

ASSESSOR SUPPLEMENTAL BRIEF

HERBERT B. KAPLAN
Washoe County Deputy District Attorney
Nevada State Bar Number 7395
One South Sierra Street
Reno, NV 89501
hkaplan@da.washoecounty.gov
(775) 337-5700

ATTORNEY FOR WASHOE COUNTY ASSESSOR

IN THE NEVADA STATE BOARD OF EQUALIZATION

EMPIRE SOUTHWEST LLC,
Petitioner,

vs.

Case No. 261-161

WASHOE COUNTY ASSESSOR,
Respondent.

WASHOE COUNTY ASSESSOR'S SUPPLEMENTAL BRIEF

Respondent Washoe County Assessor ("Assessor"), through undersigned counsel, submits this Supplemental Brief to provide the Nevada State Board of Equalization with additional information to arrive at a resolution in this matter. The hearing in this matter occurred on August 26, 2026. No action was taken during that hearing. As stated by the Chair, another meeting will be scheduled at which the Board will take action on the appeal.

The main issue in this case is whether Empire property that is held for rent or lease is entitled to an exemption from property taxes pursuant to NRS 361.068. NRS 361.068(1) provides that "personal property is exempt from taxation . . . [that is] held for sale by a merchant." That is clear. It is precise.

While there was a lot of discussion of the Department of Taxation Advisory Opinions, those opinions are not binding. And as the Chair aptly pointed out, they could be wrong. Advisory Opinion 23-005, relied upon by Empire, is wrong.

1 Our Nevada Supreme Court, in *Simpson v. International Community of Christ*, 106 Nev.
2 458 (1990), stated “Tax exemptions must be strictly construed against the party claiming the
3 exemption.” The Court even cited *Sierra Pacific Power v. Dept. of Taxation*, 96 Nev. 295
4 (1980), which in turn quoted the following: “Any reasonable doubt about the applicability of an
5 exemption must be construed against the taxpayer.” *Matter of 711 Motors, Inc.*, 56 Haw. 644,
6 547 P.2d 1343 (1976). The *Simpson* case was a property tax case. Those same basic tenets of tax
7 law apply here.

8 As testified by Empire at the hearing, there are two separate fleets—one held for sale and
9 one held for rent/lease. Empire asks that that clear exemption be expanded to include property
10 held for rent/lease that might be sold at some point. Strictly construing the exemption against
11 Empire, which is required, only property that is held for sale is exempt from taxation—property
12 held for rent/lease is not exempt. The Legislature, in providing this exemption, did not provide
13 an exemption for anything other than personal property held for sale. Expanding that exemption
14 to include such property would require the Board to ignore entirely the rules of applying
15 exemptions set forth in *Simpson*.

16 The Washoe County Assessor hopes that this additional information is helpful to the
17 Board in arriving at a decision in this matter.

18 Dated: September 8, 2026.

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20 By: /s/ Herbert B. Kaplan
21 HERBERT B. KAPLAN
22 Deputy District Attorney
23 One South Sierra Street
24 Reno, NV 89501
25 (775) 337-5700

26 ATTORNEY FOR RESPONDENT
WASHOE COUNTY ASSESSOR

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Empire Southwest LLC
Richard Cunningham c/o James Susa
3300 Saint Rose Parkway
Henderson, NV 89052
jsusa@dmyl.com (courtesy copy)

Dated this 8th day of September, 2026.

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