



STATE OF NEVADA
STATE BOARD OF EQUALIZATION

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Governor

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DEONNE CONTINE
Secretary

In the Matter of)
)
 Michele Shafe)
 Clark County Assessor)
 PETITIONER)
) **Case No. 16-129**
 Faith Community Lutheran Church)
 APN: 164-01-513-001)
 Clark County, Nevada)
 RESPONDENT)
)
 Appeal of the Decision of the)
 CLARK COUNTY)
 BOARD OF EQUALIZATION)

NOTICE OF DECISION

Appearances

Lisa Logsdan, Deputy District Attorney, Tina Poff and MaryAnn Weidner appeared on behalf of the Clark County Assessor's Office (Assessor).

Maximiliano D. Couvillier III, Esq., appeared on behalf of Faith Community Lutheran Church (Taxpayer).

Summary

The matter of the Assessor's petition for review of the grant of exemption of property value from 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 May 2, 2016 after due notice to the Taxpayer and the Assessor. The State Board continued the matter to enable the Taxpayer to address the issue of whether the claim for exemption was late-filed. The matter was rescheduled for July 18, 2016 after due notice to the Taxpayer and the Assessor.

The State Board, having considered all evidence, documents and testimony pertaining to the exemption of the property in accordance with NRS 361.155, 361.125, and 361.140, 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 361.155..
- 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. *Record, SBE page 144.*
- 4) The subject property consists of a 1.7 acre parcel with a 16,931 square foot commercial daycare center and preschool, located near the corner of Griffith Peak Dr. and S. Town Center Drive, in Summerlin, Clark County, Nevada. *See Record, SBE page 27; Maps, SBE pages 90-92; Tr., 5-2-16, p. 110, ll. 6-10; Tr., 7-18-16, p. 148, ll. 13-19.*
- 5) Pursuant to NRS 361.155(6), an appeal for a claim for a tax exemption on real property and any associated documentation must be filed with the county board of equalization on or before January 15 of the fiscal year for which the claim for tax exemption is made. The county board of equalization must review the claim of exemption and grant or deny the appeal. The Taxpayer appealed the denial of exemption to the Clark County Board of Equalization (County Board) and the County Board reversed the decision to deny exemption and ordered the exemption to be granted pursuant to NRS 361.140. The Assessor appealed the County Board's decision to the State Board. *See Record, SBE page 98; Tr. 5-2-16, p. 110, l. 23 through p. 111, l. 19.*
- 6) NRS 361.140 provides for an exemption of property for any corporation whose objects and purposes are religious, educational or for public charity, provided that certain requirements are met. The State Board found the subject property was not eligible for exemption in 2015-16 under NRS 361.140 because the property was not owned by a charitable corporation on July 1, 2015 and there is no provision for prorating the charitable organization exemption to the date the property was purchased by the charitable organization. The subject property was not used by a charitable corporation on the lien date. *See Tr., 7-18-16, p.150, l. 1 through p. 151, l. 11; p. 155, ll. 9-13; p. 161, l.10 through p. 163, ll. 7; p. 184, l. 21 through p. 185, l. 12.*
- 7) NRS 361.125 provides for an exemption of the property of churches and other buildings used for religious worship, except when property is not used exclusively or in part for any other than church purposes and a rent or other valuation consideration is received for its use. The State Board found the property does not qualify under NRS 361.125 as a church exemption because valuable consideration was received from fees for use as a daycare center, and the property does not otherwise meet the requirements for religious worship. The taxable value of the subject property was therefore not eligible to prorate the exemption from the date of purchase. *See Tr., 7-18-16, p.155, l. 9 through p. 156, l. 23; p. 183, ll. 1-9.*
- 8) The State Board found the order of the County Board to grant exemption should be reversed based on its finding that the property does not qualify for exemption under NRS 361.125 for the 2015-16 year. *See Tr., 7-18-16, p. 185, l. 17 through p. 186, l. 20.*
- 9) 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 Assessor timely filed a notice of appeal, and the State Board accepted jurisdiction to determine this matter.

- 2) The State Board has the jurisdiction to determine whether property is taxable or exempt in the state pursuant to NRS 361.155(4); 361.769(3); and that such jurisdiction is further supported by NRS 361.420(4)(b).
- 3) The State Board has the authority to determine the taxable values in the State.
- 4) Actual use is an essential requirement before a church or religious organization can claim an exemption pursuant to NRS 361.125(1) or NRS 361.140(2). See *Simpson v. Internat'l Community of Christ*, 106 Nev. 458, 462; 796 P.2d 217 (1990).
- 5) A tax exemption should be governed by a strict interpretation of the tax exemption statute; tax exemptions must be strictly construed against the party claiming the exemption. See *Simpson v. Internat'l Community of Christ*, 106 Nev. 458, 462 (1990); citing *Sierra Pac. Power v. Department of Taxation*, 96 Nev. 295, 297 (1980). See also *Tr.*, 7-18-16, p. 186, l. 24 through p. 187, l. 1.
- 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 Assessor 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 removing the exemption of the taxable value shown on the secured roll. The Clark County Comptroller is further instructed to certify the assessment roll of the county consistent with this decision.

BY THE STATE BOARD OF EQUALIZATION THIS 27 DAY OF SEPTEMBER, 2016.



Deonne Contine, Secretary
DC/ter