STATE OF NEVADA
STATE BOARD OF EQUALIZATION
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BRIAN SANDOVAL
Governor

CHRISTOPHER G. NIELSEN
Secretary

In the Matters of:	
Club Madeira Canyon Unit Owner's Association APN 190-19-810-164	Case No. 14-219
Shah Dhaval Qualified Per Res TR APN 128-31-110-014	Case No. 14-236
Sun City Mesquite Homeowner's Association APN 001-06-301-007	Case No. 14-261
PN II, Inc. APN 001-05-401-004 et al	Case No. 14-295
PN II, Inc. APN 190-19-415-001 et al	Case No. 14-296
PN II, Inc. APN 001-06-101-001 et al	Case No. 14-297
Rhodes Ranch General Partnership APN 176-08-218-048 et al	Case No. 14-301
Rhodes Ranch Association, Inc. APN 176-08-411-002	Case No. 14-302
Tuscany Acquisitions IV, LLC APN 160-32-113-001 et al	Case No. 14-263
DRS Estate, LLC APN 138-22-102-004	Case No. 14-271
DRS Asset Protection, Shah Dhaval & Reshma, Trustees APN 125-15-210-067	Case No. 14-273
2451 Buffalo Drive, LLC APN 163-04-806-010	Case No. 14-189

Bermuda Hidden Wells APN 177-04-601-036	)	Case No. 14-206
WTS Investments, LLC APN 124-20-612-003	)	Case No. 14-255
WTS Investments, LLC APN 138-23-719-005	)	Case No. 14-256
WTS Investments, LLC APN 162-06-402-006	)	Case No. 14-257
WTS Investments, LLC APN 163-13-103-005	)	Case No. 14-258
WTS Investments, LLC APN 161-20-502-006	)	Case No. 14-259
WTS Investments, LLC APN 179-29-501-008	)	Case No. 14-260
United Insurance Company of America APN 178-03-411-037	)	Case No. 14-264
E Q Nevso LLC APN 162-19-110-004	)	Case No. 14-274
E Q Valle Verde APN 178-05-513-003	)	Case No. 14-275
Fire Mesa LLC APN 138-15-410-032	)	Case No. 14-278
Reef Centra Point B7, Inc. APN 176-04-111-012 Clark County, Nevada PETITIONERS	)	Case No. 14-298
Michele Shafe Clark County Assessor RESPONDENT	)	
Appeal of the Decision of the CLARK COUNTY BOARD OF EQUALIZATION	)	

NOTICE OF DECISION

Appearances

Douglas S. John and Michael P. Killion of Frazer Ryan Goldberg & Arnold, LLP, appeared on behalf of Club Madeira Canyon Unit Owner's Association, Shah Dhaval Qualified Per Res Trust, Sun City Mesquite Homeowner's Association, PN II, Inc., Rhodes Ranch General Partnership, Rhodes Ranch Association, Inc., Tuscany Acquisitions IV LLC, DRS Estate LLC, DRS Asset Protection- Shah Dhaval & Heshma, Trustees, 2451 Buffalo Drive LLC, Bermuda Hidden Wells, WTS Investments LLC, United Insurance Company of America, E Q Nevso LLC, E Q Vallie Verde, Fire Mesa LLC, and Reef Centra Point B7, Inc (Taxpayers).

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

Summary

The matter of the Taxpayers' petitions for review of the Clark County Board of Equalization (County Board) decision regarding property values for the 2014-15 Secured Roll within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on August 25, 2014 after due notice to the Taxpayer and the Assessor.

The Assessor questioned the signature for agent authorization on seven of the appeals, case numbers 14-255, 256, 257, 258, 259, 260, and 264. The Taxpayers' representative verified the signatures were his. The Assessor did not further contest that issue, and the State Board proceeded to hear the matter.[1]

The State Board consolidated the cases, using case no. 14-219, Club Madeira as the lead case.[2]

The Taxpayer offered exhibits of information already in the record, including a reference to a statute and a summary compilation of evidence relating to the timeline of events. The State Board admitted the exhibits into the record.[3]

Pursuant to NAC 361.7014, the Secretary to the State Board examined the petitions of the Taxpayers and found the Taxpayers' appeals were for the tax year 2014-2015.[4] The Taxpayers each filed an appeal with the Clark County Board of Equalization (County Board) on January 16, 2014.[5] The deadline for appeals to the County Board was January 15, 2014 pursuant to NRS 361.357(1)(a). Consequently, the County Board did not accept jurisdiction to hear the case.[6]

The issue before the State Board was whether the County Board had a preponderance of evidence before it regarding the untimely filing of appeals to justify denying jurisdiction to hear Taxpayers' appeals. The State Board, having considered all evidence, documents and testimony pertaining to the County Board's decision, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

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[1] *See Tr., 8-25-14, p. 112, l. 11 through p. 117, l. 17.*
[2] *See Tr., 8-25-14, p. 110, ll. 17-23; p. 117, ll. 19-22.*
[3] *See Tr., 8-25-14, p. 118, l. 6 through p. 119, l. 19.*
[4] *See Record of each appeal, page 1, Petition.*
[5] *See Record, Case No. 14-219, SBE page 19, envelope with postmark.*
[6] *See Record, Case No. 14-219, SBE page 11, County Board Decision Letter; and SBE page 53, County Board Minutes.*

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.[7]

4) Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15th. The County Board did not accept jurisdiction to hear the Taxpayer's appeal because it found the appeals were filed late based on the postmark which indicated the appeals had been filed on January 16, 2014.[8]

5) The Taxpayer testified the appeals to the County Board were properly addressed, contained sufficient postage, and were delivered to the Tucson Post Office at 7:28 p.m. on January 15, 2014. The post office closed at 7 p.m.[9]

6) The State Board found the County Board had a preponderance of evidence before it to support the decision it made. The State Board found the appeals had been filed after the post office closed and were untimely filed.[10] The State Board further found the post-mark is the best indication that an appeal has been timely filed when a document is mailed.[11]

7) The State Board affirmed the decision of the County Board.[12]

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 accepted jurisdiction to determine this matter.

2) The Taxpayer and the Assessor are subject to the jurisdiction of the State Board.

3) A preponderance of the evidence is defined as whether "the fact sought to be proved is more probable than not." *Kent K. v. Bobby M., 110 P.3d 1013, 1018 (Ariz., 2005)*. Based on the State Board's finding that the County Board's decision to not take jurisdiction was supported by a preponderance of the evidence, and the Taxpayer did not overcome the burden to show the County Board's decision was not supported by a preponderance of the evidence, the State Board upheld the decision of the County Board.

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[7] *See Record, Case No. 14-219, SBE page 59, Receipt of Certified Mail .*

[8] *See Record, Case No. 14-219, SBE page 11, County Board Decision Letter; and SBE page 53, County Board Minutes.*

[9] *See Tr., 8-25-14, p. 120, l. 21 through p. 124, l. 24; p. 128, l. 17 through p. 131, l. 8.*

[10] *See Tr., 8-25-14, p.157, l. 3 through p. 158, l. 21.*

[11] *See NRS 238.100; Tr., 8-25-14, p. 139, l. 10 through p. 144, l. 3; p. 152, l. 20 through p. 153, l. 5.*

[12] *See Tr., 8-25-14, p. 159, l. 4 through p. 160, l. 5.*

4) NRS 361.355, 361.356, and 361.357 all require appeals to be filed not later than January 15 of the fiscal year in which the assessment was made to the county board, or if January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. The exception implies that appeals must be filed during the business day. In this case, the Tucson Post Office closed for business at 7 p.m.

5) NRS 238.100(1) states that except as provided in subsections 2 and 4, or by specific statute, any document or payment required or permitted by law or regulation to be filed or made by mailing to the State or any of its agencies or political subdivisions shall be deemed filed or made on the date of the postmark dated by the post office on the envelope in which it was mailed. NRS 238.100(2) states that if a document or payment was mailed but not received by the addressee or was received but the postmarked date is illegible or omitted, the document or payment shall be deemed filed or made on the date it was mailed, if the sender: (a) establishes by a postal receipt for registered or certified mail that the mailing date was on or before the required date for filing or payment.

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 Petitions of the Taxpayers are 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 19th DAY OF NOVEMBER, 2014.

Christopher G. Nielsen, Secretary
CGN/ter