



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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DEONNE CONTINE
Secretary

In the Matter of)
)
Tropicana East Shopping Center)
APN: 162-24-401-017)
APN: 162-24-401-011)
APN: 162-24-401-012)
Clark County, Nevada)
PETITIONER)
)
Michele Shafe)
Clark County Assessor)
RESPONDENT)
)
Appeal of the Decision of the)
CLARK COUNTY)
BOARD OF EQUALIZATION)

Consolidated Cases:
No. 15-175
No. 15-176
No. 15-177

NOTICE OF DECISION

Appearances

Chris Glidewell and Wayne Tannenbaum of Pivotal Tax Solutions appeared on behalf of Tropicana East Shopping Center (Taxpayer).

Doug Scott and Mary Ann Weidner 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 2015-16 Secured Roll within Clark County, Nevada, came before the State Board of Equalization (State Board) for hearing in Las Vegas, Nevada, on June 2, 2015 after due notice to the Taxpayer and the Assessor.

State Board Member Harper recused himself from the hearing. *See Tr., 6-2-15, p. 525, l. 16-17.*

The State Board consolidated case numbers 15-175, 15-176, and 15-177 as the ownership and issues were the same. *See Tr., 6-2-15, p. 525, l. 20 through p. 526, l. 6.*

The Taxpayer submitted new evidence consisting of Secretary of State information regarding ownership of the Tropicana East Shopping Center. The State Board did not admit the evidence into the record for lack of a majority vote to admit the evidence. See *Tr.*, 6-2-15, p. 536, l. 12 through p. 537, l. 12.

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 year 2015-2016.¹ Although the appeal was filed timely to the State Board, there was no documentation presented within 48 hours of the filing of the appeal to the Clark County Board of Equalization ("County Board") to show the signatory, Kammy Bridge, was authorized to grant an agent authorization on behalf of Tropicana East Shopping Center. The County Board did not accept jurisdiction to hear the case. The question before the State Board is whether the County Board had sufficient evidence before it to support its decision to not accept jurisdiction.

The testimony and evidence in case number 15-232, CSFB 2005-C6 City Center West Office Building LLC dba Torchlight Loan Service LLC was incorporated into the current case by reference. See *Tr.*, 6-2-15, p. 421, ll. 2-6.

The State Board, having considered all evidence, documents and testimony pertaining to the decision of the County Board to deny jurisdiction, 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) Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15th. The tax agent filed with the Clark County Board of Equalization (County Board) an appeal dated January 15, 2015. See *Record*, SBE page 10. However, there was no signature of the owner on the appeal form authorizing the agent to file the appeal. A separate, completed agent authorization form was also supplied on January 15, 2015, but the authorization was signed by a person who could not be verified by the Assessor as the agent or employee of the owner. See *Record*, SBE page 17; *Tr.*, 6-2-15, p. 531, l. 18 through p. 532, l. 25.
- 5) The County Board did not accept jurisdiction to hear the Taxpayer's appeal because it found that documentation showing authority to sign the agent authorization on behalf of the owner was not provided within the 48-hour filing period required by NRS 361.362. See *Record*, SBE pages 13 and 43; *Tr.*, 6-2-15, p. 531, l. 25 through p. 532, l. 1.
- 6) The State Board made no change to the decision of the County Board because the motion to uphold the County Board failed due to lack of a majority vote. Therefore, taxpayer was denied relief. See *Tr.*, 6-2-15, p. 537, l. 17 through p. 538, l. 7. See *State v. McKernan*, 51 Nev. 336, 275 P. 369, pp. 369-370 (1929).

¹ See *Record*, page 1, *Petition*.

- 7) 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.3rd 1013, 1018 (Ariz., 1995).
- 4) NRS 361.362 states that at the time a person files an appeal pursuant to NRS 361.356, 361.357 or 361.360 on behalf of the owner of a 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. If the person files the appeal in a timely manner without the written authorization required by this section, the person may provide that written authorization within 48 hours after the last day allowed for filing the appeal.
- 5) NRS 361.375(9) requires a majority of the State Board to determine any action.
- 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 Taxpayer 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 AUGUST, 2015.



Deonne Contine, Secretary
DC/ter