Taxpayer moved the State Board to disqualify Chairman Wren from hearing the case. At the May 16, 2012, hearing, the matter was continued in order for the Chairman to request the advice of the Ethics Commission.

On September 18, 2012, the State Board reconvened without Chairman Wren present to consider Taxpayer's motion. During the hearing, the Douglas County Assessor opposed the motion to disqualify. *See Tr., 9-18-12, p.69, ll. 24-25.* After considering the matter, the State Board did not obtain



a majority vote either to grant or deny the motion. As a result, the Taxpayers' motion failed. *Adams-McGill Co. v. McKernan*, 51 Nev. 336 (1929). The hearing continued with Chairman Wren sitting with the State Board to hear the remand. See *Tr.*, 9-18-12, p. 81, l. 1 through p. 83, l. 25.

The Assessor described the subject property as parcel number 1318-10-310-009, owned by Schultz Partners, LLC and located at 716 Lincoln Highway in the Zephyr Cove property subdivision. The subject improvements consist of a one-and-a-half-story, single family residence of 2,339 square feet, of average-plus quality, with a 440 square foot basement built in 1938. The property's 75-foot western boundary faces Lake Tahoe, and there is a common area located between the subject and Lake Tahoe. See *Tr.*, 9-18-12, p. 87, ll. 1-11.

The State Board admitted the briefs of the Taxpayer and the Douglas County District Attorney into the record. See *Tr.*, 9-18-12, p. 87, l. 23 through p. 89, l. 15.

The Taxpayer asserted that the Assessor provided nothing in the way of evidence as to what the property is that is being assessed. By contrast, the Taxpayer asserted it provided credible documentation to show that the property being assessed is not only the property within the metes and bounds description but also the property between the northwestern metes and bounds boundary and the seawall and also the area of the beach between the seawall and elevation 6223, which are the appurtenant littoral rights to the subject property. See *Tr.*, 9-18-12, p. 90, l. 9 through p. 91, l. 4.

The Assessor responded that the Taxpayer owns and is assessed on the area established by the Nevada Supreme Court in 1988, which is Lot 3, Block F, based on a 1929 map that was filed in the county of record. The Assessor stated Lot 3 is 199 feet on the northern boundary; 219 feet on the southern boundary; 75 feet on the western boundary next to the beach, and 96 feet on the eastern boundary. See *Record, SBE pages 81 and 106; Tr.*, 9-18-12, p. 114, ll. 1-11. Chairman Wren followed up with the question "Are you assessing any portion of the sandy beach area between Lot 3, Block F and the seawall to the Schulzes?" The Assessor responded, "No, sir." See *Tr.*, 9-18-12, p. 116, ll. 9-15.

The State Board, having considered all evidence, documents and testimony pertaining to the remand, 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 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.
- 3) The First Judicial Court of the State of Nevada remanded this matter in case number 08-OC-00354 1B to the State Board to identify the land upon which the Taxpayer is assessed pursuant to NRS 361.227.
- 4) The subject property is an improved property located near the Lincoln Highway in the Zephyr Cove property subdivision in Douglas County, Nevada. The improvements consist of a one and a half story single family residence having 2,339 square feet of average plus quality with a 440 square foot basement built in 1938.
- 5) The State Board found the Assessor assesses the Taxpayer for property within the boundaries of Lot 3, Block F as depicted on the map in the Record at page 106, having the following dimensions: 75 feet along the sandy beach front, thence 219 feet along the southern boundary,

thence 96.7 feet along the eastern boundary, thence 199.4 feet along the northern boundary. See Tr., 9-18-12, p. 105, ll. 15-20; p. 113, ll. 1-25; p. 115, ll. 1-16; p. 116, l. 1 through p. 117, l. 13; p. 135, l. 2 through p. 137, l. 19.

- 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 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) The State Board has the authority to determine the taxable values in the State.
- 4) Substantial evidence has been defined as that which "a reasonable mind might accept as adequate to support a conclusion." *State Employment Sec. Dept. v. Hilton Hotels Corp.*, 102 Nev. 606, 608, (1986) (*superseded by statute on other grounds as stated in Countrywide Home Loans v. Thitchener*, 124 Nev. 725, 192 P.3d 243 (2008) quoting *Richardson v. Perales*, 402 U.S. 389 (1971)).
- 5) Substantial evidence supports the Assessor's position that the Taxpayer is not assessed for any portion of the sandy beach area outside of the description of Lot 3, Block F.
- 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.

BY THE STATE BOARD OF EQUALIZATION THIS 23 DAY OF OCTOBER, 2012.



Christopher G. Nielsen, Secretary  
CGN/ter