



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

BRIAN SANDOVAL
Governor

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

CHRISTOPHER G.
NIELSEN
Secretary

In the Matter of)
)
Rainbow Dreams Educational Foundation)
APN: 139-21-601-016, 139-21-601-017)
Clark County, Nevada)
PETITIONER)
) Case No. 12-209
Michele Shafe)
Clark County Assessor)
RESPONDENT)
)
Appeal of the Decision of the)
CLARK COUNTY)
BOARD OF EQUALIZATION)

NOTICE OF DECISION

Appearances

Sally L. Galati, Esq., of Marquis Auerbach Coffing and Diane Pollard appeared on behalf of Rainbow Dreams Educational Foundation (Taxpayer).

Tina Poff and Paul Johnson 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 prior years on property located 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.

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 2004-2005; 2005-2006; 2006-2007; 2007-2008; 2008-2009; 2009-2010; and 2010-2011. The appeal for the prior years was postmarked on March 9, 2012.

The appeal for the tax year 2004-2005 was due on March 10, 2004 and was therefore late. Appeals for each subsequent year were also due on March 10 of each respective tax year and are therefore late. Accordingly, the Secretary recommended to the State Board that the appeal for the years 2004-2005; 2005-2006; 2006-2007; 2007-2008; 2008-2009; 2009-2010; and 2010-2011 be dismissed for lack of jurisdiction due to untimely filing of the appeal.

The State Board, having considered all evidence, documents and testimony pertaining to the pertaining to the jurisdiction of the State Board, 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 16,849 square foot day care center built in 2007 and located on two parcels containing .88 and .76 acres at the corner of West Lake Mead Boulevard and La Salle Street in Las Vegas, Clark County, Nevada. *See Record, SBE pages 6; 55; 121-123.*
- 5) The Clark County Board of Equalization (County Board) found it did not have jurisdiction to hear appeals for prior years. *See Record, SBE page 13; 129.*
- 6) Pursuant to NRS 361.360 (1), any taxpayer aggrieved at the action of the county board of equalization in equalizing, or failing to equalize, the value of his property, or property of others, or a county assessor, may file an appeal with the State Board of Equalization on or before March 10 in the current assessment year. The appeal to the State Board for the tax years 2004-2005; 2005-2006; 2006-2007; 2007-2008; 2008-2009; 2009-2010; and 2010-2011 was not postmarked until March 9, 2012. The appeal for the prior years was therefore filed beyond the filing deadline for each respective tax year. *See Record, SBE page 1; Tr., 10-15-12, p. 218, l. 24 through p. 219, l. 11.*
- 7) The State Board found the Taxpayer did not show under what legal authority the State Board could hear the appeal, and declined to accept jurisdiction of the case. *See Tr., 10-15-12, p. 230, l. 5 through p. 232, l. 13.*
- 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 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 has the authority to determine the taxable values in the State.

- 3) Based on the failure of the Taxpayer to show any legal authority which would allow the State Board jurisdiction to hear the case, the State Board did not accept jurisdiction to determine these matters.
- 4) 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 foregoing Findings of Fact and Conclusions of Law, the State Board held it is without jurisdiction to hear the above referenced appeal by the Taxpayer. 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