PETITIONER BRIEF

RECEIVED
JULY 9, 2026
STATE OF NEVADA
DEPARTMENT OF TAXATION

Before the Nevada State Board of Equalization

Case No. 26-124

Brief of the Taxpayer
Fort Apache Townhomes, LLC
On Appeal from the
Clark County Board of Equalization
Case No. 1129 (02.23.2026)

Table of Contents

I. Introduction and Summary of Appeal

This Appeal concerns the over-valuation by Clark County of real property owned, operated, and used by the Appellant, Fort Apache Townhomes, LLC ("FORT"), as a multi-family rental apartment townhome complex in Clark County.

The real property at issue in this appeal is a 79-unit[1] townhome rental community called Serenity Townhomes ("Subject Property"). Initially, FORT had approached Clark County Comprehensive Planning to zone the property as a single parcel of real property to accommodate townhome style units, and to map the parcel as a single parcel for a single owner using the multi-family residential rental project as an income generating business. However, at that time Clark County's Development Code ("Title 30") did not permit this for rent townhome use on a single parcel.

Instead, FORT was required by Clark County to down-zone the property and add a Planned Unit Development (PUD) legally linking all the parcels for operational and governance purposes in order to develop the site as townhomes. In essence, these County requirements forced the single economic unit of a townhome rental project to be mapped ***with individual lots*** for the townhome

[1] The townhome parcels are identified in the appeal form individually, as each was required to be mapped on individual parcels per the Clark County code in effect at the time of development. *See* Appellant's Appendix of Exhibits ("Appendix"). As discussed herein, under the ***current*** county code the Serenity Townhomes rental community could have been mapped and developed on a single parcel.

units. However, while the property was mapped as required by the requirements of Title 30 in effect at that time, no additional steps to create a NRS Chapter 116 “for sale” project were undertaken by FORT. For example, the parcels do not have individual deeds (only a single deed exists for all 79 parcels), no homeowners’ association has been formed, there are no recorded CC&Rs governing the Subject Property, and all parcels are bound by financing documents precluding the sale of individual lots. It is important to note that while the Subject Property is mapped (as required by Clark County) as multiple parcels, it is owned, operated, and used as a single income producing property.

Please note that this zoning/mapping scheme for the Subject Property was somewhat unique to Clark County in 2022, as other jurisdictions subject to Clark County property tax assessments like the City of North Las Vegas and City of Las Vegas had provisions defining townhomes as permissible within multifamily zoning categories. It is FORT’s position that the now rectified code anomaly should not have an inequitable and unjust impact on the Subject Property’s tax treatment, since the way the property(s) is/are used should be the controlling factor in determining value[2].

The Subject Property owner's actions have remained consistent with the ***actual use*** of the assembled parcels as a single income producing property designation throughout the short life of the project. The bound parcels are ***actually used*** as a single, unitary economic project/business.

However, due to the (unique to Clark County) mapping of the Subject Property due to the version of Title 30 in effect in 2022, the Clark County Assessor insists upon valuing each of the

---

[2] It is important to note that FORT made the same argument in its previous appeal and was denied the relief being sought here before the change in the ordinance. To be clear, it is the position of FORT that the County undeniably acknowledged the error by codifying the change in ordinance.

70 lots as an available for sale unit and valued each parcel as it would single family townhomes available for sale ($349,777.44 per unit). The County Assessor then simply aggregated all 79 parcels at this "for sale" valuation. This methodology ignored the ***actual use*** of the Subject Property as a single economic unit rental community, ignored the legal barriers preventing the Subject Property from being sold as individual lots under NRS Chapter 116, and ignored the restrictions placed upon the Subject Property by its developers and creditors making sale of individual parcels difficult, highly improbable, and illegal under their current status. This willful ignorance by the County Assessor has resulted in a unfair and unjust valuation (and corresponding assessment) of $27,632,418.00[3], which is millions of dollars higher[4] than a proper valuation based solely on the cash value derived from the actual operations of the Subject property as a unitary business operation, as deemed appropriate by the Nevada Supreme Court[5].

FORT challenged the Assessor's methodology before ethe Clark County Board of Equalization (CCBE). FORT presented the CCBE with a Broker's Opinion of Value ("BOV")[6] that provides an accurate, third-party, professionally determined method for valuing the Subject Properly (using either the income approach or per unit value calculation for the Subject Property

---

3 Hereafter referred to as Assessor's valuation or County valuation.

4 Despite this fact, the County Assessor erroneously affirmed that its current assessment does not exceed full cash value and is fair and equitable. ***See*** Assessor's "no change" letter in Appendix. This appeal also challenges that affirmation as inaccurate, unfair, and inequitable.

5 ***See*** Canyon Villas Apts. Corp. v. State, 124 Nev. 832, 843,192 P.3d 746 (2008)("When, as in this case, the [multiple unit rental] property produces an income, the income capitalization approach is usually the best [appraisal] method.")

6 ***See*** Northmarq Broker's Opinion of Value (BOV), Appendix.

as a unitary "for rent" community). This BOV supports a fair market value of $24,000,000.00[7] as a just and equitable value for the Subject Property.

Because this fair market value is based upon how the property is ***actually used and would be valued in the open market***, rather than simply focusing on zoning and parcelization as did the County Assessor's valuation, the fair market valuation presented by FORT to the CCBE of a $24,000,000.00 value for the 2026-27 tax year is just, equitable, and based upon a third-party analysis of the actual evidence of value consistent with applicable legal precedent[8].

The Assessor and the CCBE should have equalized the value of the Subject Property to the properly determined fair market value in evidence, rather than the erroneous, unfair and inequitable Assessor's valuation. Appellant respectfully requests the NSBE remedy the CCBE error and adjust the value of the Subject Property to $24,000,000.

II. Standard of Review and Applicable Law

NRS 360.361(1) provides that any aggrieved property owner may appeal a refusal of the Clark County Board of Equalization to equalize the value of real property. The appeal before Nevada State Board of Equalization (NSBE) is limited to the record before the CCBE. NRS

---

[7] Hereafter referred to as the "BOV" or "fair market valuation".

[8] ***See*** Canyon Villas Apts. Corp., ***supra***, 124 Nev. at 843.

361.360(2). However, per NRS 361.385, this brief and that record provide a substantive basis for the appeal and decision by the NSBE.

The review by the NSBE on appeal is directed toward a determination whether the decision of the CCBE was "unjust or inequitable". Montage Mktg., LLC v. Washoe County Board of Equalization, 134 Nev. 294, 297, 419 P.2d 129 (2018). *See also* NRS 360.410(2)(upon judicial review of the CCBE /NSBE, a taxpayer must show that the decision of the Board was "unjust and inequitable", thus by inference requiring the decision to actually be "just and equitable"); NRS 361.430 (upon judicial review, the burden is on the Petitioner to show the equalization decision was "unjust and inequitable", thus also by inference requiring the decision of the Board to be "just and equitable"). By the very terms of NRS Chapter 361, this Board of Equalization ***is imbued with power to make valuation & equalization decisions based on these considerations of "justice and equity".***

In making these just and equitable determinations, the NSBE must consider the legal requirement that the real property in question must be valued based upon full cash value of improved land "consistently with ***the use*** to which the improvements are being put." *See* NRS 361.227(1)(emphasis added). Indeed, NRS 361.227(2)(c) provides that the valuation of a project may be appraised as a unitary project on contiguous parcels if "in the professional opinion of the person determining taxable value, the parcel[s] [are] one of a group of parcels which should be valued" as a collection.

In this case, the record is clear that the Subject Property is being ***used*** as a multi-unit, income producing townhome rental complex on a single parcel and is not being ***used*** as a number of for-sale residential units with each for-sale unit being on an individual parcel. Justice, equity, and law compel a valuation based upon how the project is actually being used. Especially, as there is a single owner. Canyon Villas Apts. Corp. v. State, 124 Nev. 832, 843,192 P.3d 746 (2008)("When, as in this case, the [apartment complex] property produces an income, the income capitalization approach is usually the best [appraisal] method."). *Accord* Canyon Villas Apts. Corp. v. State, 124 Nev. 832, 843,192 P.3d 746 (2008)((holding that income capitalization method is usually best for a single economic unit for-rent project designed and used to produce rental income, while inappropriate for appraising for-sale condominium units designed, established, and intended to be sold, but temporarily being held in inventory and rented due to an economic downturn in the national economy).

Thus, the statutory charge of this Board on appeal is to determine the value -- viewed through considerations of justice and equity -- of a group of parcels as determined by ***how the collective parcels are used***, rather than how they were mapped due to a fluke (since rectified) in the Clark County Code. It is the position of the taxpayer that the change in in the ordinance is an admission of the error in how the property was mapped. Valuation based on mapping rather than use, is not only unjust and arbitrary, but it also now is contrary to NRS 361.227, which requires assessment based upon use.

III. Value of the Subject Property

1. <u>The Clark County Development Code Prevented Mapping the Subject Property as a Single Parcel, Regardless How It was and is Used:</u>

The record before the CCBE shows that at the time the Subject Property was entitled and mapped by Clark County, there was no provision within the Clark County Development Code (known as "Title 30") that provided for multiple rental towneshomes to be developed on a single lot, even if the intent of the developer and the design of the project was to collectively generate income from the townhomes as a rental project.

Initially, FORT had approached Clark County Comprehensive Planning to zone the property as a single parcel of real property to accommodate townhome style units, and to map the parcel ***as a single parcel*** for a single owner using the multi-family residential rental project as an income generating business. However, as stated above, at that time Title 30 did not permit this ***use*** on a single parcel.

Instead, FORT was required by Clark County to down-zone the property from its R-3 master planned designation to R-2 (a less dense use designation). The County also forced FORT to add a Planned Unit Development (PUD) legally linking all the parcels for operational and governance purposes in order to develop the site as townhomes. These County requirements forced the townhome rental project to be mapped with individual lots for the townhome units. Please note that this zoning/mapping scheme was somewhat unique to Clark County, as other jurisdictions subject to Clark County property tax assessments like the City of North Las Vegas and City of Las Vegas defining townhomes as permissible within their R-3 and R-4 multifamily categories.[9]

The Clark County version of Title 30 that the Subject Property was zoned, entitled and mapped was replaced effective January 1, 2024[10]. Title 30 now provides for rental townhomes to be developed on a single lot, much as the incorporated cities of Southern Nevada had previously permitted. The definition of "Multi-Family Dwelling" in Title 30 now reads:

> *Multi-Family Dwelling.* *A building containing three or more dwelling units when not meeting the definition of single-family attached dwelling, with three or more families living independently and the units separated by a common wall, floor and/or ceiling. Townhomes developed on a single lot, as permissible by this Title, shall be included in multi-family dwelling (emphasis added).*[11]

The omission in the prior Clark County code that prevented FORT from maintaining its R-3 zoning (now RM-18) and mapping the Subject Property as a single parcel has been corrected within the new development code. If the Subject Property were identically developed today

---

[9] ***See*** City of North Las Vegas Municipal code section 17.20.020(A)(3) - Use Specific Standards for Townhouse clusters in the city of North Las Vegas, and City of Las Vegas Unified Development Code 19.12 - Table 2 - Permitted Use 19.12.010(B) for Residential Townhouse(s) in Las Vegas; courtesy copies are attached to Appendix.

[10] ***See*** Clark County Code Title 30, Section 30.07.02; courtesy copy attached to Appendix.

[11] ***Id***. Please note that this Clark County definition, which tracks the definition in the Las Vegas and North Las Vegas codes for Multi-Family dwelling, also tracks perfectly with the Land Use Codes adopted by the Nevada Department of Taxation under NAC 361.1178 (*i.e.* land use codes 33 and 34), which emphasize ***the use*** of the real property for valuation purposes rather than the number of parcels used by that project. ***See*** Nevada Property Tax: 2024-2025 Land Use Codes, Nevada Department of Taxation, Local Government Services Division (08/17/2023); courtesy copy attached to Appendix.

in Clark County, there would be no question that the BOV is the only proper valuation of the Serenity Townhomes project on the Subject Property.

For example, under the new version of Title 30, a 7.5-acre townhome project identical to the Serenity Townhomes could be entitled on the Subject Property, be mapped as a single parcel, and would be valued for tax purposes by the Clark County Assessor in a manner different and at a significantly lower cash value than the Assessors valuation of the Subject property challenged herein. The County Assessor's ignoring of the ***actual use of the propert***y (and reliance upon a mapping anomaly) creates a situation in which identically configured and used properties in Clark County would be valued and assessed quite differently, simply depending on whether the identical uses were mapped in 2022 or 2026. A similar disparity in valuation and assessment would occur for identical for projects developed in 2022 in Clark County versus the cities of Las Vegas or North Las Vegas. The Nevada Constitution requires "uniform and equal" rates of assessment and taxation,[12] and such disparity of assessment and taxation violates the Nevada Constitution.

Thus, all the jurisdictions (North Las Vegas, Las Vegas and now Clark County) within Clark County now allow townhome projects to be entitled, mapped, and valued for their ***use*** as multi-family townhome projects, and the fact that Subject Property was not permitted to do the same—***despite the uses being identical***--by the former Clark County development code should not cause the Assessor default to a higher cash value for the identical project its property tax treatment.

---

[12] Nevada Constitution, Article 10, Section 1(1) provides: "The legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory…."

To allow this to occur would be unjust , inequitable, and likely unconstitutional. Allowing it to occur after the County has agreed it is wrong (by changing Title 30 to permit projects like FORT's on a single parcel), would be a step further beyond the injustice and inequity already presented here. The value of the Subject Property must be equalized to a value of $24,000,000.

2. **<u>By Focusing on Zoning and Mapping, rather than the Actual Use of the Subject Property, the Clark County Assessor has Unjustly and Inequitably Increased the Calculated Value of the Subject Property:</u>**

In the challenged assessment, the Clark County Assessor calculated the sales value of each of the Subject Property's townhomes as single family for-sale residences and thereby increased the calculated value of the aggregated Subject Property townhomes to $27,632,418.00 ($349,777.44 per townhome unit), a significant aggregate increase compared to the 2025-2026 tax year.[13]

[13] Compare Assessors valuation to the BOV, included in Appendix. Note: it is possible the Clark County Assessor's valuation actually ignored Uniform Standards of Professional Appraisal Practice ("USPAP") Standard 1-4(e)(an "appraiser must refrain from valuing the whole [of the component parts of an assemblage project] simply by adding together the individual values of the various estates or component parts.") and the comments to USPAP Standard 1-4(e) ("Although the value of the whole may be equal to the sum of the separate estates or parts, it also may be greater than or ***less than*** the sum of such estates or parts." Emphasis added).

The Assessor's valuation is a 1.93% valuation ***increase*** from the prior tax year, despite the reports from Las Vegas real estate community that the median price of condominiums and townhomes in the regional market at the end of 2025 were ***down*** 5.2% year-over-year from December 2024.[14]

Its defense of its questionable decision to value the Subject Property exclusively as a for-sale condo project, rather than using an income approach appropriate for a single economic unit generating income as suggested by the Nevada Supreme Court in Canyon Villas Apts. Corp., the County Assessor has relied heavily upon Montage Mktg., LLC, ***supra***. However, this reliance is misplaced because Montage Mktig., LLC does not involve valuation of a single, designed, income-producing economic unit like the Subject Property. Rather, Montage Mktg., LLC involved a project originally designed, developed, and used as for-sale condominiums, but which were "stuck" in the developer's inventory due to an economic downtown, and which were occasionally rented while being held in the unsalable for-sale inventory. Despite some of the units being rented, the evidence was clear that the developer has taken all the required steps under NRS 116 for a common interest community, had sold some of the units, and the overall project was being ***used*** as an amalgamation of for-sale units held (but not yet sold) in inventory. By contrast, none of the units in the Subject Property are for sale, and the units cannot be made available for sale without the developer taking all the NRS 116 and other steps that have been previously outlined - none of which have ever been commenced for the Subject Property. Instead, the whole of the Subject

[14] ***See*** Fox News article from January 6, 2026, included in Appendix.

property is designed and operated as an income-producing economic unit, and should have been valued as such.

As the BOV in the record shows, its broker author (a leading third-party brokerage of multi-unit projects) used an income capitalization approach[15] for the Subject Property and based on a 2025 adjusted NOI of $1,320,777.00 and a 5.5% cap rate (the broker's most probable scenario), and thereby determined that the valuation for the aggregated income producing project was $24,000,000.00. This accurate valuation, representing full cash value as defined in NRS 361.025, was significantly lower than the Clark County Assessor's flawed valuation of $27,632,418.00.[16] The delta between the BOV values and the Assessor's appraisal should have resulted in an adjustment/equalization of the Assessor's valuation. NRS 361.227.

Note that the BOV also compared price per unit for comparable property sales in the years 2024 and 2025. The BOV determined that price per unit numbers in Southern Nevada for sales in 2025 ranged from $40,506 to $318,035, with only two of the properties exceeding $300,000 per

---

[15] The Nevada Supreme Court has explicitly stated that "[w]hen, as in this case, the property produces an income, the income capitalization approach is usually the best method. Indeed, several jurisdictions have recognized that capitalizing income produced by real property most accurately determined the property's full cash values, and…this court has consistently discussed the income capitalization approach with respect to valuing such property." Canyon Villas Apt.s Corp., *supra*, 124 Nev. at 843.

[16] In focusing on the Clark County' aberrant zoning/mapping of the Subject Property, rather than the project's actual use (and income from that use) and the comparable values for similar project uses in other jurisdictions which permit similar (albeit lower valued) townhome rental projects on a single parcel of real estate, it is also possible the Clark County Assessor's valuation ignored USPAP standard 1-3(a)(i) and (ii) (requiring adjustments in valuation to account for appraisal value aberrations caused by existing and anticipated changes to zoning codes).

unit (this is significantly less than the County Assessor's per unit valuation of nearly $345,000 per unit). Yet, the BOV assessed the most probable value of Subject Property to be $303,797.00 per unit, which when compared to 2025 comparable sales would be the third highest per unit value of twenty-six developments. Even using these very optimistic per unit sales assumptions, the BOV established a value of $24,000,000.00 for the Subject Property.

Thus, even using per unit value assumptions that exceeded recent historic per unit values for comparable projects to test the income capitalization approach for determining value, the BOV valuation for the Subject Property was approximately $3,500,000 less than the County Assessor's valuation. This $3,500,000 delta should have been used to equalize the valuation of the Subject Property.

Based upon the BOV's probable value of $24,000,000.00 for the Serenity Townhomes project, FORT requested the CCBE accept that valuation in lieu of the Clark County Assessor's unjust and inequitable valuation of the property. FORT now requests this Board use that value, derived from actual evidence and effectively adhering to USPAP standards, rather than the flawed and erroneous Assessor's valuation.

FORT respectfully requests the valuation of the Subject Property be equalized to the $24,000,000 value.

3. **<u>The Subject Property was Developed and is Used as a Single Income Producing Development, and it should not be disadvantaged by the Clark County Assessor's Property Tax Treatment:</u>**

It is undisputed in the record that the Subject Property is owned, operated, and used as a single income producing development. Indeed, converting these rental units into units for sale would take several affirmative actions by the owner; none of which have been (nor at the present time contractually could be) taken by FORT.

For example, a review of GISMO[17] would show that deed for the acquisition of the entire 7.5acres in 2022 by FORT from its member-owners remains the ***only deed*** over the 79 units, and a title report would show that the entire project is subject to ***one deed of trust*** that ***does not provide for partial reconveyance by lot***.[18]

FORT would need to remove or replace that loan and its one deed of trust, create separate deeds for each of the seventy-nine units deeding them fee simple title to its parcel and all 79 shared interests in the common areas of the development. FORT would then have to comply with the requirements of NRS Chapter 116 in creating a common-interest community and creating a Homeowner's Association (***i.e.*** obtaining Nevada Real Estate Division approval, Real Estate Ombudsman's approval, Filing of Articles of incorporation with the Secretary of State, and formally approving Bylaws; creating an owner's association

[17] ***See*** NRS Chapter 116 generally.

[18] Since these documents are public records, the NSBE can take official notice of them.

budget; hiring of a licensed property management company; ***etc.***), as well as prepare CC&Rs that benefit and burden each of the parcels within the development.[19]

Only ***after*** completing the above steps to unwind the project, could FORT market the individual townhomes for sale (only ***then*** justifying the Clark County Assessor' valuation-based valuation method). FORT respectfully poses to this Board that such an unwinding of the project would signal a ***change in use*** of the Subject Property, at which time the Assessor's valuation on a per unit market value might actually comply with USPAP standards.

As an additional note, a hypothetical adjacent townhome development approved under the new development code as a single parcel would have to take one additional step, that of getting the project entitled and mapped as separate lots, in order to individually sell its townhomes (a step that would take several additional months but hardly justifies disparate property tax treatment). By contrast, the subject property is so encumbered that any move to sell the induvial parcels would give the County far advance warning of FORT's intent to change its use of the property.

Please note that were FORT ever to commence this unwinding process, Clark County would be notified at various times in the process, such as when a deed is recorded--both initially when the separate FORT to FORT deeds actually recorded and again when any individual parcel is sold to a townhome buyer. Should this unwinding of the project actually

[19] Again, since the Clark County Assessor valuation neither noted nor made adjustments for these factors, it is questionable whether the Assessor's appraisal meets the USPAP standards, including Standard 1-3. Such a flawed appraisal would clearly be unjust and inequitable.

take place, Clark County would receive ample notice and at that time take action to assess the townhome(s) as separate residential units.

However, no such unwinding has taken place or is contemplated. Nevertheless, the Assessor has valued the Subject Property for a value that it ***may*** have only ***if*** FORT took all the steps outlined above. It is this anticipatory overreaching -- this valuation based upon the assumption that the project could be (or has been) unwound -- from which FORT is requesting relief with this appeal.

FORT requests this Board base its decision on the value of what the Subject Property ***is*** now used for (as required by NRS Chapter 361), rather than speculating value based upon what the Subject Property ***could be*** used for. As the Nevada Supreme Court stated in Canyon Villas Apt.s Corp, when an amalgam of residential units is actually operated as a single income producing unit, the proper and most accurate measure of value is one based upon an income analysis.

IV. Conclusion

The Subject Property is owned, operated, and used as a single income producing property, regardless of how it is mapped. It is owned under a single deed, and its individual parcels cannot be alienated from the current owner and operator without that owner jumping through a plethora of legal hoops not currently contemplated. These facts were not considered in the Clark County Assessor's valuation, but justice, equity, and applicable USPAP standards suggest they should have been.

The Subject Property owner's actual use of the Subject Property has remained consistent with this single income producing property designation throughout the short life of the project. This would support a fair market value of $24,000,000.00 as demonstrated by the record.

Thus, FORT respectfully requests the Board to adopt the valuation of $24,000,000.00 for the 2026-27 tax year and equalize the Clark County Assessor's value to this legally supportable, just, and equitable valuation.

Dated this 9th day of July, 2026.

BLACK & GRAF

/s/ Rusty Graf

RUSTY GRAF, ESQ.
Nevada Bar No. 6322
PAUL E. LARSEN, ESQ.
Nevada Bar No. 3756
Black & Graf
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
RGraf@BlackGraf.Law
PLarsen@BlackGraf.Law

JAMES WADHAMS, ESQ
Nevada Bar No. 1115
Wadhams Advisors & Counselors at Law
300 S Curry St., Ste 5&6
Carson City, NV,
jlw@wadhamsnv.com

Attorneys for Fort Apache Townhomes, LLC

CERTIFICATE OF ELECTRONIC/USPS SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of BLACK & WADHAMS and that on the 09 day of July, 2026, served a true and correct copy of the foregoing **Brief of the Taxpayer Fort Apache Townhomes, LLC On Appeal from the Clark County Board of Equalization** by emailing and mailing via the United States Postal Service to the following recipients:

Clark County Board of Equalization:
500 S. Grand Central Pkwy 2nd Floor
Las Vegas, Nevada 89155
BOEAdmin@ClarkCountyNV.Gov

Clark County Assessor's Office:
500 S. Grand Central Pkwy 2nd Floor
Las Vegas, Nevada 89155
AOCustomerServiceREquests@ClarkcountyNV.gov

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

__*/Paul E. Larsen/*_________
PAUL E. LARSEN, ESQ.
Nevada Bar No. 3756
Black & Graf
10777 West Twain Avenue, Suite 300
Las Vegas, Nevada 89135
PLarsen@BlackGraf.Law

Left Intentionally blank