



DEPARTMENT OF TAXATION

Division of Assessment Standards

Property Tax Abatement Appeals — Decisions of the Nevada Tax Commission Index and Summaries

DIVISION OF ASSESSMENT STANDARDS

Property Tax Abatement Appeal Decisions
Of the Nevada Tax Commission

Index and Summaries of Cases

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Table of Contents

	Page
Contested Appeals to the Tax Commission	1
Tax Commission Consent Agenda	14

Contested Appeals

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
07-01	11/5/2007; 1/8/2008		Clayton P. Taylor	Humboldt County	Correction of valuation errors	The issue in this case is whether the Assessor had the authority to use a corrected base value in computing and applying the abatement for the 2006-2007 tax year. For the 2003-04 tax year, the Assessor applied an obsolescence factor to mfg home. For 2004-05, the Assessor removed the obsolescence factor with respect to all but the Taxpayer's mfg home, thus increasing the assessed values of similarly situated homes. The Assessor mistakenly left the obsolescence factor in place as to the Taxpayer's mfg home. The Taxpayer argues the incorrect value must continue to be used as the base value for purposes of computing the property tax abatement on a prospective basis. The Assessor, by contrast, argues that this would amount to an unjustifiable windfall to the Taxpayer in violation of the requirement of the Nevada Constitution that property be assessed according to a uniform and equal rate of assessment.	The HO held that 1) The Assessor has the authority to use a corrected base value in computing and applying the abatement to account for the removal of obsolescence. 2) An error in valuation is not required to be perpetuated for purposes of the calculation of the abatement if it results in a windfall for one taxpayer to the detriment of other similarly situated property owners.	11-5-07 NTC remanded to HO; 1-8-08 NTC approved HO decision as amended.
07-02	11/5/2007		Brent and Ada Danner	Washoe County	Destruction by fire; new improvement value	Residence was destroyed by fire in 2004 and a new residence constructed in 2006. Taxpayers requested Assessor adopt the taxable value of the former residence as established in the base year, 2003-04 for purposes of computing the abatement for the 2006-07 tax year and thereafter. The Assessor denied the request for relief on the grounds that new improvements fall outside the scope of the abatement with respect to the year in which they are constructed.	The HO affirmed Assessor's decision to deny the requested relief. Assessors must continue to appraise the land and improvements according to statutory methodologies, without reference to the abatement scheme. Taxpayers argued the former improvement values should be carried forward, and the taxes thereon capped, as if the original residence had never been destroyed. To grant this would be inconsistent with the overall statutory valuation scheme. It would ignore the difference in quality between the new and the old homes, thus resulting in the application of artificial building costs to the appraisal of the new home. Also, it would apply a substantial depreciation factor to a newly constructed home, which is inconsistent with the rationale upon which the concept of depreciation is based. The abatement scheme was never intended to provide tax relief relative to increasing improvement values, but was intended to minimize the property tax burden associated with rapidly increasing land values. Tax increases attributable to new construction fall outside of the abatement scheme.	Tax Commission upheld the HO

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-101	10/6/2008		Lotus Broadcasting	Clark County	Remainder parcel; combination of parcels	The issue in this case is whether the Taxpayer's consolidation of six contiguous parcels of land rendered the abatement inapplicable as to the resulting single parcel. The Taxpayer consolidated the parcels in order to satisfy regulatory requirements pertaining to the Taxpayer's intended use of the property as a radio transmission site. The Assessor determined the single parcel did not qualify as "remainder parcel" because the consolidation of parcels was not accompanied by a change in the use of the property. The Assessor asserted the property was originally vacant land held for development, and was converted to a commercial use after the consolidation. The Assessor concluded that the property was a "new parcel" as of July 1, 2007. The Taxpayer argued, by contrast, that the property has always been used by the Taxpayer for commercial purposes. The Taxpayer asserted that the use of the property at no time satisfied the definition of "vacant land held for development."	HO found that a partition or consolidation of parcels will not trigger a loss of the abatement unless the partition or consolidation is accompanied by a change in use of the property. In this regard, NAC 361.61034 defines a change in use as a change from one general category of use to another general category of use – a change, for example, from a residential use to a commercial or industrial use, or vice versa. The task, in this case, is not to determine how the property was used after the consolidation of the six separate parcels. The task is to define the use of the property prior to the consolidation of the parcels. HO relied on 3 pieces of information to determine use prior to consolidation of parcels: 1.) The property had a commercial zoning classification, numerous regulatory permits and applications all of which contemplated a commercial use of the property; 2.) Residential dwellings were demolished, evidencing Taxpayer's intent to use property for commercial or industrial purposes; 3.) Off-site improvements were constructed demonstrating intent.	Hearing officer decision upheld upon appeal to tax commission on a 3-3 vote. 11-19-08. On a motion from the county requesting reconsideration, the tax commission upheld the hearing officer decision on a 3-3 vote 1-12-09.
08-101	1/12/2009		Lotus Broadcasting	Clark County				Request for reconsideration denied
08-102	1/12/2009		Blue Diamond Enterprise Group	Clark County	Authorized use; adoption of master plan	The issues: 1) whether adoption of a Master Land Use Plan was an "improvement to or change in the actual or authorized use of the property" for purposes NRS 361.4722 (1); 2) If it was such an improvement to or change in the use of the property, whether the Assessor may correct the abatement for the 2007-2008 fiscal year even though the plan was adopted during the 2004-2005 fiscal year; and 3) If the adoption of the plan was not such an improvement to or change in the use of the property, whether the Assessor may nonetheless correct the abatement by adjusting the value of the property, and the resulting taxes, according to accepted appraisal methodologies. The property was appraised as residential property and then valued as commercial when it was discovered the master plan contemplated commercial zoning, which increased AV. Taxes attributable to increase in AV were not abated. Taxpayer stated the recently adopted regulations, although not retroactive, support HO, that if a combination of approvals is required, the change is not complete until all those approvals have been received.	The HO found that the adoption of the master plan did not amount to a change in the "actual or authorized use of the property" within the meaning of Section 1 of NRS 361.4722, because the master plan merely set forth a blueprint regarding the contemplated use of the property and the surrounding parcels. It did not formally change the zoning for the property and did not authorize the Taxpayer to build commercial improvements on the property. The HO found that the adoption of the master plan may have increased the value of the property, however, that does not mean there was a change in the actual or authorized use of the property. The HO further found the Assessor did not make a mistake in a previous year and could therefore not make a "correction" in the current year.	NTC voted 6-1 to uphold HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-103	6/25/2008		Pecos-Vegas Apts Assoc LLC	Clark County	Remainder parcel status	The issues are (1) whether the Taxpayer's appeal for 06-07 is time -barred under statute of limitations pursuant to NRS 361.4734; (2) if appeal is time-barred, whether abatement for 07-08 must be adjusted in reference to taxes that should have been assessed but for Taxpayer's failure to timely file a petition; and (3) if abatement must be so adjusted, whether the legal partition of an apartment complex into individual condo units rendered the abatement inapplicable for the 06-07 year.	HO determined that amendment to NRS 361.4734 eliminated any claims for which petitions had not been submitted as of 7-1-07. Taxpayer's claim for 06-07 is barred, but Taxpayer nonetheless has a remedy for the 07-08 year. If NRS 361.4734 were construed to preclude assessors from correcting mistakes in previous fiscal years, the effective rate of taxation would be inequitable and non-uniform. Taxpayer forfeited right to recover a refund for 06-07 but retains right to have taxes assessed at uniform and equal rate. To the extent that an erroneous abatement determination will unfairly impact the effective rate of taxation in the current year, Taxpayer is entitled to a remedy. Recordation of subdivision map alone does not amount to a change in use. Even tho regs not adopted at time of appeal, they provide guidance.	The matter was originally heard by NTC on 6-25-08 and remanded to HO for further discovery on the equitable tolling issue. Subsequently, a stipulated agreement provided that the subject property should have been treated as a remainder for the purposes of the 06-07 year, for a final 06-07 value of \$26,925,276. Subsequent years will be recalculated. The stip agreement was approved by NTC.
08-106	7/27/2009		Patricia Simcik	Clark County	Primary residence claim	Taxpayer owned 2 condos and used one as a guest vacation home. Taxpayer appealed abatement level of 8% assigned by the Assessor for the second condo. Taxpayer asserted it is inequitable to apply different thresholds to similar units; because the unit is not rented, it is not a commercial endeavor and should be treated the same as other owner-occupied units. Alternatively, Taxpayer asserted property qualifies as a low-income rental dwelling.	HO held that while there is merit to the argument that the limitation of one primary residence discourages Nevadans from investing in real estate in their home state, nevertheless the Taxpayer may claim only one primary residence. The HO held that even if Taxpayer were to charge friends and relatives who use the condo a nominal fee, the dwelling would not qualify as a low-income property. The unit does not qualify on either alternative as a primary residence.	Taxpayer appealed the HO decision. The NTC upheld the HO decision, 6-0.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-130	4/13/2009		WF Investors	Clark County	Actual change in use; remainder	The issues are (1) whether the parcels in question, having been previously valued and taxed as a single unit of real property, were subject to abatement, when, at the request of the Taxpayer, the parcels were taxed as two individual units for the 2006-07 fiscal year; and (2) if so, whether there was a change in use of the parcels such that the abatement is inapplicable to the increase in taxes which resulted from that change in use. In 1999, the taxpayer requested the assessor to combine the 4 - 1 acre - parcels into a single unit for taxation purposes. The parcels retained their separate legal identities for all purposes except taxation. 2 lots were sold off in 2006-07, and at the time each of the 4 received a separate parcel identifier. The Assessor did not apply the abatement at the time the parcels were separated and assigned a new APN. The taxpayer asserts there must be an analysis as to whether there was a change in use, and if no change in use, then the parcel is a remainder parcel. There was no subdivision map and no new construction. There was no chan	The HO held the parcels should not have been characterized as new land merely because the Assessor assigned them separate identifiers for tax purposes. However, there was a change in the actual or authorized use of the property. Previously held for investment purposes, the parcels were prepared by the Taxpayer for sale as individual lots suitable for immediate development. the Assessor has no authority to establish units or parcels of real property. In this case, the Assessor has not cited any legal authority for its 1999 decision to combine the parcels into a single unit. Presumably, this was done for valuation purposes or for administrative convenience. At any rate, it cannot be argued that the assessment for the 2005-2006 fiscal year was rendered as to some unit of real property other than the units as defined by the map on file with the county recorder. See NRS 361.205	NTC voted 6-0 in favor of overturning HO decision. Because of the abatement scheme, taxes will not be equal, so the equity argument was not accepted. Fairness in taxation means the tax rules are applied consistently. Did not believe all the parcels were remainders.
08-132; 162; 163; 164;165 CONSOLI DATED See also 09-158, 09-159	6/25/2008		Ovation Group : including Ovation Clark County -AGTJV, LLC dba Acapella Apts (08-162); Stephanie Apts SPEI, LLC dba Adiamo Apts (08-164); B-R Ovation LP dba Firenze Apts (08-163); Jeffreys Apts LLC dba Positano Apts (08-132); and SW Ranch Apts LLC dba Tesora Apts (08-165)	Clark County	Remainder parcel status; subdivision map changing apts to condos	Taxpayer recorded a subdivision (condominium) map as "an administrative exercise" but continued to operate each property as an apartment complex and had no plans to change the use of each apartment complex to condos in near future. The Assessor determined each condo parcel was a new parcel and not eligible for abatement as a remainder parcel pursuant to NRS 361.4722(2)(a). Taxpayer appealed; stated there has been no change in the use of the property; there was no "new" parcel for purposes of abatement; each new parcel was still being used as an apartment and was therefore eligible as a remainder pursuant to NAC 361.61036 and 361.61038.	HO found condo units should have been characterized as remainder parcels. The provisions of NAC 361.61002 to 361.61038 define the circumstances under which a remaining parcel will be deemed to have undergone a change in use from the immediately preceding fiscal year. The regs establish broad categories of use; a change from one category to another constitutes a change in use for purposes of NRS 361.4722(2). A change within a single category does not constitute a change in use. NAC 3361.61028 states a residential use is "use as a dwelling. . . .whether rented to particular persons or not. . . ."	Uphold the HO decision as to 08-162, 163, and 164; uphold HO decision in 08-132 and 08-165 as to remainder parcels except to the extent that he relies on the retroactive application of the reg; remand Positano and Tesora to HO to determine how to value the properties in accordance with NTC prior decisions. Subsequently, the parties settled and the stipulated agreement provided that each unit of the subject properties shall be considered remainder parcels for the 06-07 year.

Nevada Department of Taxation
Index
Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-191	10/6/2008		Bison Investments	Clark County	Actual use; remainder parcel	Taxpayer and Assessor disagree as to whether the parcel should have been characterized as a remainder parcel for the current fiscal year. The provisions of NAC 361.61002 through 361.61038 describe the circumstances under which a remaining parcel will be deemed to have undergone a change in use from the immediately preceding fiscal year. The Assessor maintains that as of the commencement of the preceding fiscal year, the use of the land area was as vacant land held for development, while in the current fiscal year, the use of the land was as commercial.	HO found that there was no indication that the Taxpayer acquired the land for investment purposes or for future development. Given that the Taxpayer had obtained permits for building a gas station in the prior year, the HO found that "since the use of the property at all times remained a commercial use, there was no change in the use of the parcel between the commencement of the preceding fiscal year and the commencement of the current fiscal year." The HO found that the parcel must be characterized as a "remainder parcel" for purposes of NRS 361.4722(2).	The HO's decision was appealed by the Assessor to the Nevada Tax Commission. October 6, on a 3-3 tie vote to approve the motion to uphold the HO's decision, the motion did not pass. The NTC on 12-1-08 voted 5-3 to reverse the hearing officer's decision. Chairman Sheets said that Bison's position was inconsistent with the intent of the regulations. Barengo said this case was distinguishable from 08-101. In response to Vogler's question, Payson responded that the bright line test is comparing what the actual use was on July 1 of the prior year compared to July 1 of the current year and if there's a physical change to the property based on construction. Bersi wanted to be consistent with her decision in October, which was that the bright line test for assessors is whether actual construction took place, not what the subjective intent is.
08-192	10/6/2008		Morningstar Apartments	Clark County	New value; supplemental roll	Assessor captured and assessed taxes on the value of an apartment complex during construction, prior to the completion of the apartment complex. The Assessor did not capture the full value of the apartment complex until after the commencement of the tax year. When the Assessor discovered that the apartment complex had been completed, he added an additional improvement value and issued the Taxpayer a supplemental tax bill. The Assessor did not abate the taxes on the supplemental tax bill. The Taxpayer maintains that the taxes on the additional improvement value, as reflected on the supplemental tax bill, should have been abated in accordance with the statutory abatement scheme. The Assessor maintains that the taxes cannot be abated because there is no tax increase to abate. Since no taxes were assessed on the additional improvement value in any of the preceding fiscal years, the application of the abatement would effectively exempt all but 8% of the new improvement value from taxation.	NRS 361.4722 does not require the Assessor to add an improvement value to the tax roll immediately following the completion of the improvement. For purposes of NRS 361.4722, the increase in the assessed valuation of the Parcel occurred when the Assessor added the improvement value to the tax roll not when the Taxpayer completed the improvement. There can be no assessed valuation of an improvement until the Assessor discovers and appraises the improvement.	10-6-08 NTC voted unanimously to uphold HO decision.

Nevada Department of Taxation
Index
Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-253	7/27/2009		Morad El Badry and Florina Grozav	Clark County	Destruction by fire; new improvement value	Taxpayer's home was struck by lightening and destroyed by ensuing fire. The original home was built in 1971 and was 1,296 square feet. Construction of new home consisting of 1,789 square feet was completed in 07/2007 and the Assessor assigned a new taxable value for the improvements. The issue is whether the Assessor should have abated the taxes attributable to the new improvement value.	HO found the abatement scheme does not apply until after Assessor has established taxable value. The Assessor correctly assessed taxes without abatement. Current law does not allow the Assessor to abate taxes on new construction, even when the construction replaces a previous structure which has been destroyed for whatever reason. It is not clear how quality, size, and depreciation differences between original and replacement improvements could be addressed.	NTC upheld the HO decision 8-0
08-278	11/3/2008		W.E. United Management	Clark County	Appeal filing date due	NRS 361.4722 (1) provides for a partial abatement of property taxes, except for increases in assessed value from the prior year as a result of new improvements. The Taxpayer seeks a determination of whether it's petition for review was timely filed. NRS 361.4734(1)(a) requires that petitions for the review of the abatement eligibility decision must be submitted on or before January 15 of the fiscal year for which the determination is effective. The appeal to the Assessor was filed on July 12, 2007. The statute amending NRS 361.4734 to include the due date for filing by January 15 became effective July 1, 2007. The Assessor denied the appeal on July 31, 2007, within the 30 day period after receiving the petition required by NRS 361.4734.	HO found that the Assessor's application of the statutory due date was not a retroactive application of the amendment to NRS 361.4734, but rather was a reasonable and prospective application based upon the plain language in the amendment. The amendment eliminated any claims for which petitions had not yet been submitted as of June 30, 2007 for the 2005-06 and 2006-07 tax years.	NTC on a 4-2 vote remanded the matter to the HO. HO's determination with respect to application of statute of limitations is overruled, and the matter is to be decided on the merits.
08-279	6/25/2008		LB Properties, Inc.	Clark County	Remainder parcel; apportionment formula	Issue: whether the property tax abatement must be computed in accordance with an apportionment formula or a comparable sales methodology. Assessor conceded the property is a remainder parcel. Regs were not in effect when the abatement determination was made. Taxpayer argued that even if the regs are not retroactive, they provide the only interpretive guidelines which have been issued thus far. The parcel and the parent parcel consisted of vacant land held for development and no physical improvements were constructed on either parcel.	The apportionment formula does not account for the increased value that may result on a per-acre basis, from the smaller size or different shape of the remainder parcel. Nevertheless, the NTC is charged with the limited responsibility of insuring that the abatement is interpreted and applied in a manner which is consistent with law. The apportionment formula is preferable to the Assessor's comparable sales approach because it does not require the Commission, in lieu of the CBE, to evaluate the Assessor's valuation decisions.	The NTC, by a vote of 5 to 3, found that the HO decision is overturned and adopt for the purposes of this case the standard used by the Assessor's office in applying the statutes and regs. The matter has been appealed to the District Court.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-280	6/25/2008		Howard Hughes Properties, Inc.	Clark County	Remainder parcel	The issues: 1) whether the parcel in question was correctly characterized by the Assessor as a new parcel of land, rather than a "remainder parcel" as defined by NAC 361.61026, when the parcel was cut from a larger tract of land prior to the 2006-2007 fiscal year; and 2) assuming the parcel is correctly characterized as a remainder parcel, whether the property tax abatement for the parcel must be computed in accordance with an apportionment formula or a comparable sales methodology. The regulations were not in effect when the Assessor made his abatement determination in this case. The Assessor argued that the regulations are not retroactive and do not, therefore, govern the outcome of this appeal. The Taxpayer argued that even if the regulations are not retroactive, they provide the only interpretive guidelines which have been issued thus far.	HO found that regardless of whether the provisions of NAC 361.61002 to 361.61038 are retroactive, they set forth a reasonable standard for determining whether the Parcel was being prepared for development in the immediate future. In the absence of construction on the Parcel, it is reasonable to infer that the Parcel was still being held for development at some point in the more distant future. Accordingly, the Parcel is appropriately characterized as a remainder parcel for purposes of NRS 361.4722.	HO Decision was overturned by NTC on a 4/3 vote with one abstention and the Assessor's position adopted. The matter has been appealed to 1st Judicial District Court (11-12-08). Taxpayer asserts the NTC's decision amounts to ad hoc rulemaking and results in tax treatment that is different than that afforded similarly situated taxpayers; and was arbitrary and capricious. The "informal rule" was not promulgated in accordance with NRS Chapter 233B.
08-285	6/25/2009		Ronald and Roberta Kirby	Clark County	Tax increase due to annexation	The issue was whether the Treasurer had correctly computed the property taxes when the Kyle Canyon area was annexed from Clark County to Las Vegas. As a result of the annexation, the property tax rate changed. The mathematical question was whether the entire amount of taxes resulting from the application of the new tax rate was not subject to abatement, or whether only the incremental amount of difference between the rates of Clark County and Las Vegas was not subject to abatement. Several appeals from the Kyle Canyon area were consolidated.	HO provided a methodology to calculate the taxes, however the Committee on Local Government Finance (CLGF) adopted regulations which provided a methodology to calculate the taxes. The Department of Taxation recommended the matter be settled using the regs adopted by CLGF.	Treasurer appealed the HO decision in order to request the NTC to apply the decision, as amended by CLGF regulation, to all residents of Kyle Canyon area. The NTC upheld the HO decision as amended by the application of the CLGF regulation, and ordered the application applied to all residents of Kyle Canyon area.
08-286	6/25/2009		Dennis Lello	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>
08-289	6/25/2009		Red Rock Trust, Ira Zimmerman Trustee	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>

Nevada Department of Taxation
Index
Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-293	7/27/2009		Double Post LLC	Clark County	Authorized use; change in zoning classification	The issue was (1) whether there was a change in the authorized use of the parcels when the County Commissioners approved, at Taxpayer's request, a zoning reclassification contingent upon Taxpayer's construction of a subterranean parking garage on the Parcels and memorialized in a Resolution of Intent (ROI); and (2) whether the Assessor, by virtue of having neglected to add the resulting increase in value to the 07-08 roll is now precluded from treating the reclassification as a change in the authorized use of the parcels for 08-09. Assessor determined there was a change in authorized use and attributed additional value as a result of the change. Taxpayer did not appeal the amount of value deemed to be attributable to the change in authorized use. The purpose of the reclassification was to allow for the construction of commercial improvements and higher-density residential improvements.	HO found that although the change in reclassification was contingent upon the Taxpayer's commitment to build a parking garage, it was nonetheless a change in the authorized use of the parcels. Taxpayer asserted he was unable to follow through with the parking garage because the cost was too onerous, but the HO held that this argument addresses an actual change in use, not an authorized change in use. HO held the terms "actual" and "authorized" use are not synonymous. As to the onerous nature of the ROI, the Taxpayer needs to address value questions to the CBE. HO held there is no requirement that the Assessor add incremental value to the tax roll in the year immediately following the year in which the change giving rise to the increase occurs. The increase in AV occurs when the Assessor adds new value to the roll, not when there is a change in the actual or authorized use of the property. Increases occur when the Assessor discovers them. The HO upheld the Assessor's decision not to abate the increase resulting from the change in authorized use.	7-27-09 Matter continued.
08-294	6/25/2009		Omni Family Trust	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>
08-295	6/25/2009		In Sook Barranco	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>
08-296	10/5/2009	2008-09	Jaroslav and Benita Klaizner	Clark County	Remainder parcel; partition of mother parcel	Taxpayer recorded a parcel map prior to July 1, 2008 resulting in the partition of a mother parcel into four roughly equal quadrants. One parcel retained the taxpayer's primary residence, one contained the stables in which they housed their horses with a special use permit, another parcel they used to exercise their horses and the final parcel remained vacant. Taxpayer maintains that for the 2008-09 fiscal year, the taxes of all parcel should have been abated as the use of the parcels had not changed, and they had no plans to sell or develop the land. For the 2008-09 fiscal year, the Assessor abated at the 3% threshold the one parcel which contained the taxpayer's primary residence, but did not abate the three other parcels as he deemed them "new parcels for development". The issue is whether the three parcels constitute "remainder parcels" which should be abated at the 8% threshold.	HO deemed that the three parcels were incorrectly classified as "new parcels for development". HO acknowledged that it is arguable there could have been a change in use from residential use to vacant land held for development, however, the fact that the taxpayer has not yet listed any of the parcels for sale, commenced construction or development activity on any of the parcels and nothing has changed in regards to how the taxpayer was actually using the property when it was part of the mother parcel, indicates that they were incorrectly classified as "new parcels for development" and should properly be classified as "remainder parcels" thus qualifying for the 8% abatement.	The NTC decreed that the Assessor's abatement determinations for 2008-09 be reversed and that the taxes on the parcels be recomputed with the abatement applied at the 8% threshold. Any overpayments to be refunded to the taxpayer.

Nevada Department of Taxation
Index
Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-297	7/27/2009		Richard & Claudia Donegan and Craig and Sheila Pickart	Clark County	Recapture taxes (NRS 361.4725(1))	The issue is whether, under NRS 361.4725, the Assessor may "recapture" the amount of the abatement that was afforded to	HO found the provisions of HRS 361.4725 are unconstitutional as applied to the unique facts of the	County appealed decision of HO, requesting that the decision apply to all
08-298	6/25/2009		Seven Valleys Realty	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>
08-299	6/25/2009		Eglimeh Ellis Shakouri	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>
08-300	6/25/2009		Nish Investment, LLC et al	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>
08-301	4/13/2009		Sophie Lau	Clark County	Authorized use; change from residential to vacant commercial	Prior to 08-09, Lot 31 had a residential dwelling. The city condemned the building and required that it be torn down. After the demolition, the Assessor valued the property at its highest and best use, which was as commercial property in downtown Las Vegas. The demolition made the property more valuable by freeing it for commercial use consistent with other area properties. The question in this case is whether the Assessor correctly changed the authorized use from a residential use to a commercial use.	HO found that a secondary base year may be established for a parcel when an increase in taxable value is the result of a change in the actual or authorized use of the property. By the assessor's rationale, the demolition triggered a change in the application of NRS 361.227, from (1)(a)(2) to (1)(a)(1). That amounted to a change in authorized use.	NTC upheld HO decision on a 5-1 vote, but apply the methodology in December; it isn't a change in authorized use but a change in actual use, from residential to vacant.
08-303	6/25/2009		Parvez Rohani Mehdiabadi	Clark County	Tax increase due to annexation	<i>See description under 08-285</i>	<i>See description under 08-285</i>	<i>See description under 08-285</i>
08-307	11/5/2007		Henry & Marvelyn Sherry	Washoe County	Actual use; change from apt to condo valuation		HO held that change in use is typically understood to refer to a change from a residential use to a commercial or other use. The unpublished criteria of the DOT used by Assessor were not promulgated as regulations and are therefore unknown to the public. While these unpublished criteria may serve a useful purpose in terms of assisting county assessor with valuation decisions, their application, even if reasonable under the circumstances, cannot effect a change to the legal status of the property because they have no force or effect of law. Changing from condo to apt would not constitute a change in use and it was done pursuant to unpublished guidelines.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
09-111	6/25/2009		Palms Place	Clark County	Actual use; subdivision discount	In 07-08, appeal to CBE resulted in 90% reduction in land value because the construction of hotel-condo was not complete. Upon completion, higher land values were assigned to each condo unit for 08-09. Thereafter, Assessor granted a 30% subdivision discount to value. Assessor denied abatement, asserting a change in actual use from real property under construction to real property available for occupancy. Taxpayer asserted there was no change in the actual use of the parcels so long as the parcels remain part of a qualified subdivision. The Assessor asserted the change in use occurred prior to the subdivision discount.	HO denied Taxpayer's theory that Sub (c) in LCB File No. 109-08, Sec. 17 controls the analysis. HO found each subparagraph in Sec. 17 provides independent grounds for finding a change in use. Sub (c) is not a prerequisite to finding change under Subs (a) or (b). However, HO found there was not a change in use as the result of new construction, therefore sub (a) is inapplicable. Construction activity does not establish a use classification. Look to the nature of the improvements to ascertain the use to which the property will be put once the construction is completed. It was very clear during the construction phase that parcels would be used as condos - a SFR use; nothing changed with the completion of construction. Although values may differ upon commencement of construction, completion of construction and at time of sale, it is unreasonable to suggest that the use of the property will change more than once between planning, completion of project, and sale.	Assessor appealed the HO decision. NTC upheld the HO decision by a vote of 7 to 1.
09-199	7/27/2009		Decatur 215 LLC	Clark County	Remainder parcel; combination of vacant lots	Combination of two lots resulted in creation of one vacant parcel consisting of 29.29 acres. Construction commenced on 7-1-08; Taxpayer had secured permits to build commercial improvements. Taxes on the new parcel were not abated. Taxpayer asserted taxes should have been abated because the parcel qualified as a "remainder" parcel, reasoning that the use of the property must be ascertainable through an examination of the construction activity alone and without the benefit of any extraneous evidence such as building permits and land-use approvals.	HO held that nothing in the regulation suggests that the construction activity must be considered to the exclusion of all other relevant evidence. The reg merely states that the construction activity must suffice to allow for an identification of the use; the construction activity must have reached a point where it is self-evident that the property is no longer being held for investment or future development. If the construction activity were to be considered in a vacuum, the reg would be applicable in only the narrowest of circumstances such as a construction timeline of less than one year; such a reading defeats the purpose of the reg which is to establish an objective benchmark for determining whether a developer has executed a plan for developing the property. Once the construction benchmark is satisfied, any number of documents may be consulted to identify the specific category of use to which the property will be put. Based on the construction activity, permits and approvals obtained, and commercial zoning, Assessor correctly determined parcel was a new parcel.	NTC upheld the HO decision 5-1.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-183	11/16/2009	2006-07, 2007-08	Echelon Resorts Corp	Clark County	Change in Use	<p>Assessor raised taxes on the property for the 2006-07 fiscal year due to the demolition of the improvements (a dilapidated hotel-casino) on the property arguing that the demolition constituted a change in use. The Assessor calculated an increase in taxable value of approximately \$34.3 million and this increase was taxed without abatement in the 2007-08 fiscal year, the taxes on the property were abated in reference to the the taxes as actually assessed for the 2006-07 fiscal year. Thus both years are in dispute.</p> <p>Assessor argues that the focal point of the valuation must be the 2006-07 fiscal year as it captured the difference between the taxable value of the land when encumbered by a dilapidated hotel-casino property versus the value of the land when put to its highest and best use. The taxpayer argues that the difference must be calculated by reference to methodology adopted by the Commission in Section 19, which was enacted after the Assessor made the abatement determination at issue. The Assessor argues that Section 19 may not be applied retroactively and that the appeal is time-barred.</p>	<p>HO found that the appeal was time-barred as to the 2006-07 year as the Assessor was not holding the taxpayer to a retroactive deadline of 1/15/07, but to a deadline of 7/1/07 which marked the effective date of the amendment to NRS 361.4734. However, the appeal in respect to the 2007-08 year is timely.</p> <p>With respect to the 2007-08 appeal, HO found merit in the taxpayer argument for the necessity of maintaining uniform and equal tax treatment of comparable properties. Section 19 is specifically designed to mitigate the inequality which frequently results from the "slingshot effect" of migrating base years and secondary base years. The Assessor's argument that retroactive application of Section 19 would only benefit those who filed timely appeals was found to be unpersuasive. It is better to remedy an inequity than to leave someone in an inequitable situation merely because others are in the same situation.</p>	<p>NTC by unanimous vote, upheld HO decision and remanded the appeal for the 2007-08 fiscal year to the Assessor with instructions to recalculate the taxes in accordance with Section 19 of the Adopted Regulation of the Nevada Tax Commission, LCB file No. R109-09.</p>
08-174	11/16/2009	2006-07	D.R Horton, Inc	Clark County	Appeal filing date due	<p>On or about 1.11.2008 the Taxpayer petitioned the County for a new abatement determination for 2006-07. Assessor argues the appeal is barred because original appeal was filed after the applicable deadline (January 15 of fiscal year for which the abatement determination is effective.). Taxpayer argues that NRS 361.4734 (effective July 1, 2007) may not be retroactively applied.</p>	<p>HO held that the County was not holding the taxpayer to the January 15, 2007 deadline, but to the date of July 1, 2007 which marks the effective date of NRS 361.4734. If the grace period is extended to more than 6 months after the effective date of the amendment it would be inconsistent with the 6 month period which is afforded to property owners aggrieved by the abatement determinations for the 2007-08 fiscal year.</p>	<p>NTC upheld HO decision by a vote of 4 to 3 and did not extend the grace period to January 15, 2008. Request for reconsideration heard 4-12-10 and denied. APPEALED TO DISTRICT COURT 8-17-10 TP questions whether assessor can "establish a retroactive, ad hoc deadline and impose that deadline when no such deadline existed by law or regulation at the time. ."</p>
08-211	11/16/2009	2006-07	Edge Star Partners LLC	Clark County	Appeal filing date due	<p>On or about 1.15.2008 the Taxpayer petitioned the County for a new abatement determination for 2006-07. Assessor argues the appeal is barred because original appeal was filed after the applicable deadline (January 15 of fiscal year for which the abatement determination is effective.). Taxpayer argues that NRS 361.4734 (effective July 1, 2007) may not be retroactively applied.</p>	<p>HO held that the County was not holding the taxpayer to the January 15, 2007 deadline, but to the date of July 1, 2007 which marks the effective date of NRS 361.4734. If the grace period is extended to more than 6 months after the effective date of the amendment it would be inconsistent with the 6 month period which is afforded to property owners aggrieved by the abatement determinations for the 2007-08 fiscal year.</p>	<p>NTC upheld HO decision by a vote of 4 to 3 and did not extend the grace period to January 15, 2008. Request for reconsideration heard 4-12-10 and denied. APPEALED TO DISTRICT COURT 8-17-10 TP questions whether assessor can "establish a retroactive, ad hoc deadline and impose that deadline when no such deadline existed by law or regulation at the time. ."</p>

Nevada Department of Taxation
Index
Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
08-211	4/12/2010	2006-07	Edge Star Partners LLC	Clark County	Request for Reconsideration	Taxpayer argued the November 16, 2009 decision of the NTC was contrary to Nevada law. Taxpayer further asserted the NTC was presented with virtually no opportunity to examine the legislative history of NRS 361.4734(1)(a) and determine that Taxpayer's appeal was not barred by said statute. Assessor responded that Taxpayer's request for reconsideration should be denied because the Legislature clearly intended to cutoff abatement appeals, including those accruing prior to the effective date of the statute of limitations. <i>See Pelligrini v. State, 34 P3d 519 (Nev. 2001).</i>		NTC upheld its prior decision by a vote of 4 to 2, and denied the request for reconsideration.
08-174	4/12/2010	2006-07	D.R Horton, Inc	Clark County	Appeal filing date due	Taxpayer argued the November 16, 2009 decision of the NTC was contrary to Nevada law. Taxpayer further asserted the NTC was presented with virtually no opportunity to examine the legislative history of NRS 361.4734(1)(a) and determine that Taxpayer's appeal was not barred by said statute. Assessor responded that Taxpayer's request for reconsideration should be denied because the Legislature clearly intended to cutoff abatement appeals, including those accruing prior to the effective date of the statute of limitations. <i>See Pelligrini v. State, 34 P3d 519 (Nev. 2001).</i>		NTC upheld its prior decision by a vote of 4 to 2, and denied the request for reconsideration.
09-111	4/12/2010		Solar Star	Clark County	Withdrawn			
09-167	10/4/2010	2008-09	T.R. Village Green, LLC	Clark County	Remainder parcel; change from existing apartment complex to condominiums	Whether condos remaining unsold in Taxpayer's inventory constitute remainder parcels. Although Assessor's decision that the condos were new parcels and not remainder parcels was made 4 years ago, TP asserted that for equitable reasons the 2008-09 abatement amount should reflect the amount as if the parcels had been remainder parcels in the prior year.	The HO found that the condos were not remainder parcels because the use of the property had changed from commercial to SFR units. The HO reconciled this decision with the one made in Barone-Tanamera (08-188) in which the units were determined to be remainder parcels because the units were not sold until a year after the subdivision map had been filed, thus the use of the property in Barone Tanamera did not change until the condo units were offered for sale to the public more than one year after their creation. The units in T.R. Village Green were sold immediately after they were created through the recordation of the subdivision map and precludes the units from being considered remainder parcels in the 05-06 fiscal year.	NTC upheld the HO decision by a vote of 6 to 1.

Nevada Department of Taxation
Index
Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Contested Appeals To Tax Commission								
Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Description of HO Decision	Decision of NTC
09-195	1/25/2010	2008-09	HHRH Hotel Casino, LLC	Clark County	Change in Use	Several parcels were combined to form the two current parcels. The site is the former Paradise Bay Club Apartments. The apartment dwellings on the property were demolished to make way for the construction of hotel-casino improvements. The Assessor determined the property had undergone a change in use which contributed additional value of the land. TP maintains the use of the property has not changed. The principle issue is whether the appropriate base year for reference in the abatement calculation is the 2004-05 year or the (prior) 2007-08 year. The TP contends the 04-05 FY is the correct point of reference to avoid the "sling-shot" effect which Section 19 of LCB File No. R109-08 addresses. The Assessor maintains the 07-08 FY is the correct point of reference using the definition of "base value" used in Section 1a	The original decision of the HO found that the appropriate base year for the calculation was the 2004-05 year. However, upon remand by the NTC, the final decision was that "the plain language of the regulation requires the 2007-2008 fiscal year be used as the base year for purposes of calculating the increase in taxable value which resulted from the demolition of the apartments on the property. Under the regulations, 2007-08 fiscal year must serve as the base year because it is the year for which a new or different assessor parcel number was assigned from the prior year as a result of the combination of previously existing parcels."	At the hearing, the NTC found that a change in use had occurred in 2007-08 and that the assessor had appropriately calculated the abatement. The matter was remanded to the hearing officer to write a decision consistent with the directions of the NTC.
08-222	1/25/2010	2007-08	Victoria Partners	Clark County	Remainder parcel; partition of mother parcel	The question is whether Assessor can tax, without abatement, certain additional value which resulted from the application of what are referred to by the Assessor as "size adjustments." The additional value resulting from the size adjustments was characterized by the Assessor as "new land" value. The additional value impacted the succeeding year abatement as well.	Assessor concedes that parcels must be characterized as remainder parcels with respect to the FY for which it was newly created. The Assessor argues that the reconfiguration of the boundaries was an improvement to the land. The HO found the land did not undergo a change in use as a result of the partition. The HO found that a change in boundary is not an "improvement to" the land nor is it synonymous with a change in the use of the property.	The NTC, on a vote of 6 to 1, upheld the decision of the HO.
09-176		2008-09	See 08-222 Victoria Partners					
09-198	11/16/2009	2008-09	Teresa and John Eppolito	Washoe County	Application of abatement when AV is appealed	The issue is whether the Assessor improperly calculated the abatement in reference to assessed values that were declared void by the Nevada Supreme Court.	The TPs did not exhaust the administrative appeals process with respect to the assessed values that were assigned to the parcel in the fiscal years beginning prior to July 1, 2008. The current appeal concerns the application of the abatement for the 2008-09 FY and may not serve as a forum for the TP to challenge the assessed values that were assigned to the Parcel in previous fiscal years. The Assessor correctly abated the taxes using the formula set forth at NRS 361.4723. Arguments concerning the assessed value of the parcel are not pertinent to this appeal.	The NTC remanded the decision to the HO to discuss the application of the abatement with reference to the specific subject property.

Consent Agenda



Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-103	5/11/2009		Pecos-Vegas Apartments, Assoc. LLC	Clark County	Remainder parcel status	See contested appeals list for description	See contested appeals list for description	Stipulated agreement approved by NTC.
08-104	6/25/2008		Jeffrey G. & Donna M. Riopelle	Washoe County	Primary residence claim	The issue in this case is whether the property taxes on the real property in question should have been abated pursuant to Nevada Revised Statutes (NRS) 361.4723 as opposed to 361.4722. The former, which is applicable to certain single-family residences, provides for a larger abatement than the latter, which is applicable to most rental properties. The property in question is a hotel-condominium unit. The 3% cap applies to a "single-family residence which is the primary residence of the owner". The 8% cap applies to rental properties other than certain low-income rental dwellings, which are also covered by the 3% cap. See NRS 361.4722 and 361.4724. The property is not a low-income rental dwelling. Therefore, the question in this case is whether the property qualified as the primary residence of the owner as of July 1, 2007. If not, the tax increase on the property was properly capped by the Assessor at 8% for the 2007-2008 fiscal year.	HO held that "'Primary residence of the owner' means a residence which . . . [i]s not rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence." NRS 361.4723(6)(b). Under some circumstances, a vacation home may qualify as the primary residence of the owner. See NRS 361.4723(6)(a). However, as indicated by the plain language of NRS 361.4723(6)(b), it may not so qualify if it is rented, leased or otherwise made available for exclusive occupancy by any person other than the owner of the residence and members of the family of the owner of the residence. Here, the property is rented, leased or otherwise made available for exclusive occupancy by persons other than the Taxpayers and their family members. It is immaterial that the property must be rented pursuant to the Reno City Code. It is rented nonetheless.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
08-105	10/6/2008		John V. Massey	Douglas County	Primary residence claim	The issue in this case is whether the Assessor correctly abated the taxes on Taxpayer's Lake Tahoe home. Taxpayer resides for part of the year in California and resides on the subject property at other times of the year. When the Taxpayer is in California, he puts the property on the rental market, and the property is advertised to the public as a vacation rental. Although the Taxpayer initially reported to the Assessor that the Property served as his primary residence, the code enforcement officer discovered that the property was used as a vacation rental and required the Taxpayer to obtain a vacation home rental permit. The Assessor adjusted the abatement to reflect the rental status of the property.	The HO held that NRS 361.4723 makes clear that a person may claim only one dwelling as the primary residence. A nonresident may claim a primary residence in the state so long as he does not rent or lease the dwelling. The same rule applies to Nevada residents. A NV resident who resides in another state for part of the year may not rent the dwelling while he or she is outside the state. Although the Taxpayer considers himself to be a NV resident, the property does not meet the applicable criteria because it is made available for exclusive use by persons other than the Taxpayer and his family members.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-107 & 108	11/3/2008		Lee Strebeigh, Granite & Pine LLC	Douglas County	Remainder parcels; permit to demolish improvements; late filing of appeal	<p>The property was valued and taxed as a single unit of property even though it consisted of three distinct legal parcels of land. In 06-07, Taxpayers requested that the property be valued and assessed as three separate parcels. A permit was obtained so that the cabin on Lots 4 and 5 could be demolished, thus preparing Lots 4 and 5 to be individually marketed and/or developed for residential purposes. Once the demolition permit was obtained, the Assessor assigned each of Lots 3, 4 and 5 a new APN. The remainder regs were not in effect at the time the Assessor determined the "new" parcels were not subject to abatement because the parcels had not been separately assessed in the preceding fiscal year. The issue is whether Lots 3, 4, & 5 should have been characterized as remainder parcels. The Assessor argued that the use changed because each lot is now capable of being sold and developed as a smaller residential unit; prior to 06-07, the lots could only have been sold and/or developed as a single larger unit due to the location of the improvements.</p> <p>When the permit to demolish was obtained, the lots could be sold separately.</p> <p>Taxpayers petitioned well after 7-1-07, the effective date of the change in law for filing. Taxpayers argue the amendment to law is applied only to fiscal years after 7-1-07.</p>	<p>The HO held that NAC 361.61002 to 361.61038 describe the circumstances under which a remaining parcel will be deemed to have undergone a change in use from the immediately preceding year. The HO found that the legal boundaries of lots 4 and 5 have not changed; the cabin still exists as a legal and practical impediment to the sale of the individual parcels; and the use of the parcels has yet to change. The parcels should have been characterized as "remainder" parcels.</p> <p>The amendment eliminated any claims for which petitions had not been submitted as of 7-1-07. The Taxpayers had nearly one year to contest the abatement determinations for the 06-07 year but failed to do so. The amendment was applied prospectively to bar petitions that had not been submitted as of the effective date of the amendment.</p>	<p>The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.</p>
08-109	7/27/2009		Foundation Holdings, LLC and Manse Crossing LLC	Nye County	Vacant Land; Authorized Use	<p>Property was previously zoned as open use and at the request of Taxpayer, received hard zoning for commercial use and a conditional use permit to erect a casino. Assessor calculated abatement as a change in use. Taxpayer asserted the designation was not a change in authorized use but was rather</p>	No decision	<p>Stipulated agreement, approved by NTC. Abatement calculated as if no change in use for 07-08; but was recalculated as a change in use</p>
08-117	9/8/2008		Howard Hughes Corp	Clark County	No record	No Record	No decision	<p>Case dismissed; revised calculation by county resulted in a reduction from \$21,544.36 to \$5,861.68 for the 05-06 year; \$23,267.91 to \$6,330.61 for the 06-07 year; and 25,129.34 to \$6,837.06 for the 07-08 year.</p>

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-121	9/8/2008		Howard Hughes Properties	Clark County	No record	No Record	No decision	Case dismissed; revised calculation by county resulted in a reduction from \$41,881.91 to \$23,768.11 for the 05-06 year; \$45,232.46 to \$25,669.56 for the 06-07 year; and \$48,851.06 to \$27,723.12 for the 07-08 year.
08-122	9/8/2008		Howard Hughes Properties	Clark County	No record	No Record	No decision	Case dismissed; revised calculation by county resulted in a reduction from \$14,483.39 to \$8,215.32 for 05-06; from \$15,642.06 to \$8,872.55 for 06-07; and from \$16,893.42 to 9,582.35 for 07-08.
08-123	9/8/2008		Howard Hughes Properties	Clark County	No record	No Record	No decision	Case dismissed; revised calculation by county resulted in a reduction from \$16,870.84 to \$9,753.56 for 06-07
08-128	9/8/2008		Marnell Properties II, LLC	Clark County	Remainder parcel status	No Record	No decision	Stipulated agreement, approved by NTC. Tax assessed in the amount of \$22,425.14 reduced based on a remainder value of \$1,350,184 for the 05-06 year and recalculated for subsequent years.
08-165 09-158 09-159	6/25/2009		SW Ranch Apartments, LLC dba Tesora Apartments Jeffreys Apartments, LLC dba Positano Apartments <i>See Ovation Group</i>	Clark County	Remainder parcel status; subdivision map changing apts to condos	<i>See contested appeals list for description</i>	<i>See contested appeals list for description</i>	Stipulated agreement, approved by NTC

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-180	6/25/2008		Mary Margaret Pehrson Family Trust	Washoe County	Primary residence claim; correction of assessor error	The sole issue in this case is whether the Taxpayer's appeal for the 2006-2007 fiscal year is time-barred under a statute of limitations applicable to petitions submitted pursuant to NRS 361.4734. It is undisputed that as of July 1, 2006, the Property was Ms. Pehrson's "primary residence" as defined by NRS 361.4723. In this case, the Taxpayer contacted the Assessor in January of 2008 to complain about the Assessor's mistake. This was well after the effective date of the amendment to NRS 361.4734. However, the Taxpayer's certification of primary residence was submitted in May of 2006, which was even prior to the beginning of the 2006-2007 fiscal year. It is undisputed that the Property would have been classified as Ms. Pehrson's primary residence but for the malfunction with the Assessor's scanning equipment.	The HO held there was really no need for the Taxpayer to submit a petition pursuant to NRS 361.4734. This matter could have been submitted to the board of county commissioners and the error thereby corrected by way of the statutory correction process. See NRS 361.765. In short, this matter does not even implicate NRS 361.4734 and the period of limitations described therein. Nonetheless, the Commission has general supervisory authority over property tax matters and the specific authority to implement the overall property tax abatement scheme. See, e.g., NRS 360.250 and 361.4723(4). Under the circumstances, it is within the discretion of the Commission to order the relief requested by the Taxpayer.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
08-181	10/6/2008		Helene Costello	Washoe County	New value; utilities added	<p>The issues are: (1) whether the taxes were subject to abatement when the taxable value of the parcel increased in 05-06; 2) if so, whether the tax base should be adjusted for purposes of computing the abatement for 07-08; and 3) if so, whether the taxes should be further abated in order to equalize the taxes with those assessed on comparable parcels having identical TV. In 2004, the Taxpayer purchased the Parcel as an investment property. The developer who sold the Parcel to the Taxpayer had contractual commitments to run utilities to the Parcel and make other off-site improvements that would render the Parcel suitable for residential use. The Assessor did not abate the taxes for the 05-06 year, but did abate taxes for the following 2 years using 05-06 as the base year.</p> <p>For the 2007-2008 fiscal year, the Assessor again increased the taxable value. The Taxpayer has noted that the taxes on the Parcel for the 2007-2008 fiscal year were higher than the taxes on a number of surrounding properties, each of which has an identical taxable value of \$240,000. The Taxpayer has requested that the taxes on the Parcel be reduced so that they are consistent with the taxes on the surrounding properties.</p>	With respect to the 2005-2006 fiscal year, an assessed valuation for the Parcel had indeed been separately established for the preceding fiscal year, which means that the taxes should have been partially abated. Although this mistake was made for the 2005- 2006 fiscal year, the mistake impacts the taxes assessed for the 2007-2008 fiscal year. The mistake must, therefore, be corrected. This can be accomplished by computing the taxes as they would have been assessed in each of the preceding fiscal years but for the Assessor's mistake. In this manner, the taxes for the 2007-2008 fiscal year can be abated by reference to an adjusted base value. With regard to the taxes on the surrounding lots, there is no authority to adjust the taxes on the Parcel to make them consistent with the taxes on the surrounding lots. The variation that exists 2007-2008 fiscal year can be abated by reference to an adjusted base value. With regard to the taxes on the surrounding lots, there is no authority to adjust the taxes on the Parcel to make them consistent with the taxes on the surrounding lots. The variation that exists between similar lots is a natural consequence of the abatement scheme. Since the taxes are abated by reference to a base year, the taxes as between separate but similar properties will vary to the extent that there were differences in the taxable values established for those properties in their respective base years. This holds true even though the taxable values may be identical in the current year.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-187	10/6/2008		Georgia Childress	Clark County	Remainder parcel; change in use	Taxpayers decided to partition the Parent Parcel into three smaller residential lots. Prior to the 2007-2008 fiscal year, the Taxpayers recorded a parcel map whereby the Parcels were created. The City of Las Vegas required the partition of the Parent Parcel as a condition of issuing construction permits. Taxpayer had planned to complete the site work and bring in the utilities so that two of the Parcels could be sold as residential lots. The Taxpayers had planned to keep the third lot to build their own home. The Taxpayers and the Assessor disagree as to whether the Parcels should have been characterized as remainder parcels for the current fiscal year. The relevant statutory provision defines a "remainder parcel of real property" as a parcel with remains after the legal partition of a larger parcel "... if the use of that remaining parcel has not changed from the immediately preceding fiscal year." The Taxpayers do not currently have the financial resources to complete the necessary improvements so that the Parcels may be sold as residential lots.	With respect to the preceding fiscal year (i.e., the 2006-2007 fiscal year), the use of the Parcels was as "vacant land held for development". See NAC 361.61008. With respect to the current fiscal year, the use of the Parcels is categorized as a "residential use". The current use is categorized as residential because there has been a final partition of "lots in a residential subdivision for which a final map has been recorded and on which residential improvements will be constructed." NAC 361.61028. According to these criteria, it is immaterial that the site work and utilities for the Parcels have not yet been completed. In summary, the partition of the Parent Parcel was accompanied by a change in use between the preceding and current fiscal years, thus precluding the Parcels from being characterized as remainder parcels for purposes of NRS 361.4722(2). Since the Parcels may not be characterized as remainder parcels, the taxes must be assessed on their full assessed value. The pertinent regulation is NAC 361.61304(2).	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
08-188 & 189	10/6/2008		Barone Tanamera Condominiums, LLC	Washoe County	Remainder parcel	These parcels were created by way of condominium maps recorded just prior to the commencement of the 2006-2007 fiscal year. For the 2006-2007 fiscal year, the Assessor assigned a new APN to each of the resulting condominium units and assessed tax on the full assessed value of each unit without reference to the abatement. For the 2007-2008 fiscal year, the Assessor attributed an increase in the assessed value to each unit based upon a change in the actual or authorized use of the unit from an apartment to a condominium. See NRS 361.4722(1) and 361.4723(1). The Assessor assessed tax on the amount of the increase without reference to the abatement. Taxpayers assert resulting condo units constitute remainder parcels subject to abatement.	The HO held that an apartment building is a multifamily unit that meets the requirements of NAC 361.61028. It follows that use of the property as an apartment or a condo is a residential use. The recordation of the condo map cannot therefore trigger a change in the use of the property for purposes of NRS 361.4722(2). NAC 361.61002 to 361.61038 however do not address the change in actual or authorized use that may occur. NRS 361.4722(1) and 361.4723(1) were enacted to insure that taxes would continue to be fully captured on the value attributable to new investment, innovation, and construction activity. When apts are converted to condos, much of the resulting increase in value is attributable to investment, innovation and possibly new construction activity.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision	
08-239; 08-243	6/25/2009		Longley Professional Campus LLC	Washoe County	No record	No Record	the units should have been characterized and treated as remainder parcels for purposes of NRS 361.4722(2). Since the Assessor's mistake impacts the taxes assessed for the 2007-2008 fiscal year (which is the subject of these appeals), base values for the 2005-2006 fiscal year shall be established in accordance with the apportionment formula set forth at NAC 361.61036. The actual or authorized use of the units changed for the 2007-2008 fiscal year as a result of the units having been marketed and/or sold as condominiums. Therefore, the increase in the assessed value of each unit between the 2006-2007 and 2007-2008 fiscal year, to the extent that such increase was attributable to the change in the actual or authorized use of the property, shall be excluded from the abatement formula for the 2007-2008 fiscal year.	No decision	Stipulated agreement, approved by NTC. Case 08-239 tax reduced from \$42,104.66 to \$22,735.84 for 07-08; case 08-243 tax reduced from \$9,501.47 to 8,247.76 for 07-08.
08-277	4/13/2009		James and Yvette Pezzaglia	Washoe County	Fair market rent	Taxpayer asserts duplexes in Incline Village were eligible for 3% abatement as low-income rental property. The Assessor found the rents charged exceeded the fair market rent guidelines published by the Department and did not allow the 3% abatement. Taxpayer asserted the HUD fair market rent for Reno-Sparks area does not apply to Washoe County in general.	The HO found that the HUD fair market rent of \$911 applies to Incline Village, which is in Washoe County. Consequently, the Taxpayer's rent of \$1,150 exceeds this standard. Since the Taxpayer's rent was higher than the HUD fair market rent, the Assessor properly denied the Taxpayer's request for the abatement at the 3% threshold.NRS 361.4724(1). According to NAC 361.607, the standard utility allowance must be subtracted from HUD's published fair market rent of \$911, leaving an adjusted fair market rent of \$680. The Taxpayer argues that there is no statutory authority to adjust the published fair market rent. Assuming this is true, the Taxpayer's rent was still higher than the unadjusted figure of \$911. The Taxpayer's argument is not, therefore, relevant to the disposition of this appeal.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.	

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-281	9/8/2008		Howard Hughes Properties	Clark County	No record	No Record	No decision	Stipulated agreement, approved by NTC Tax assessed in the amount of \$128,008.80 for 2005-06 was reduced to \$73,442.50.
08-282	9/8/2008		Howard Hughes Properties	Clark County	No record	No Record	No decision	Case dismissed; revised calculation by county resulted in a refund of \$9,162.94 for the 05-06 year.
08-283	9/8/2008		Howard Hughes Properties	Clark County	No record	No Record	No decision	Stipulated agreement, approved by NTC
08-284	7/27/2009		Dane Valesano	Clark County	Primary residence claim	Taxpayer did not file a claim with thte tax receiver as required by NRS 361.774; did not appeal to Assessor but instead appealed directly to the state. The Assessor abated taxes at the 8% level. Assessor repeatedly mailed notices that taxes were abated at 8% level. When the Assessor was notified, the current year was corrected, but not the prior years.	HO held that Taxpayer neglected to notify Assessor that property qualified as the Taxpayer's primary residence. It is reasonable to infer that the Taxpayer was afforded the opportunity to make the claim prior to 7-1-06 Even if it could be argued that Assessor discarded the designation or improperly failed to consider all of theavailable evidence concerning the status of the property, the Taxpayer offered no excuse or good cause for having missed the petition deadline. The doctrine of equitabl etoling is inapplicable to extend the deadline.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
08-290	3/9/2009		William and Kathleen Whalen	Washoe County	Primary residence claim; correction of assessor error	The sole issue in this case is whether the Taxpayer's appeals for the 2006-2007 and 2007-2008 fiscal years are time-barred by virtue of a statute of limitations applicable to petitions filed pursuant to NRS 361.4734. In this case, the Taxpayers contacted the Assessor in August of 2008 to complain about the abatement threshold that had been applied to their Property beginning with the 2006-2007 fiscal year. This was well after the effective date of the amendment to NRS 361.4734. However, the Taxpayer's initial certification of primary residence was submitted even prior to the 2005-2006 fiscal year, which was well before the statute of limitations became effective.	It is undisputed that the Property would have been classified as the Taxpayer's primary residence but for the confusion surrounding the certification form as resubmitted for the 2006-2007 fiscal year. Since this matter involves what was essentially a clerical error in processing the form, this matter could have been submitted to the board of county commissioners and the error thereby corrected by way of the statutory correction process. Since there is no statute of limitations which would prevent the matter from being corrected by the board of county commissioners pursuant to NRS 361.765, it would be nonsensical to apply a statute of limitations in this context. The doctrine of equitable tolling is adopted in this case to relieve the Taxpayers from the inequity and inefficiency that will result if this matter is merely redirected to the board of county commissioners for action pursuant to NRS 361.765. See <u>Seino v. Employers Ins. Co. of Nevada</u> , 121 Nev. 146, 153, 111 P.3d 1107 (2005) The Commission will therefore order the requested relief pursuant to NRS 361.4734.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-292	4/13/2009		Michael and Kelly Withers	Nye County	Primary residence claim	The central issue in this case is whether the Taxpayers' petition for the 2006-2007 and 2007-2008 fiscal year is time-barred by virtue of a statutory deadline for contesting an abatement determination pursuant to NRS 361.4734. The deadline for filing a petition with the county assessor is January 15 th of the fiscal year for which the assessor's abatement determination becomes effective. In response to the petition for the 2008-2009 fiscal year, the Assessor adjusted the taxes for that year. However, the adjustment was made in reference to uncorrected figures that were established in the 2006-2007 and 2007-2008 fiscal years, respectively. The Taxpayers believe that they completed and returned the card to the Assessor, once again affirming that the Property was their primary residence. The Assessor has no record of having received the card. At that point in time, the Assessor was requiring taxpayers to complete and return the card on an annual basis. The Assessor has since changed that policy. At any rate, the Assessor changed the designation of the Property from "primary residence" to "othe	The Assessor determined the Property did not qualify as the Taxpayers' primary residence. However, the tax bills contained insufficient detail to put the Taxpayers' on notice as to the Assessor's determination. As a matter of due process, the statutory deadline for contesting an abatement determination cannot apply unless an aggrieved taxpayer is afforded reasonable notice of the abatement determination. There was no indication on the bills that the status of the Property had changed or that the taxes were abated according to the 8% threshold rather than the 3% threshold. The Taxpayers affirmatively designated the Property as their primary residence in 05-06. Given this circumstance, the subsequent tax bills were inadequate to convey notice to the Taxpayers' that the Property had been reclassified. There was simply no way for the Taxpayers to have discovered the change without computing the actual percentages by which their taxes had increased from year to year. The bills should have made reference to the specific threshold (3% or 8%) at which the taxes were abated.	The doctrine of equitable tolling is applicable in this case to extend the deadline for contesting the Assessor's abatement determinations for the 2006-2007 and 2007-2008 fiscal years. The HO decision was not appealed and was placed on tohe NTC consent agenda. The NTC upheld the HO decision.
08-304	7/27/2009		Brian and Dianne Edmonds	Clark County	Primary residence claim	Taxpayer claimed the primary residence abatement of 3% for 2 discrete properties, asserting one was the "main" house and the other the "guest" house. The 2 parcels are located across the street from each other. At issue is the interpretation of NRS 361.4723(6)(b). The Assessor disallowed the primary residence claim on the "guest" house and abated the "guest" house at the 8% level.	HO held at the guest house is not appurtenant to the main house; each parcel has a separate legal existence and separately marketable. A person cannot designate more than one residence as his primary residence. NRS 361.4723(1). HO affirmed assessor's determination.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
08-305	4/7/2008		Lee Lawrence	Washoe County	Primary residence claim; late claim; Assessor without authority to change roll	The issues are 1) whether the Taxpayer's appeal was time-barred pursuant to NRS 361.4734; 2) whether the Taxpayer waived his right to request an abatement for 05-06; 3) whether the Assessor and/or Treasurer had authority to act on Taxpayer's request. When new home was completed, Assessor continued to send notices to Taxpayer's prior address, including the 3% claim card. Taxpayer did not receive the card and did not return it. Assessor applied the 8% abatement. In 2007, this was corrected but for prior years was denied as being late filed. Assessor cited NRS 361.773 and NAC 361.06055, in which a change made after the end of tax year must be approved by county commissioners.	The HO held that the Taxpayer submitted appeal in 5-07 prior to the effective date of the amendment for submitting appeals and was therefore timely in the appeal. With regard to NRS 361.773 and NAC 361.06055, Assessors have authority to make unilateral changes to the tax rolls within certain parameters. The Assessor was correct that he was without the authority to grant the requested relief because the Taxpayer's request was made after the close of the 05-06 year. However, the Commission is empowered to grant the relief if it is warranted. NRS 361.773 and NAC 361.06055 suggest that the Taxpayer must demonstrate good cause for his failure to request the abatement prior to the extension of the roll; that there was no actual or constructive waiver of Taxpayer's right to request an abatement. The HO found the Taxpayer did not waive his rights and granted the request.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
08-306	4/13/2009		Corner Investment Company LLC and Coast Hotels and Casinos, Inc., and Barden Nevada Gaming LLC	Clark County	Recapture tax	The full cash value of the hotel-casino property was determined according to income capitalization. By this methodology, the Assessor determined that there was obsolescence associated with the entirety of the hotel-casino property. Consistent with past policies and practices, the Assessor applied the obsolescence according to a priority scheme whereby it was first allocated to the personal property, and then to the improvements, and then to the land. However, the result was that the personal property and the improvements were reduced to 0 in 05-06. Sometime after the issuance of the bills for the real property for the 2006-2007) fiscal year, and the bills for the personal property for the 2005-2006 fiscal year, the Assessor realized that the allocations had resulted in windfalls to Taxpayers. This is because the tax increases on the land and improvements were capped. By allocating obsolescence to the personal property, thereby reducing the personal property tax bill, the Assessor had unwittingly provided the Taxpayers with additional tax relief.	For valuation purposes, property is divided into three components -- land, improvements and personal property. For billing purposes, property is divided into two components -- real property and personal property. Nevada law does not recognize or provide for the imposition of a separate tax upon income-producing property, both real and personal. Although the law recognizes that the projected income from the use of such property may be used to value its individual components, it nonetheless requires an allocation between those individual components. Thus, there is no legal support for the Taxpayers' argument that the term "taxable unit" refers generically to income-producing property. There is no merit to the argument that the Recapture Tax is limited in its application to situations involving changes in market conditions. There is no such limitation in the plain language of NRS 361.4725. By its own terms, NRS 361.4725 applies when the value of any parcel or other unit of property decreases by 15% and then increases by 15%.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
07-01	12/3/2007		Harvey & Jane Levy	Clark County	Increase in taxes	Taxpayer asserted the taxes were going up when the value was going down. The issue is whether the 3% cap was appropriately applied.	HO held the 3% cap was appropriately applied. The property taxes were capped at \$2,307, which represented a 3% increase over the previous year. Had the taxes not been capped, the taxes would have amounted to \$3,753, which is the amount which derives from the application of the tax rate to the assessed value of the parcel. Even though the TV of the parcel decreased by 8 percent for the 07-08 tax year, the amount of the decrease was not sufficient to offset the ratehr significant increases which had occurred annually over the preceding 3 tax years even though the taxable value of the parcel decreased.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
08-307	6/25/2009		Henry and Marvelyn Sherry	Washoe County	Actual use; change from apt to condo valuation	For valuation purposes, Assessor reclassified subject property as a condo rather than apt. The issue is whether the reclassification of property, even if done in accordance with DOT guidelines, amounted to a change in use for purposes of NRS 361.4724(1).	HO held that change in use is typically understood to refer to a change from a residential use to a commercial or other use. The unpublished criteria of the DOT used by Assessor were not promulgated as regulations and are therefore unknown to the public. While these unpublished criteria may serve a useful purpose in terms of assisting county assessor with valuation decisions, their application, even if reasonable under the circumstances, cannot effect a change to the legal status of the property because they have no force or effect of law. Changing from condo to apt would not constitute a change in use and it was done pursuant to unpublished guidelines.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
09-109	6/25/2009		Adam Z, LLC	Nye County	Vacant Land; Authorized Use	The issue was whether there was a change in authorized use when the zoning was changed from "open use" to "general commercial (GC)." The Assessor added incremental value to the roll when, at the owner's request, the RV park was re-zoned to GC. The Assessor revalued the subject property as commercial, which she subsequently reduced in compliance with LCB File No. R109-08, Sec. 19(4).	HO found that a change in authorized use must be based on a finding that the zoning change must authorize a more expansive range of uses. In this case, the uses allowed under the previous open use were also allowed under the general commercial zoning and there was therefore no change in authorized use.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
09-110	7/27/2009		Traci Strand and Steven Grundmeyer	Washoe County	Primary residence claim	Taxpayer failed to claim the 3% primary residence classification for three years after it became available, even though the Assessor provided claim forms and other notices during those years. The question is whether it is reasonable to infer that Taxpayer was afforded the opportunity to claim the designation or in the alternative, whether the assessor discarded the designation or improperly failed to consider all of the available evidence concerning the status of the property.	HO held that a homeowner who believes that he is entitled to the abatement at the 3% threshold (as opposed to the 8% threshold) must affirmatively designate his home as his "primary residence." The designation should be made prior to the extension of the tax roll for the fiscal year in which the designation will become effective. The treasurer, in concert with the assessor, may nonetheless correct the tax roll to indicate the affected property is eligible for that partial abatement for that fiscal year. (NRS 361.773(1)). Taxpayer offered no excuse or good cause for having missed the petition deadline (NRS 361.4734). Thus the doctrine of equitable tolling is inapplicable to extend the deadline. Relief was denied.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
09-112	6/25/2009		Leonard Faustina	Nye County	Vacant Land; Authorized Use	The issue was whether there was a change in authorized use when the zoning was changed from "open use" to "general commercial." The Assessor added incremental value to the roll when the properties were revalued as commercial properties, which she subsequently reduced in compliance with LCB File No. R109-08, Sec. 19(4).	HO found that a change in authorized use must be based on a finding that the zoning change must authorize a more expansive range of uses. In this case, the uses allowed under the previous open use were also allowed under the general commercial zoning and there was therefore no change in authorized use.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
09-157	6/25/2009		Radnia Hooshang	Clark County	Remainder parcel	Taxpayer protested higher taxes than neighboring parcels and asserted there were no new improvements and no change in zoning. Assessor determined the partial abatement for 2008-09 was appropriate.		Stipulated agreement, approved by NTC. The Assessor submitted a revised remainder parcel calculation for the 2006-07 and subsequent years.
09-197	9/14/2009		Blue Diamond Enterprise Group	Clark County	New value added to vacant land	Assessor excluded from abatement \$442,170 in "new land" value attributable to a new road that was constructed adjacent to subject property. Taxpayer contended the offsite road does not constitute "any improvement to" the property as used in NRS 361.4722 and used as support regs adopted by NTC (R109-08 eff 12-17-08); interpretation of NAC 361.018; and LCB opinion 2-6-08.	HO found that the operative language of the reg is that which refers to "an appurtenance erected upon or affixed to the land" such as easements and ROW. Altho an easement or ROW is not typically erected upon or affixed to land, it is an adjunct or appendage to the land and thus part of the land as a matter of right. The road is erected upon a ROW and thereby becomes an improvement to the land. Where the street is in the nature of a ROW for the direct benefit of the property such as an avenue of ingress and egress, the street is an improvement to the property.	Taxpayer appealed HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
09-211	6/25/2009		Mike Fetherston	Clark County	Vacant land; Authorized use	Front part of property was zoned commercial w/o knowledge of taxpayer. There were no improvements to property. New land value was added by assessor as a result of the discovery that the parcel had a portion of the property that was zoned for commercial use.	No decision	NTC approved stip for dismissal; Assessor will revise the applicable "new land amount" (value excluded from abatement) from \$319,900 to \$50,474 based on a "base year" 2004-05 calculation. Based on the new reg, the amount is to be calculated based on the taxable value difference from the "base year" and the current year. The "new land" calculation will then be the lesser of the two calculations.
08-293	10/5/2009	2008-09	Double Post LLC	Clark County	Vacant Land; Change of Use	Assessor added additional value to the parcels when County issued a ROI to approve new zoning for the parcels contingent upon the construction of certain improvements on the parcels. Though the ROI was issued for the 2006-07 year with an expiration of terms on 10/18/09, the Assessor did not become aware of the ROI until after the commencement of the 2007-08 fiscal year. Therefore, the additional value was placed on the tax roll for the 2008-09 fiscal year and taxed without abatement. The issue is whether, even though the taxpayer abandoned plans to develop the parcels as the improvements proved too onerous, the ROI amounted to a change in the authorized use of the parcels and whether the increase should be taxed without abatement as the ROI was issued in the 2006-07 fiscal year and thus taxes should be abated for the 2008-09 because the new taxes were not attributable to "any increase in the assessed valuation of the property from the immediately preceding fiscal year."	HO held that the ROI did amount to a change in the AUTHORIZED use of the parcels even though the actual use did not change. Thus the additional value to the parcels was correctly attributed. With respect to the abatement applying to the increase, the HO found that for purposes of NRS 361.4722, the increase in the assessed valuation of property necessarily occurs when the Assessor adds the new value to the tax roll, not when there is a change in the actual or authorized use of the property. Furthermore, the Assessor segregated the taxable value which in his opinion was attributable to the issuance of the ROI, and it was this amount only which was not abated for 2008-09 fiscal year as it became the base year for this new increment of value.	Stipulated agreement approved by NTC. Incremental new land value for 2008-09 was changed from \$1,393,700 to \$440,326 and from \$1,253,920 to \$441,326

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
09-123	11/16/2009	2008-09	Leonard Kryk	Clark County	Added value due to change in use	The parcel consisted of land and improvements which were initially constructed as a single-family residence. In May of 2007, the Assessor discovered that the improvements had been converted from residential to commercial use. The Assessor determined that the change in use added \$93,988 in taxable value to the parcel and added this value to the tax roll for 2007-08. The TP did not file a timely appeal for the 2007-08 tax year, but did file a timely appeal for the 2008-09 tax year. Since the appeal the Assessor has reduced the amount of added value from \$93,988 to \$23,274 and adjusted the 2008-09 tax bill accordingly.	HO held that the conversion of the improvements was a change in actual use and thus the Assessor's establishment of new base year for 2007-08 due to change in use and increase in taxable value of \$23,274 (adjusted value) was a correct assessment of taxes on this sum without any abatement.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
08-287	11/16/2009	2008-09	Greg Kritzer	Clark County	Primary Residence Claim	<p>TP claims that his secondary property should be abated at the 3% threshold as it is a "residential property" which is neither leased nor rented.</p> <p>Assessor used the 8% threshold as the taxpayer claim a different property where he and his wife live full-time as his primary residence. The property which was claimed as primary residence was abated at the 3% threshold.</p> <p>The issue is whether the secondary property is eligible for the abatement at the 3% threshold.</p>	HO held that the 3% abatement threshold can only be applied in two instances: 1) where the property qualifies as a person's "primary residence" and 2) where the property qualifies as a low-income rental property. Thus, the secondary property was not eligible for the abatement at the 3% threshold as the TP had already claimed a different property as his primary residence and a person cannot designate more than one residence as his primary residence within the state. The parcels cannot be considered as one taxable unit, but must be separately assessed and taxed under chapter 361 of NRS.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
09-139	11/16/2009	2007-08	Centennial Pkwy & Fort Apache LLC	Clark County	Added value due to change in use	Taxpayer purchased the parcel from BLM and Assessor originally established the value for 2006-07 as \$1.5 million. Taxpayer then discovered that a right-of-way to the parcel had been granted to LVVWD for constructing and operating a water reservoir and pumping station. Taxpayer requested Assessor to reduce taxable value of parcel due to the encumbrance against the parcel. The Assessor reduced the taxable value of the parcel for 2006-07 to a nominal value of \$500. In March 2007 the Taxpayer successfully negotiated a release of the right-of-way against the parcel and a quitclaim deed was recorded. Although the taxable value of the parcel was already established for 2007-08 at the same nominal value of the previous year, the Assessor successfully petitioned the Board of County Commissioners to increase the taxable value to \$2.75 million and the taxes were not fully abated to the applicable 8% threshold.	HO held that there had been a change in the authorized use of the parcel due to the relinquishment of the right-of-way. The Assessor correctly determined that the abatement was inapplicable with respect to the \$2.75 million additional value resulting from the relinquishment of the right-of-way.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
						<p>Taxpayer maintains that taxes should be abated in reference to the originally established taxable value for 2006-07 of \$1.5 million. The Assessor argues that the \$1.5 million was not the final taxable value and that the 2006-07 taxes were not computed in reference to this figure. The Assessor further argues that the abatement is inapplicable for the 2007-08 fiscal year for the portion of the taxes which derive from taxable value in excess of the nominal value used to derive the 2006-07 taxes due to a change in authorized use of the parcel.</p>		
09-214	8/9/2010	2009-10	Myrl Saarem	Carson City	Whether property is owner-occupied and eligible for the home-owner 3% abatement	<p>It is the nature and existence of the property as of July 1 which determines the taxes for the current fiscal year. It is contrary to public policy to assess taxes to the current owner based upon the use to which the property had been put by its former owner in the preceding fiscal year. TP's property was not rented nor being offered for rent or lease as of July 1, 2009, even though it had been rented for \$1 a month between June 1 and November 30, 2008. As of July 1, 2009, the property neither qualified as the Taxpayer's primary residence nor as a low-income rental. The taxes were correctly abated at the 8% level.</p>		<p>The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.</p>
09-216	8/9/2010	2005-06; 2006-07; 2007-08; 2008-09	Gary Cain and Jennifer Verive	Carson City	Appeal filing date due	<p>HO found the petition should be accepted as timely for the prior years and further, the level of abatement should be 3% rather than 8% because the mixed use property was the primary residence of the property owner.</p>	<p>The determination concerning the application of the level of abatement occurs prior to the extension of the tax roll for the fiscal year in which the determination will become effective. The HO found the Assessor did not discover the mixed-use status of the property until later and did not afford the homeowners the opportunity to claim the property as the primary residence, believing the property to be commercial in nature. Although the TPs returned the low-income housing forms and certified that the property was used for residential purposes but no rent had been received, the Assessor drew the incorrect inference that the property was vacant rental housing. The HO concluded the TPs offered good cause for having missed the petition deadline. Due to a misunderstanding of the Assessor's office concerning the nature of the property, the TPs were not afforded ample opportunity to declare their property as their primary residence. The doctrine of equitable tolling is applicable to extend the petition deadline as to each of the years under appeal.</p>	<p>The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.</p>

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
09-218	8/9/2010	2009-2010	Chelsea NNBA, LLC	Clark County	Adjustment to abatements due to correction of acreage size	Two adjoining parcels were corrected as to size. As a result, parcel 4 decreased in size and parcel 3 increased in size. The increase in AV for parcel 3 resulted in an abatement in which a portion was not subject to abatement. No adjustment was made to parcel 4 because the total AV was still well in excess of the AV that prevailed for parcel 4 in the 2004-05 FY.	The HO affirmed the Assessor's abatement as to parcel 3 but reversed and remanded the abatement amount as to parcel 4. The HO concluded that the amount of the abatement for any given fiscal year is computed by reference to the taxes as assessed for the preceding fiscal year. As a general rule, the abatement is inapplicable where taxes were not separately assessed on the property for the preceding fiscal year, referred to as "new land." A portion of the land area of parcel 3 escaped taxation in the 04-05 year, and the additional land area was analogous to new land (land for which no AV had been separately established in the preceding FY). Parcel 4 must be similarly re-calculated to account for the lower value attributable to the smaller size as if it had been established in 04-05.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
09-221	8/9/2010	2009-2010	Vladimir Basus	Carson City	Whether property is owner-occupied and eligible for the home-owner 3% abatement	Taxpayer asserts the application of the abatement at the 7.8% level is unconstitutional. Neighboring properties which are owner-occupied receive an abatement at the 3% level. Over a period of years, this created a disparate tax burden as between the other homes in the area and the TP property. In addition, property is rented residential property which TP asserts qualifies as low-income housing or as owner-occupied property. TP asserts it is arbitrary to apply the HUD fair market standard for determining whether a rental property qualifies as low-income rental housing.	HO concluded the home does not qualify for the abatement at the 3% threshold because it is neither the primary residence of the TP nor a low-income rental property. HO declined to rule on the constitutionality of the abatement scheme, as the Commission is without authority or jurisdiction to address constitutional issues.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.
09-164	10/5/2009	2008-09	Providence Village, LLC	Clark County	Stipulated Agreement	The Assessor agreed to treat the subject property as a remainder parcel with a remainder value which includes incremental "new land" value.		The NTC approved the stipulated settlement.

Nevada Department of Taxation

Index

Property Tax Abatement Appeals Decisions of the Nevada Tax Commission

Tax Commission Consent Agenda

Case No.	Date Heard	Roll Year	Petitioner	Respondent	Case Type	Principle Issues	Hearing Officer (HO) decision	NTC Decision
10-127	10/4/2010	2009-10	HCB Real Holdings, LLC	Clark County	Change in use	Motel improvements were demolished to make way for the construction of a new hotel and casino. For the 08-09 year, the Assessor valued the property by reference to sales of comparable "motel" properties. The following year, and after the demolition of the improvements, the Assessor valued the property as vacant land with an increase in value of \$41M, of which \$9.5 million was treated as incremental value not subject to abatement. TP asserts there was no change in the actual or authorized use of the property even though the improvements were demolished; or alternatively, the TP alleges the Assessor used faulty comparable sales data in adjusting the incremental value as provided by Section 19 of LCB File R109-08. The threshold question is whether the demolition of the improvements amounted to a change in either the actual or authorized use of the property.	The HO found pursuant to Section 17 of LCB File No. R109-08, that with the destruction of the improvements, the property became vacant land. There was a change in the actual use of the property from commercial to vacant land. Even though the property was previously zoned for unrestricted gaming and continues to be so zoned, the actual use of the property must be determined by reference to the current status or condition of the property, not the possible future status or condition of the property allowed by zoning. The HO found that section 18 of LCB File No. R109-08 was not applicable to the facts of the case because there has been no change in the legal or governmental restrictions on the use of the property. The Assessor appropriately applied Section 19 to reduce the "slingshot" effect. The HO found that any claim concerning the adjustment of taxable value was waived for failure to appeal the increase in TV to the county board of equalization.	The HO decision was not appealed and was placed on the NTC consent agenda. The NTC upheld the HO decision.