



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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CHRISTOPHER G.
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Secretary

In the Matter of)

Michele Shafe)
Clark County Assessor)
PETITIONER)

Case No. 12-163

Gypsum Resources, LLC)
APN: 164-20-000-002 et al)
Clark County, Nevada)
RESPONDENT)

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

NOTICE OF DECISION

Appearances

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

Chris Kaempfer and Stephanie Allen of Kaempfer Crowell and Don Purdue appeared on behalf of Gypsum Resources, LLC (Taxpayer).

Summary

The matter of the Assessor's petition for review of exemption of property within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on October 15, 2012 after due notice to the Taxpayer and the Assessor.

The Assessor is required to assess the surface of all mines and mining claims for which an affidavit of labor is not timely filed each year. *See NRS 362.030*. A timely filed affidavit proving that required development work has been performed may result in exclusion of the mine or mining claim from the tax rolls. *NRS 362.040*. At the hearing before the Clark County Board of Equalization (County Board), the Assessor asserted that Taxpayer's affidavit was inadequate; the value of the physical labor

was indeterminate, the location of the work was indeterminate and other inadequacies the results of which did not establish exclusion of the assessment from the tax roll pursuant to NRS 362.040.

The Taxpayer responded at the County Board that the Taxpayer had engaged professionals to assist with the resumption of mining activities and that the affidavit of labor was complete and timely. The County Board found that the Taxpayer's affidavit of labor met the requirements of the statute.

At the State Board hearing, Terry Rubald of the Department of Taxation requested the State Board to take judicial notice of information contained in the public record, including correspondence from the Department to the Taxpayer requesting filing of a net proceeds statement; a net proceeds of minerals filing dated 4-24-12 showing no production and no assets; a State Board decision in case No. 07-1174; and documents from SBE pages 226 through p. 305 indicating no production and no permits approved from the Nevada Division of Environmental Protection. The State Board made the documents a part of the record. *See Tr., 10-15-12, p. 94, ll. 14-23.*

The State Board, having considered all evidence, documents and testimony pertaining to the eligibility of the subject property for exemption pursuant to NRS 362.040 and 362.050, 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 53 of 64 parcels with a total of 2,173.15 of 2,459.26 acres located in the vicinity of Highways 160 and 159 on the west side of the Las Vegas valley, Clark County, Nevada. *Tr., 10-15-12, p. 92, ll. 21-24; Record, SBE pages 196-199; 203.*
- 5) The Clark County Board of Equalization (County Board) found the affidavit of labor provided by the Taxpayer was sufficient to exclude the property from the tax roll pursuant to NRS 362.040., except for non-contiguous parcels, including parcel no. 47. *See Record, SBE pages 31 and 218.*
- 6) The State Board found the property is a mine and the exemption should be upheld. *See Tr., 10-15-12, p. 142, l. 7 through p. 143, l. 18.*
- 7) The State Board affirmed the decision of the County Board. *See Tr., 10-15-12, p. 143, l.24 through p. 144, l. 24.*
- 8) 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.

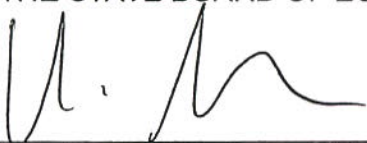
CONCLUSIONS OF LAW

- 1) The Taxpayer timely filed a notice of appeal, and the State Board has jurisdiction to determine this matter.
- 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 2012-2013 secured roll pursuant to NRS 361.360(1) and NRS 361.400.
- 3) Tax exemptions must be strictly construed against the party claiming the exemption. See *Simpson v. Internat'l Church of Christ*, 106 Nev. 458, 462 (1990).
- 4) Upon receipt of an affidavit stating that at least \$100 in development work has been actually performed upon the patented mine or mining claim during the federal mining assessment work period, the assessor shall exclude from the roll the assessment against the patented mine or mining claim named in the affidavit. See *NRS 362.040*.
- 5) The affidavit of labor must be filed on or before December 30 covering work done during the 12 months next preceding 12 a.m. on September 1 of that year. See *NRS 362.050(1)*. The affidavit of labor must describe particularly the work performed, upon what portion of the mine or claim, and when and by whom done. See *NRS 362.050(2)*.
- 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 Assessor requesting denial of the exemption 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.

BY THE STATE BOARD OF EQUALIZATION THIS 31st DAY OF JANUARY, 2013.



Christopher G. Nielsen, Secretary
CGN/ter