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

ABS NV-O, LLC
APN: 176-11-115-003
Clark County, Nevada
PETITIONER

Michele Shafe
Clark County Assessor
RESPONDENT

Appeal of the Decision of the
CLARK COUNTY
BOARD OF EQUALIZATION

Case No. 14-192

NOTICE OF DECISION

Appearances

Bretta Ferrie appeared on behalf of ABS NV-O, LLC (Taxpayer).

Lisa Wilson and Jeff Payson appeared on behalf of the Clark County Assessor's Office (Assessor).

Summary

The matter of the Taxpayer's petition for review of property valuations for the 2014-15 Secured Roll within Clark County, Nevada, originally came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on June 24, 2014 after due notice to the Taxpayer and the Assessor.

The State Board incorporated by reference the record and testimony provided in case numbers 14-190 and 14-191 into the current case. [1]

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[1] *See Tr., 6-24-14, p. 54, l. 2 through p. 55, l.12:* **2** So what I would like to do, Mr. Chairman, with **3** your blessing, is Cases 14-190 hrough -- all the **4** Albertsons -- through 14-203 -- and I guess it does also **5** include, then, 14-235, 14-265, and 14-241 -- I would **6** like to incorporate by reference the comments that were **7** made in all of these cases, so there's outstanding **8** incorporation by reference to any of those cases listed **9** to the other cases and discussions we've had herein, so **10** we don't have to keep doing it, and that way someone can **11** go back and pick up one case and say, Keith wasn't -- **12** didn't consider X, Y, or Z, or Ben was sounding like an **13** idiot again. **14** CHAIRMAN MESERVY: Well, my only concern there **15** is you're talking about cases we haven't even heard yet. **16** Don't try to incorporate it when we haven't taken a **17** stance on those. **18** MS. WILSON: I would actually like to also point **19** out that 235, 241, and 265, I don't believe are subject **20** to the service transaction, so neither of those comments **21** would be relevant. **22** CHAIRMAN MESERVY: I think we should make it **23** more all the cases that we've heard prior to the case in **24** numerical sequence. **25** MR.

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.[2]

4) The subject property consists of an Albertson's supermarket containing a 54,000 square foot supermarket constructed in 2007, situated on a 4.57 acre parcel and located southwest corner of Rainbow and Warm Springs and in Clark County, Nevada.[3]

5) The Clark City Board of Equalization (County Board) ordered the total taxable value for the subject property, APN 176-11-115-003 of $4,875,306 be upheld on the 2014-2015 secured roll.[4]

6) The State Board found the Taxpayer presented sufficient evidence to support values different from that established by the County Board. The State Board found the Assessor used a 7-1/2% capitalization rate in the income approach. However, the State Board did not find sufficient market support to drop the capitalization rate to 7-1/2% from the capitalization rate of 9% used in the prior year and the lower cap rate did not sufficiently reflect the amount of risk associated with possible vacancy and lack of alternative uses. The State Board tested the taxable value using the income approach by applying a capitalization rate of 9 per cent to the net operating income (NOI) of $402,408, estimated by the Assessor, which resulted in an indicated value of $4,471,200. The State Board found the 9% capitalization rate better reflected the investment risk in this type of property.[5]

JOHNSON: Or we can do it again in 203, **Page 55 1** because she is correct that the last three didn't **2** include that service transaction. And that's just based **3** on -- I'm reading the case files that were all **4** similar -- very similar issues and similar presentation **5** and data. **6** CHAIRMAN MESERVY: Well, we have reviewed those **7** cases, so I guess I have no problem with that. **8** Do you have any objection, either party? **9** MS. FERRIE: No. **10** CHAIRMAN MESERVY: The Assessors have now -- **11** MR. JOHNSON: And that would apply at 14-190 **12** through 14-203

[2] ***See Record, SBE page 184, Receipt of Certified Mail.***

[3] ***See Record, SBE pages 149-151, Maps; and 157, Capitalization Summary; Tr., 6-24-14, p. 22, l. 21 through p. 23, l. 1:*** **21** This is a property at the Albertsons store **22** located at 7350 South Rainbow on the southeast corner of **23** Rainbow and Warm Springs. It is a 54,000 square-foot **24** supermarket constructed in 2007, situated on a 4.57-acre **25** parcel. There's a map and an aerial photo on SBE **Page 23 1** Pages 180 and 181. Thank you.

[4] ***See Record, SBE page 11, CBE decision letter; and 182, CBE Minutes.***

[5] ***See Tr., 6-243-14, p. 33, l. 2 through p. 34, l. 20:*** **2** That being said, I just still have a little **3** issue with the 7 1/2 cap rate. I just don't know that **4** the grocery store market justifies that low of a cap **5** rate right now for any of these big-box retail buildings **6** just because of the risk. **7** And amazingly, if you take the Assessor's net **8** operating income of $402,408 and you apply a 9 percent **9** cap rate, it comes to $4,000,471 -- I'm sorry, **10** $4,471,200, which is -- **11** CHAIRMAN MESERVY: Exactly what it was. **12** MR. HARPER: -- exactly what it was 2013-2014. **13** So I have a feeling -- and not to put words in the **14** Assessor's Office -- that really the only thing is the **15** cap rate's been lowered or lower. And I just don't know **16** if there's been enough support in the market to drop a **17** cap rate 150 basis points from a 9 to a 7 1/2. **18** So I tend to think that even though this is **19** probably the best location of all these Albertsons we'll **20** be looking at, I mean, even that number is $82.80 a **21** square foot, which is well supported by the sales and **22** the market data. So that's kind of where I'm leaning on **23** this one. **24** MR. JOHNSON: I was going in the same direction. **25** What bothers me here is we've got four sales -- or three **Page 34 1** sales on listing which forms the basis of the Assessor's **2** cap rate, supports the listing, is the lowest by far, **3** 6.09 percent, and the next low is at 6.75 percent which **4** is a Home Depot. **5** And when you buy a property, I wonder how much **6** of the motivation was the overall term of the lease, the **7** strength of Home Depot that caused you to accept a lower **8** rate of

7) The State Board adjusted the decision of the County Board by reducing the value from $4,875,306 to $4,471,200.[6]

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) The State Board has the authority to determine the taxable values in the State.

4) The subject property is appraised at the property taxable value as adjusted, in accordance with NRS 361.227.

5) 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 granted based on the above Findings of Fact and Conclusions of Law. The Clark County Comptroller is instructed to correct the assessment roll by adjusting the assessed valuation of the subject property as follows:

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return. As an investor, the other two sales are **9** at 8.16 percent and 9 percent cap rate, and it looked **10** like they were leased to a thrift store and a Dollar **11** General store, and I think that may be more where the **12** market is. **13** And I think it's really important here that we **14** don't take risks out of the equation risk, out of the **15** cap rate, because we can't assume a Home Depot or a **16** Walgreens-type tenant is going in there that would be **17** assigned a business value, and that's not supposed to be **18** included. So I think it's very appropriate to do what **19** you did. I was going to do something similar, and I **20** concur with you.

[6] ***See Tr., 6-24-14, p. 37, l. 14 through p. 38, l. 12:*** **14** MR. HARPER: Case Number 14-192, I recommend a **15** taxable value of -- okay, I lost it. **16** CHAIRMAN MESERVY: 4,471,200? **17** MR. HARPER: -- of 4,471,200 based on the **18** projected NOI of the Assessor's Office, and a 9 percent **19** cap rate, which is very well supported by the market **20** data and the information supplied by both the petitioner **21** and the respondent. And so that would be my **22** recommendation of the full taxable value in this case. **23** CHAIRMAN MESERVY: Do we have a second? **24** MR. JOHNSON: I will second that. **25** CHAIRMAN MESERVY: Any comment? **Page 38 1** MR. JOHNSON: I just wanted to comment, saying **2** to Keith that I think that the petitioner has been fully **3** honest with us, and I wasn't at all attacking that sale **4** as an indication of market. I wasn't trying to say that **5** anyone was being dishonest, and the petitioner has been **6** very forthright with us. **7** CHAIRMAN MESERVY: Okay. All in favor? **8** MR. JOHNSON: Aye. **9** MR. HARPER: Aye. **10** CHAIRMAN MESERVY: Any opposed? **11** (No response.) **12** CHAIRMAN MESERVY: It's unanimous.

2014-2015 Secured Roll

	Taxable Value		Assessed Value	
Parcel Number 179-18-517-002	**Established by County Board of Equalization**	**Revised By State Board**	**Established by County Board of Equalization**	**Revised by State Board**
Land	$995,346	$995,346	$348,371	$348,371
Improvements	$3,879,960	$3,475,854	$1,357,986	$1,216,549
TOTAL	**$4,875,306**	**$4,471,200**	**$1,706,357**	**$1,564,920**

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 30th DAY OF SEPTEMBER, 2014.

Christopher G. Nielsen, Secretary
CGN/ter