



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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CHRISTOPHER G.
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Secretary

In the Matter of)

County of Clark (Aviation))
dba MCP Cargo LLC Lease)
APN: 162-35-611-011)
Clark County, Nevada)
PETITIONER)

Michele Shafe)
Clark County Assessor)
RESPONDENT)

Appeal of the Decision of the)
CLARK COUNTY)
BOARD OF EQUALIZATION)

Case No. 11-424 and
Case No. 12-203

NOTICE OF DECISION

Appearances

James Susa of Snell & Wilmer appeared on behalf of County of Clark dba MCP Cargo LLC Lease (Taxpayer).

Doug Scott and Paul Johnson, Deputy District Attorney appeared on behalf of the Clark County Assessor's Office (Assessor).

Summary

The matter of the Taxpayer's petition for review of exemption of property valuations for the 2010-11 Unsecured, Supplemental Roll, 2011-12 Secured Roll (case number 11-424) and 2012-13 Secured Roll (case number 12-203) within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on October 17, 2012 after due notice to the Taxpayer and the Assessor.

The Taxpayer asserted that the subject property is exempt by virtue of NRS 496.260, which states that "any property in this state acquired by a municipality for airport purposes pursuant to the provisions of this chapter, and any income derived by such municipality from the ownership, operation or control thereof, shall be exempt from taxation to the same extent as other property used for public purposes." Although built and owned by the Taxpayer, the cargo facility was built to the specifications

and requirements of the county and is located on county land. The Taxpayer asserted that the word "acquired" used in the statute means more than ownership; it includes control. Taxpayer asserted that Clark County effectively acquired the Cargo Facility through its lease agreement with the Taxpayer and meets all the elements of the exemption. See *Tr.*, 10-17-12, p. 201, l. 1 through p. 202, l. 21; *Records*, case no. 11-424, *SBE* pages 8-10.

The Assessor responded that provisions granting a tax exemption must be strictly construed. The Assessor asserted that the exemption granted to municipal property for airport purposes in NRS 496.260(1) is limited to municipal property, and does not include private property built on municipal property. Assessor asserted that the word "acquire" means to become the owner of property, and the County is not the owner of the subject property. Assessor asserted that the exemption in NRS 496.260 depends upon who owns the property, a tax exempt entity or a taxable entity. See *Record*, case no. 11-424, *SBE* pages 17-19; *Tr.*, 10-17-12, p. 217, l. 12 through p. 219, l. 23.

The State Board, having considered all evidence, documents and testimony pertaining to the valuation of the property in accordance with NRS 361.227, 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.
- 4) The subject property consists of a cargo handling facility, which includes two single-story buildings built in 2010, located on 19.15 acres at McCarren International Airport in Las Vegas, Clark County, Nevada. The land is owned by Clark County. See *Tr.*, 10-17-12, p. 196, ll. 21-24; *Record*, case no. 11-424, *SBE* pages 32; 115-117; case no. 12-203, *SBE* pages 130-132.
- 5) The Clark County Board of Equalization (County Board) determined that the subject property was not exempt from property taxation. See *Record*, case no. 11-424, *SBE* pages 26 and 123; case no. 12-203, *SBE* pages 36 and 136.
- 6) The State Board found the word "acquired" as used in NRS 496.260 means ownership; and the County does not own the subject improvements. See *Tr.*, 10-17-12, p. 234, l. 2 through p. 236, l. 8; p. 241, l. 12 through p. 244, l. 16.
- 7) The State Board affirmed the decision of the County Board. See *Tr.*, 10-17-12, p. 244, l. 18 through p. 245, l. 5.
- 8) The assessed value as previously determined by the County Board is 35% of taxable value.
- 9) 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 has the jurisdiction to determine whether property is taxable or exempt in the state pursuant to NRS 361.155(4) and 361.310(2)(a)(7); and that such jurisdiction is further supported by NRS 361.420(4)(b).
- 2) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board. In particular, the State Board has jurisdiction to hear Taxpayer's appeal for the 2010-11 Unsecured, Supplemental Roll, 2011-12 Secured Roll) and 2012-13 Secured Roll pursuant to NRS 361.360(1) and NRS 361.400.
- 3) Any property in this state acquired by a municipality for airport purposes pursuant to the provisions of NRS Chapter 496, and any income derived by such municipality from the ownership, operation or control thereof, shall be exempt from taxation to the same extent as other property used for public purposes. *NRS 496.260.*
- 4) "Acquire" means to gain by any means, usually by one's own exertions; to get as one's own; to obtain by search, endeavor, practice, or purchase; receive or gain in whatever manner; come to have; in the law of contracts and of descents, to become owner of property. *Black's Law Dictionary, 4th Ed. (1968: p. 41); Tr., 10-17-12, p. 234, ll. 2-6.*
- 5) The State Board determined based on the plain language of NRS 496.260, the property had not been acquired by a municipality for airport purposes and was therefore not eligible for exemption.
- 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

The Petition of the Taxpayer is denied, based on the above Findings of Fact and Conclusions of Law. The Clark County Comptroller is instructed to certify the assessment roll of the county consistent with this decision.

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 31st DAY OF JANUARY, 2013.



Christopher G. Nielsen, Secretary
CGN/ter