



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

Center Pointe Plaza LLC dba Albertsons)	CONSOLIDATED
APN: 137-36-814-004; 005)	Case No. 12-324
Vista Commons Center LLC dba Albertsons)	Case No. 12-325
APN: 137-34-818-002)	
Villa La Paloma LLC dba Albertsons)	Case No. 12-326
APN: 177-25-810-012)	
Pan Pacific LLC dba Albertsons)	Case No. 12-348
APN: 162-13-116-002)	
Clark County, Nevada)	
PETITIONERS)	
)	
Michele Shafe)	
Clark County Assessor)	
RESPONDENT)	

NOTICE OF DECISION

Appearances

Bretta Ferrie of Ryan Co appeared on behalf of Albertsons Company (Petitioner).

Richard Stewart appeared on behalf of the Clark County Assessor's Office (Assessor).

Summary

These cases came before the State Board of Equalization (State Board) on an appeal by the Petitioner of the 2012-2013 valuation of real property established by the Assessor. The Notice of Appearance to determine whether the State Board would accept jurisdiction of each case was heard by the State Board on October 17, 2012, in Las Vegas, Nevada, after due notice to the Petitioner and the Assessor.

The State Board consolidated case numbers 12-324 through 326 and 348. See *Tr.*, 10-17-12, p. 128, ll. 6-9.

At the request of Department of Taxation staff, the State Board incorporated the record and testimony from cases 12-327 through 343, 389 (Walgreens, Petitioner) and 12-344 through 12-347 (Pep Boys, Petitioner).

Pursuant to NAC 361.7014, the Secretary to the State Board examined the petition of each Petitioner and found each case had not been heard by the Clark County Board of Equalization (County

Board). The appeal forms in each case were sent to the State Board by facsimile transmission on March 12, 2012. The forms were not signed by the owner of each property. Each form was signed by Jacqueline Zulka, a person purporting to represent the tenant occupying each subject property. A "Statement of Agency" was signed by Anna Pelts, Supervisor, Real Estate Tax Appeals for Walgreens and was submitted on March 23, 2012, which was not within 48 hours of filing the petition form pursuant to the requirements of NRS 361.362. See *Record, Case 12-327, SBE page 5*. Accordingly, the Secretary recommended to the State Board that the appeal be dismissed due to lack of jurisdiction because the owner of the property did not authorize the appeal and the agent authorization for the appeal was not submitted within 48 hours of submission of the appeal form.

The Taxpayer's representative testified she thought there was some flexibility in time to provide the original signatures. See *Tr., 10-17-12, p. 127, ll. 1-4*.

The State Board, having considered all evidence, documents and testimony pertaining to the jurisdiction of the State Board in accordance with NRS 361.362 and 361.400, 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 Petitioner 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) Pursuant to NRS 361.362, at the time a person files an appeal pursuant to NRS 361.356, 361.357 or 361.360 on behalf of the owner of the property, the person shall provide to the county board of equalization or the State Board of Equalization, as appropriate, written authorization from the owner of the property that authorizes the person to file the appeal concerning the assessment that was made. The agent authorization must be submitted within 48 hours of the last day allowed for filing the appeal which was March 12, 2012. The agent authorization was filed on March 20, 2012. The State Board found the appeal was not authorized by the owner of the property and filing deadline for the agent authorization was not met; the appeal to the State Board was therefore not timely filed. See *Record, Case No. 12-348, pages 1-5; Tr., 10-17-12, p. 127, ll.6-10*.
- 4) 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) Pursuant to NRS 361.362, the agent authorization was not timely filed and therefore the petition was not timely appealed to the County Board or to the State Board, the State Board declined to accept jurisdiction to determine this matter.
- 3) 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 Petitioner. 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