

May 2, 2022

*Arguments on the Appeal of Advisory Opinion 22-001*

I ask that this comment be included in the minutes of this meeting.

This appeal of advisory opinion 22-001 is regarding the Department of Taxation and Attorney General's refusal to directly answer the questions of a taxpayer with respect to the applicability of the tax statutes. These questions were under the authority and jurisdiction of the Department of Taxation and the Tax Commission. The actions and issues in question were:

- Nye County's use of the tax statutes to transfer treasurer trust properties to the ownership of the Town of Belmont, a non-existent entity.
- Nye County's use of un-documented taxpayer funds to pay for these properties.
- Belmont's status as a tax-exempt entity.

Belmont acquired title to the properties that it owns with the full knowledge and backing of Nye County, using a tax statute, NRS 361.603, in Nye County Resolution 2013-17. The deeds for the properties that Belmont currently owns have been provided as evidence to the Commission. These deeds are legal documents, no court of competent jurisdiction has ruled them invalid or void in any manner.

Evidence of Nye County's payment for these properties (correspondence, dollar amounts, project numbers and fund numbers used) has been presented to the Commission. Nye County paid for the properties. Nye County does not own the properties, until such time as a court of competent jurisdiction rules as such.

My burden of proof is to present substantial evidence (NRS 233B.135(4)) such that a reasonable mind might accept as adequate to support a conclusion. The substantial evidence provided to and in the possession of the members of the Commission should suffice. This is the truth. No evidence has been provided to the Commission to show otherwise.

The Department of Taxation's brief states "**No Acquisition Occurred Under the Facts Presented Since a Non-Existent Entity Cannot Acquire Property**". Deeds to the properties held by Belmont have been provided to the Commission. Belmont may not legally be able to hold title to the properties, but that does not mean that it does not hold title. The Department states that the evidence in the possession of the Commission is void. The executive branch of government cannot rule that these facts are void, invalid or do not exist.

The brief states "**Nye County Could Not 'Provide Funds' to A Non-Existent Entity**". Evidence has been presented to the Commission showing Nye County's expenditure of taxpayer funds to purchase the properties that Belmont holds title to. Because Nye County cannot legally provide funds to benefit a non-existent entity does not mean the evidence showing this has occurred is void, invalid, does not exist or did not occur.

The brief states "**A Non-Existent Entity Has No Liability for Transfer or Property Taxes, As it Cannot Own Property**". The deeds in the possession of the Commission shows Belmont's ownership of the properties. Because Belmont cannot legally own these properties does not dismiss their responsibility to pay the tax liability on the properties it currently owns.

We have finally arrived at a point where it has been clearly established that the non-existent entity of Belmont cannot legally own property, even though the facts presented show that it does. The substantial evidence presented to the Commission of what has occurred, even though it may not legally occur, should allow a reasonable mind to accept the conclusion that what has occurred has not been in accordance with the laws of this State.

That is exactly the answer to the questions posed in the petition for an advisory opinion. Questions the Department and the Attorney General refuse to directly answer.

I have only asked in the petition for an advisory opinion if these actions by Nye County and Belmont were in accordance with the tax statutes of this State. Did they have the statutory authority to take the documented actions that they have?

I have not asked for adjudication of the issues.

Based upon the preponderance of the evidence that has been provided to the members of the Commission, these facts should enable the Commission to determine that the existence of the contested fact is far more probable than the non-existence of the contested fact.

Nye County and Belmont did not abide by or conform to the tax statutes of this State.

To claim the evidence presented to the Commission is somehow void or invalid is in excess of the statutory authority of the Department, Attorney General and the Executive branch of government. The facts may not be ignored or dismissed.

No reason or fact has been presented to show the evidence presented to the Commission is anything other than the truth. The Department's decision is therefore "arbitrary".

No evidence is presented that is contrary to the evidence provided to the Commission, therefore the Department's decision is "capricious".

I ask the Commission to remand this case to the Department of Taxation to properly and directly address the issues brought forth, according to the evidence presented. Addressing if Nye County and Belmont had the statutory authority to take the documented actions they have and if they abided by the tax statutes of this State.

Respectfully submitted,

Neal Jones