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6 **IN THE NEVADA STATE BOARD OF EQUALIZATION**

7
8 FORT APACHE TOWNHOMES LLC,

9 Petitioner,

10 v.

11 CLARK COUNTY ASSESSOR,

12 Respondent.

CASE NOS. 25-112 and 25-113

**PETITIONER'S COMBINED OPENING
BRIEF**

13 Petitioner Fort Apache Townhomes, LLC ("Taxpayer"), through undersigned counsel, files
14 this Combined Opening Brief pursuant to NAC § 361.703(2). These appeals are for Taxpayer's
15 residential rental community parcels. Respondent Clark County Assessor ("Assessor") failed to
16 properly apply Nevada law when it valued Taxpayer's property ("Subject Property"). This failure
17 was not corrected by the Clark County Board of Equalization ("CBOE"), resulting in the Subject
18 Property's taxable value exceeding its full cash value in violation of NRS § 361.227(5).
19 Additionally, competent testimony demonstrated that the taxable value exceeded full cash value.

20 **I. Summary of Case**

21 This appeal involves a 79-unit townhome rental community. The rental community is
22 marketed as Serenity Townhomes (<https://serenitytownhomes.com/>). The Assessor calculated a land
23 and improvement value based upon the assumption that each townhome was available for sale. The
24 2024-25 tax year's supplemental tax roll had fully complete improvements valued at approximately

1 \$28 million. SBE 16-17.¹ The 2025-26 tax year has approximately the same \$28 million value. The
2 Assessor's failure to follow the law in determining the land value led to overvaluation of the land.
3 The Assessor failed to follow the law in determining that the Subject Property be valued as
4 individual parcels instead of a collective unit. Additionally, the Subject Property's combined
5 taxable value greatly exceeds the full cash value determined using the income approach to value.
6 The Taxpayer has opined that the taxable value should not exceed \$21 million for each tax year at
7 issue.

8 **II. Legal Analysis**

9 A. Land values must reflect how the improvements are being put to use.

10 The Assessor determined the Subject Property's land value as \$7,505,000 and \$7,900,000,
11 respectively, for each tax year at issue. SBE 45. These amounts were derived by determining the
12 value for all 79 residential parcels based on a comparable sales approach. Nevada law requires the
13 Assessor to determine any land's full cash value "consistently with the use to which the
14 improvements are being put." NRS § 361.227(1)(a)(2).

15 The Assessor did not dispute that the Subject Property was a rental community. The
16 Assessor also did not dispute the Taxpayer's testimony that the individual townhomes cannot
17 legally be sold as the construction loan agreement disallows any individual sale. Further, the
18 Assessor did not dispute that Nevada law required the existence of an HOA, which would own the
19 common areas, before a parcel could be sold. However, the Assessor did not determine the land
20 value based upon the actual use of the improvements. Instead, the Assessor classified all of the land
21 as individual townhome lots available for immediate sale. And based on that mistake, the Assessor
22
23

24 ¹ Record references are to SBOE Case No. 25-112 (supplemental assessment for tax year 2024-25) as information is close to identical between that case and 25-113 (secured assessment for tax year 2025-26).

1 then applied NRS § 361.129 to deem the Subject Property a “qualified subdivision” entitled to a
2 minimal land discount.²

3 Even in performing this action, the Assessor failed to follow the law. The Assessor reduced
4 the land value (\$7,900,000 for the 2025-26 tax year) by \$790,000. SBE 16 (case no. 25-113). This is
5 a 10% reduction. Nevada law states that the reduction in land value is based on the expected
6 absorption period and ranges from 20% to 50% based on the absorption period. NAC § 361.1295.

7 Had the Assessor valued the land pursuant to the use of the improvements as a rental only
8 community, the land value would have been calculated based on determining the entire community
9 value, then subtracting the improvement value to determine a land value. In this matter, the income
10 producing Subject Property would have a value of approximately \$21 million based upon the
11 income approach to value as stated by the Taxpayer’s principal witness: the long-time successful
12 Las Vegas real estate developer, Vince Schettler. The Assessor’s determination of the improvement
13 value was \$20 million for both tax years. SBE 45. Therefore, the land value should have been \$1
14 million, not \$7.5 and \$7.9 million for the respective tax years. The Assessor’s legal errors should be
15 corrected and the land value reduced to \$1 million for each tax year. If the Assessor desires this
16 reduction to be considered a “qualified subdivision” land discount pursuant to NAC § 361.1295, the
17 Taxpayer has no objection. The discount would thus be about 85% for each tax year. The discount
18 would then be removed from any Subject Property parcel when and if converted to individual
19 ownership.

20 B. The parcels should have been valued as a “collective unit” pursuant to statute.

21 Nevada law mandates that the unit of appraisal must be a single parcel unless one of three
22

23 ² The Assessor reduced the land value by 10% for the 2025-26 tax year and offered no reduction for the 2024-25 tax
24 year stating that only the additional improvements were subject to any appeal because they appeared on the
supplemental tax roll. This is legally incorrect as the Taxpayer appealed each parcel’s taxable value as exceeding each
parcel’s full cash value. SBE 7-8.

1 exceptions apply. One exception is, “[i]n the professional judgment of the person determining the
2 taxable value, the parcel is one of a group of parcels which should be valued as a collective unit.”
3 NRS § 361.227(2)(c).

4 The Subject Property consists of 79 townhouse units, each subject to the same rental usage
5 and each required to be rented pursuant to the lender’s requirements. The Assessor ignored the
6 integrated nature of the rental community. All units are generating rental income and then exist as
7 rental properties with common amenities. There is a clubhouse that includes a fitness room, game
8 room and social areas. There is also an exterior dog park area. There is an on-site rental office,
9 including a rental manager, with posted hours. Like an apartment building, each unit is available for
10 rental use. Thus, the Assessor should have valued the entire Subject Property as if it were on one
11 parcel. Had the Assessor prepared such an analysis, it would have used comparable sales to
12 determine the full cash value of the land measuring 3.62 acres (SBE 51) and that calculation would
13 have resulted in a lower figure than the \$7,505,000 and \$7,900,000 value placed on the land for the
14 respective tax years. Even at the \$1 million per acre amount that the land was valued when it was
15 contributed by various people for development, the land valued as a collective unit would have been
16 half.

17 Had the Assessor also valued the improvements along with the land using the income
18 approach to value based on all parcels being a collective unit, the income approach would have
19 yielded a figure below the \$28 million taxable value the Assessor determined for each year by
20 calculating a value based on 79 separate parcels. The Taxpayer’s income approach calculation
21 yields a \$21 million full cash value.

22 C. The income approach is the best method for determining rental property value.

23 Nevada law mandates that the taxable value shall not exceed the full cash value. NRS §
24 361.227(5). Full cash value is defined as the “most probable price which property would bring in a

1 competitive and open market under all conditions requisite to a fair sale.” NRS § 361.025. Nevada
2 law allows any person determining whether the taxable value exceeds the full cash value to consider
3 the “capitalization of the fair economic income expectancy or fair economic rent, or an analysis of
4 the discounted cash flow.” NRS § 361.227(5)(c). The Assessor failed to perform any income
5 analysis for the Subject Property despite the Taxpayer supplying all financial data necessary for
6 such a calculation.

7 The Taxpayer submitted the June 2024 rent roll for the Assessor to perform an income
8 analysis for the Subject Property. SBE 37-43. Additionally, the Taxpayer submitted the owner’s
9 forecast of income and expenses for the 2025 calendar year due to the property being in a lease-up
10 phase in 2024. SBE 31-34. Both documents are typically used by the Assessor to determine a full
11 cash value for income producing properties using assumed capitalization rates.

12 Rather than using the information for its intended purpose, the Assessor disregarded the
13 information and instead relied exclusively on a land discount derived from a qualified subdivision
14 theory. NRS § 361.227(2)(b). The foundation for the qualified subdivision theory is absorption
15 period. This is defined as the length of time when all the parcels may reasonably be expected to be
16 sold, rented, or occupied. NAC § 361.1125. The rental business requires very fast completion of all
17 rentals to produce the income needed to pay expenses, including debt service. As a result, the
18 Assessor’s application of this provision resulted in a minimal land discount and applied it to only
19 one of the two tax years.

20 The Assessor’s valuation methodology for valuing the Subject Property was entirely
21 incorrect. The CBOE failed to take any action to correct any of the Assessor’s errors. This outcome
22 was not surprising as the CBOE failed to reduce any property owner’s taxable value at the February
23 20, 2025, hearing date. Instead, the CBOE adopted every single Assessor recommendation on every
24 single appeal heard that day. Repeat, the CBOE adopted every single Assessor recommendation.

1 The CBOE does not even understand its role in this appeal process. The following exchange
2 demonstrates that fact:

3 JAMES SUSA

4 What the Assessor has to do is different than what you do and this is where I see you
5 get hung up in the earlier hearings. The Assessor has tools in their toolbox. We have
6 subdivision discount, we look at it this way, we compare these, we do this kind of
GRM analysis. Wonderful, your job is over. Your job is to determine fair market
value. You're put on the Board to determine fair market value. No, you don't believe
your job is to determine the fair market value?

7 TERRY FARR

8 Well, the market determines the fair market value. SBE 238.

9 Shockingly, a CBOE member with 25+ years of experience serving on the CBOE does not
10 even understand that a CBOE member is required by law to determine the value of any real or
11 personal property appealed to the Board. NRS § 361.345(1)(a), see also NAC 361.627(1) (A county
12 board of equalization shall hear each complaint properly brought before it and make an independent
13 determination of the valuation of the property assessed). Instead, a CBOE member made a motion
14 to uphold the Assessor's recommendation because he said reviewing Assessor data showing other
15 home sales having a higher per unit average sale price "supported their value." SBE 239.

16 That motion failed due to a deadlock vote. The CBOE then spent the next block of time
17 before another motion was made discussing its previous efforts in the prior year to determine a
18 value for a rental townhouse or home community. The lengthy motion was then made as follows:

19 PETRA LATCH

20 No, I mean is there a clubhouse? Was there a clubhouse? And yeah, I mean this is
21 just a condo project. It could be done. And matter of fact, I was kind of waiting for
22 the income approach on the AMH thing going, "Okay where's that coming from?"
23 But it didn't come. So, I thought, "Okay, well here we are." So I mean if we're
24 wrong, we're wrong all the way across. So, I think it's been treated the same by the
Assessor and we've already gone over this. So, unless we think that as individual
units this isn't accurate, then I don't understand why we're even talking about cap
rates or income approach. And I understand what he's doing with it. I appreciate it,
and maybe this is up and running and you've got a full year of Profit and Loss
statement (P&L) and we've got more clarity and I don't know, maybe there's more to

1 consider, but I don't think there's enough even to consider on the income approach
2 aspect to really say anything classically different. SBE 244-245.

3 For clarification, the “AMH thing” was an appeal in the prior year for a home rental
4 community where the CBOE ruled that the Assessor’s methodology for valuing – by using single
5 parcels that could be sold at anytime – was an acceptable way to value this type of property. And,
6 the CBOE member’s statement “So I mean if we're wrong, we're wrong all the way across” means
7 that if the CBOE approved the Assessor’s methodology on a similar appeal in a prior year, then they
8 are going to do the same for this appeal for this year, even if it is “wrong all the way across.”
9 Consistency for its own sake, especially when repeating a known error, is a flawed rationale for
10 action.

11 D. The Taxpayer’s evidence on value was overwhelming.

12 The Taxpayer provided a projected 2025 income and expense forecast. SBE 31-34. The
13 forecast projects a net operating income before debt service of \$1,345,934. SBE 34. This calculation
14 starts with gross potential rent of \$2,218,620. SBE 31. The foundation for this figure is the budgeted
15 rent for all 79 units of \$174,650 per month, or \$2,095,800 for a whole year. SBE 41. Monthly
16 operating expenses amount to \$970,811. All these operating expenses are typical in character and in
17 amount for a rental community like Serenity Townhomes, the Subject Property.

18 The Taxpayer’s witness testified that a capitalization rate of 6% to 6.5% would be applied to
19 the net operating income by any lender or potential buyer to determine the fair market value. The
20 witness testified under oath:

21 JAMES SUSA

22 Mr. Schettler, just two questions for you. You've heard two different comments. The
23 first one is that when you prepared what you saw as a projected income analysis and
24 it calculated a net operating income of \$1,345,954, you opined that the project itself,
if it were to be sold, would garner a cap rate of 6% to 6.5%. Can you tell the Board
why you believe that to be true?

1 VINCENT SCHETTLER

2 Well, there are no sales because nobody wants them right now. The cap rates are
3 depressed because of capital, and to use a 4% cap rate because of 2022, 2023, it's not
4 reality anymore, and so I've done \$4 billion worth of construction and developments
5 in this town, and I just have a wide vast knowledge of the market, and what things go
6 for and what they don't sell for. SBE 237.

7 The 6% to 6.5% cap rate yields a value range of \$20.7 and \$22.4 million. The Taxpayer's
8 witness testified that similar rental properties are being purchased based upon that market
9 capitalization rate, with newer properties having a rate at the higher end due to immature rental
10 histories. The Subject Property was 49% rented on July 1, 2024 (the valuation date for the 2024-25
11 tax year's supplemental tax roll) and 86% rented on January 1, 2025 (the valuation date for the
12 2025-26 tax year's secured tax roll). SBE 14.

13 The Taxpayer provided the December 2024 income statement showing \$112,705 in net
14 operating income as the rental community is approaching full rental capacity by that date. SBE 230.
15 This pencils out to an annual net operating income of \$1,350,000, spot on for the \$1,345,934 net
16 operating income before debt service from the full 2025 income and expense forecast mentioned
17 above. SBE 231.

18 The Assessor never addressed any of the Taxpayer's testimony, nor documentary evidence.
19 The Assessor produced an apartment income valuation worksheet. SBE 222. The Assessor's net
20 operating income is \$1,410,080, different from the Taxpayer's estimated \$1,345,934 amount. But
21 the Assessor applies a 4% capitalization rate to then get a \$35 million value. SBE 222. This is the
22 4% rate Mr. Schettler said would be appropriate in 2022, but not in 2025. The Assessor's use of
23 \$760,000 in expenses in the calculation was also criticized by Mr. Schettler.

24 JAMES SUSA

25 All right. You also haven't seen this pro forma income analysis that was done by the
26 Assessor, which was just handed out to us, but on this, in addition to the 4% cap rate
27 applied to the net operating income, it estimates that the expenses for this particular
28 project would be \$760,000, yet your monthly expenses on your projection are

1 \$970,000. Do you think you could have the expenses at \$760,000 for this particular
2 project?

3 VINCENT SCHETTLER

4 Not with these property taxes, no. SBE 237.

5 Additionally, the Assessor adopted an indirect approach to support its valuation of about
6 \$350,000 per unit (\$28 million divided by 79 parcels). As described below, the Assessor's evidence
7 would constitute malpractice if performed by any State of Nevada licensed appraiser seeking to
8 determine the fair market value for property. Of course, the Assessors are not State of Nevada
9 licensed appraisers. And of course, no action was taken by the CBOE, which is comprised of State
10 of Nevada licensed appraisers, to address the Assessor's flawed analysis.

11 E. The Assessor's evidence proved nothing.

12 The Assessor's evidence begins at SBE 50. To support the \$350,000 per unit valuation, the
13 Assessor produced sales information for other townhouse sales. The Assessor's comparable sales
14 analysis begins with SBE 65. The Assessor uses the smallest unit, 1,051 square feet, with a taxable
15 value of \$300,300 and then provides evidence of ten other nearby townhouse sales in 2023 and
16 2024 indicating a value of \$349,000. From this, the Assessor states its valuation is supported by
17 market value evidence.

18 Eight of the ten sales are for larger units. No adjustment is made by the Assessor to account
19 for the larger square footage. Six of the ten sales have larger garages. No adjustment is made by the
20 Assessor to account for the larger garage. Instead, the median for all ten sales is used to conclude a
21 \$349,000 value. This analysis lacks details on the community amenities included in the sales. No
22 analysis was performed to determine if any of the sales were short sales. And the analysis does not
23 account for how long each unit was listed before being sold. Relying on these ten unadjusted,
24 uninformative sales to determine a fair market value would constitute a violation of professional

standards, subjecting a Nevada licensed appraiser to discipline. Without additional context, how can one determine if these ten sales represented the highest or lowest townhouse sales for that period?

Next the Assessor produces another comparable sales analysis for the larger Subject Property unit. SBE 69. This unit is \$350,000. Six of the ten sales are for larger square footage and all ten have substantially larger garages. The median is \$375,270 and from this the Assessor concludes that the Assessor taxable value does not exceed fair market value. The same questions from the first sales comparison apply, indicating this information is unadjusted and uninformative of market value.

Next, the Assessor shifts gears to provide information it labels “Gross Rent Multiplier (GRM) Analysis.” SBE 77. The calculation begins with rental amount per month, then divides the sales price by that amount, then divides by 12. For instance, the first line on SBE 77 shows MLS number 2513374. It is a 1,220 square foot townhouse that sold for \$350,000 and rented for \$1,700 per month. The GRM is thus calculated as $350,000/1700/12=14.95$. There are 13 townhouse sales all in 2023 and the GRM is calculated for each. Then the 13 GRM amounts are averaged to conclude with a figure of 15.83.

Next, the Assessor applies a GRM of 14, 15, or 16 to each of the Subject Property parcels on SBE 78-80. The Assessor lists the taxable value for a parcel, then compares that to the figure that would be calculated using the rental rate, if applying a GRM of 14, 15, or 16. For instance, parcel 176-19-714-001 shows monthly rental at \$2,195. This figure is multiplied by 12. That total is then multiplied by 14 to get \$368,760. If multiplied by 15, the result is \$395,100. If multiplied by 16, the result is \$421,440. The taxable value on this parcel is \$285,300. The Assessor’s conclusion is that because at 14, 15, or 16, the figure exceeds the taxable value, the taxable value does not exceed fair market value.

1 The use of this GRM methodology to determine a property's fair market value is
2 dangerously flawed. The obvious errors are apparent in looking at the data in SBE 77 and beg the
3 following questions: How does the Assessor know what the rental rate was for the sale of this
4 specific townhouse? Is the townhouse in a newer or older townhouse community? Were incentives
5 provided to get the property leased? What amenities are available for each of the townhouses sold?
6 Are swimming pools and fitness centers included? Were there more than 13 townhouses sold in Las
7 Vegas in 2023 and 2024 and, if so, why were these selected? What criteria was used to select them?
8 Were others that sold at lower prices or with higher rents excluded from a list? In summary, this
9 GRM is a gathering of data points in an effort to support a value. It is not an indication of the
10 Subject Property's fair market value. But the method had been used by the Assessor successfully in
11 a prior CBOE hearing involving another rental community in a prior year.

12 No competent licensed real estate appraiser would utilize the GRM analysis performed by
13 the Assessor in determining the Subject Property's fair market value. Instead, as several CBOE
14 members mentioned, the entire property would be valued as a collective income producing unit. The
15 sale of individual parcels is contingent upon the creation of an HOA to oversee the community's
16 shared amenities. That is a legal restriction on sales. On the two valuation dates, there was no HOA
17 and thus there could be no sale of any unit. The Taxpayer's decision to create a rental community
18 required a lender to agree to finance the project. And that agreement mandates that there can be no
19 sales of any parcels. The Assessor's repeated assertion – that every Subject Property parcel could be
20 sold immediately and that it was the Taxpayer's business decision not to do so – if factually
21 incorrect and irrelevant to the matter of valuation.

22 **III. Conclusion**

23 The Subject Property is a rental community that produces income now and will do so for the
24 foreseeable future. An expert on Las Vegas real estate development, responsible for \$4 billion of

construction and development (SBE 237) in Las Vegas over decades stated that project would produce a net operating income of approximately \$1,350,000 and that market cap rates are 6% to 6.5% indicating a fair market value of about \$21 million. Nothing the Assessor produced refuted that testimony. The CBOE wrestled with the valuation question and ultimately deferred to the Assessor just as it had in the prior year in a similar appeal. This was an error and the SBOE needs to correct that error.

RESPECTFULLY SUBMITTED this 9th day of September, 2025.

DeCONCINI McDONALD YETWIN & LACY, P.C.

By: /s/ James M. Susa

James M. Susa

Attorneys for Petitioner

ORIGINAL of the foregoing E-Filed
this 9th day of September, 2025, with:

Nevada State Board of Equalization
stateboard@tax.state.nv.us

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by mailing a copy thereof, properly addressed, with postage prepaid to the following:

Mary Ann Weidner
Clark County Assessor
500 South Grand Central Parkway
Las Vegas, NV 89155

Dated at this 9th day of the month of September of the year 2025.

/s/ Lexi Gonzales

Legal Assistant

DeConcini McDonald Yetwin & Lacy, PC

Tucson, Arizona