



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

DEONNE CONTINE
Secretary

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| In the Matter of |) | |
| |) | |
| U.S. Foodservice |) | Consolidated |
| APN: 139-16-101-011 |) | Case No. 15-276 |
| APN: 139-27-310-098 |) | Case No. 15-277 |
| APN: 139-27-101-006 |) | Case No. 15-278 |
| Clark County, Nevada |) | |
| PETITIONER |) | |
| |) | |
| Michele Shafe |) | |
| Clark County Assessor |) | |
| RESPONDENT |) | |
| |) | |
| Appeal of the Decision of the |) | |
| CLARK COUNTY |) | |
| BOARD OF EQUALIZATION |) | |

NOTICE OF DECISION

Appearances

Ross Boundine appeared on behalf of U.S. Foodservice (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 the Clark County Board of Equalization (County Board) decision to not accept jurisdiction to hear the petition for review of property valuation 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 July 20, 2015 after due notice to the Taxpayer and the Assessor.

The State Board consolidated case numbers 15-276, 15-277, and 15-278 as the cases had the same issues. See *Tr.*, 7-20-15, p.219, ll. 12 through p. 220, l. 17.

Pursuant to NAC 361.7014, the Secretary to the State Board examined the petition of the Taxpayer, and found the Taxpayer's appeals were for the tax year 2015-2016. Although the appeals were filed timely to the State Board, the Clark County Board of Equalization ("County Board"), did not

accept jurisdiction to hear the cases. The question before the State Board is whether the County Board had a preponderance of the evidence before it to support its decision to not accept jurisdiction.

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. The Department provided evidence to show the Taxpayer received notice of the hearing. *See Record, SBE pages 48-50, Case No. 15-276; pages 41-43, Case No. 15-277; pages 45-47, Case No. 15-278;*
- 4) Pursuant to NRS 361.340(11), every appeal to the county board must be filed not later than January 15th. A tax agent filed the appeals to the Clark County Board of Equalization (County Board) on January 14, 2015. *See Record, Case No. 15-276, SBE page 15; Case No. 15-277, page 14; and Case No. 15-278, page 14.* Although the appeals were filed timely to the State Board, there was insufficient documentation presented within 48 hours from the filing deadline of January 15th to show the signatory was authorized to grant an agent authorization on behalf of U.S. Foodservice. *See Record, Case No. 15-276, page 32; Case No. 15-277, page 25; and 15-278, page 28.*
- 5) 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 Taxpayer had not made an effort to submit any documentation; and the County Board record was clear as to why the County Board did not take jurisdiction. The State Board affirmed the decision of the County Board. *See Tr., 7-20-15, p. 229, l. 14 through p. 231, l. 20.*
- 6) 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).* 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. *See also NRS 233B.121(9) as amended by AB 53 (2015) requiring findings of fact to be based exclusively on a preponderance of the evidence and on matters officially noticed.*

- 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) 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 20th DAY OF SEPTEMBER, 2015.



Deonne Contine, Secretary
DC/ter