

BOARD OF EQUALIZATION, WASHOE COUNTY, NEVADA

THURSDAY

9:00 A.M

FEBRUARY 10, 2005

PRESENT:

Steven Sparks, Chairman
Gary Schmidt, Vice Chairman
William Brush, Member
Thomas Koziol, Member
John Krolick, Member

Amy Harvey, County Clerk
Peter Simeoni, Deputy District Attorney
Ernie McNeill, Senior Appraiser

The Board met pursuant to a recess taken on February 9, 2005, in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. The meeting was called to order by Chairman Sparks, the Clerk called the roll, and the Board conducted the following business:

WITHDRAWN PETITION

The following petition's scheduled on today's agenda have been withdrawn by the Petitioner:

Hearing No. 0031A Double Diamond LLC Parcel No. 160-480-25
Hearing No. 0031B Double Diamond LLC Parcel No. 160-480-25*

05-61E DISCUSSION – POSSIBLE CONSOLIDATION OF HEARINGS

On motion by Chairman Sparks, seconded by Member Koziol, which motion duly carried, it was ordered that the Board would first consider hearing Nos. 0027, 0028, 0029 and 0030. It was further ordered that Hearing Nos. LT0029, LT0038 and LT0048 be continued and the balance of the hearings scheduled be consolidated into a single hearing.

**05-62E HEARING NOS. 0027, 0028, 0029, 0030 – H. WILLIAM BROOKS –
PARCEL NOS. 142-260-06, 142-260-07, 142-260-08, 142-260-09**

Petitions for Review of Assessed Valuation received from H. William Brooks protesting taxable valuation on land located at Mount Rose Highway, Washoe County, Nevada, were set for consideration at this time. The properties are zoned LDS, and designated Vacant.

Chris Mumm, Appraiser, duly sworn, oriented the Board as to the location of subject property.

Norman Azevedo, attorney representing the Petitioner, was sworn and submitted the following Exhibits into evidence:

Exhibit A, Photographs

Exhibit B, Miscellaneous Appraisal Records

He testified the concern of the petitioner is equalization, as the taxable value of the land for these properties is higher than adjoining parcels in proximity to the subject parcels. Mr. Azevedo said the petitioner sold one of the parcels for an amount delineated on the Assessor's report, and that is what he believes is the basis of their determination of taxable value. He said the information obtained on the taxable values of the adjoining parcels was collected from the Assessor's web site. Mr. Azevedo explained the Map, as listed in Exhibit B, showing the taxable and assessed values of the parcels in that general area.

H. William Brooks, Petitioner, was sworn and testified that his properties were assessed and appraised at double that of his neighbor's abutting properties.

Chairman Sparks summarized that full cash value is not at issue. He said in the State of Nevada there is equalization, which means property must have a taxable value that is in equalization with other similar type properties. The petitioner obtained and presented taxable values for the surrounding parcels stating his taxable value is higher than those parcels and, therefore, out of equalization. Mr. Azevedo agreed.

Appraiser Mumm submitted the following documents into evidence:

Exhibit 1, Assessor's Fact Sheet(s) including comparable sales, maps and subject's appraisal records, pages 1 through 7.

Appraiser Mumm testified that these are all one-acre parcels; and the sales presented in Assessor's Exhibit I, parcels 1 through 4, are selling for approximately \$160,000 to \$187,000. He said these parcels were created for the 2005 tax roll and did not exist prior to this roll. He said statute states when a parcel is created, a value is placed based on the present market value; and that is the value placed on these properties. Mr. Mumm said the petitioner's neighbors were reappraised in the 2003 cycle explaining their lesser value; therefore, it is incumbent on the Board to raise the other properties, not to equalize properties by reducing this one from the real market value in order to try and equalize as stated in NRS 361.355.

Member Krolick asked how many parcels would be involved since this is a new development. Mr. Mumm responded it is up to the petitioner to point out what properties he believes are paying less than they should be because of inequalization. He said it is then up to the Board to direct the Assessor to place those properties on the Roll

at their market value to bring those properties into equalization, if they agree with the petitioner that those properties are unequally valued.

Chairman Sparks responded there would have to be noticing and a hearing to those parcel owners, not just simply directing the Assessor's office.

Member Schmidt asked if the only way to equalize properties within the County is to raise everybody to full cash value. Mr. Mumm, replied if the Board determined the fair market value of these properties was less than the Assessor's value, these values should be lowered; but, if the Board believes the Assessor's value is the fair market value, the other properties should be revised to make them conform to equalization so there is not an over-burdening of the appellant.

Chairman Sparks remarked there are three similar type parcels to the north, and those parcels had a taxable value of \$64,800 for tax year 2003/04 and are now \$135,000 for 2005. Mr. Mumm replied the reason is because those properties are now being developed.

Member Schmidt read NRS 361.356 subsection 3, which states if the Board finds that inequity exists in the assessment of the value of the land and improvements, the Board may add to, or deduct from, the value of the land or improvements either to the appellant's property or the property to which it is being compared to equalize the assessments.

In rebuttal, Mr. Azevedo said this parceling occurred and the map was recorded on May 11, 2004. A factor was prepared by the Assessor, submitted to the Department of Taxation for review, and then submitted to the Nevada Tax Commission where it was approved. He said sales the Assessor thought pertinent were included within that particular factoring process. He said there may have been a sale in the area that has an indicator showing a higher value; however, this taxpayer is asking is to be treated the same as everyone else in Area 1 who was subjected to an eight percent increase. Mr. Azevedo said upon reappraisal, if the Assessor determined an increase was relevant, then that would occur; or alternatively in the upcoming year, if they believe a factor is appropriate in this area, they could do it then.

Mr. Brooks stated some of the adjoining parcels were created nine months prior to him filing his parcel map.

The Chairman closed the hearing.

Based on the FINDINGS that the subject parcels are out of equalization with surrounding properties, as evidenced by the Petitioner's Exhibit B, on motion by Chairman Sparks, seconded by Member Schmidt, which motion duly carried, it was ordered that the taxable value of the land on Parcel Nos.:

142-260-06 be reduced to \$64,800

142-260-07 be reduced to \$64,800
 142-260-08 be reduced to \$64,800
 142-260-09 be reduced to \$71,820

The Board also made the finding that, with these adjustments, the land is valued correctly and the total taxable value does not exceed full cash value.

05-63E	LT0030	NICOLE VENTO, LLC	122-192-06
	LT0031	ALAN AND SAMANTHA GLEN	122-251-11
	LT0032	LANA J. VENTO, TR	122-530-36
	LT0033	CAROL F. BUCK, TR ET AL	123-021-02
	LT0034	CALVIN P. ERDMAN, JR. ET AL	123-021-03
	LT0035	NANCY CUMMING, TR	123-021-07
	LT0036	ESMAIL D. ZANJANI, ET AL	123-151-05
	LT0037	AGNIESZKA M. WINKLER, TR	123-260-07
	LT0039	GARRETT E. & JEAN C. TAYLOR	125-134-14
	LT0040	VIFX LLC	125-531-24
	LT0041	THOMAS AUSTIN, TR ET AL	126-251-08
	LT0042	ROBERT B. & PAULA S. BENDER	126-262-06
	LT0043	FFO LLC	130-230-06
	LT0044	PENO BOTTOM LIMITED PTSP	130-230-07
	LT0045	PENO BOTTOM TRUST	130-230-08
	LT0046	LEONARD I. & ROBERTA GANG	131-211-24
	LT0047	MARGARET A. & TOOMAS REBANE	126-262-08
	LT0049A	BARNHART, JANE A.	123-260-06
	LT0049B	BARNHART, JANE A. (reopen 04/05)	123-260-06

Petitions for Review of Assessed Valuation received from Norman Azevedo, representing the petitioners, protesting taxable valuation on land and improvements located in the Lake Tahoe Basin, Washoe County, Nevada, were set for consideration at this time. The properties are zoned MDS, GR, MDR, HDR, HDS, LDS, SFR, and designated single-family residence, condominium and two single.

As discussed earlier under Consolidation of Hearings, the following petitions filed by Mr. Azevedo are being removed from this agenda due to duplicate appeal filings by Tom Hall, the attorney representing other Lake Tahoe property owners. These hearings will be rescheduled to an as yet undetermined date.

LT0029	CAROL EDWARDS ASSOC	122-181-18
LT0038	DONALD F. FREI, TR	124-062-17
LT0048	EUGENE T. GASTANAGA, TR et al	123-161-06

Josh Wilson, Appraiser, duly sworn, oriented the Board as to the location of the subject properties.

Norman Azevedo representing Petitioner's, was sworn and submitted the following documents into evidence:

Exhibit A, Nevada Tax Commission hearing transcript dated 08/16/04
Exhibit B, Nevada Tax Commission hearing transcript dated 06/25/04
Exhibit C, Adopted Regulation of the Nevada Tax Commission LCB File No. R031-03
Exhibit D, Letter to Campbell & Chinnock dated 04/28/04 re: LCB File No. R031-03
Exhibit E, Notice of Adopted Regulation dated 06/25/04
Exhibit F, Memo from the Attorney General re: Future Ratio Study, Application of Property Tax Regulation R031-013, Locally Assessed Property (8/4/04) to Future Ratio Study
Exhibit G, Nevada Tax Commission Sub-Committee transcript summary from September 27, 2004 hearing
Exhibit H, Nevada Tax Commission Sub-Committee transcript summary dated October 11, 2004 hearing
Exhibit I, Memo from Attorney General to Nevada Tax Commission dated October 6, 2003 re: Proposed Change to Design and Scope of Ratio Study
Exhibit J, Plaintiff's Counter Motion to Seek Leave to Admit Additional Evidence (with exhibits)

Mr. Azevedo testified each one of these taxpayers are involved in District Court litigation. The District Courts have not made a decision disposing of that litigation dating back to the 2003/04 and the 2004/05 tax years. He said in order to protect their rights for the subsequent period of time, he requested the District Court and the Attorney General stay this proceeding. Those offices indicated being uncomfortable doing that, and consequently he is here today to make a record pending a decision of the District Court. Mr. Azevedo said the arguments brought forward in 2003/04, 2004/05 and 2005/06 would all be consistent and addressed the valuations for each of those respective periods. He said the first basis for the ruling was that the valuation increase for this particular year and the base value for the previous two years was based on appraisal methodology not properly included within a regulation under NRS 233B. Mr. Azevedo referenced the submission received from the Assessor's office indicating that Chapter 233B applies to State government and is not applicable to the Washoe County Assessor. He asked if 233B does not apply here, then why are there rules governing the procedures contained in a duly promulgated regulation.

Chairman Sparks asked what specific procedures in 233B the applicant thinks the Board is not following. Mr. Azevedo replied the argument goes back to the Assessor creating valuation methodologies not contained within a regulation and standards applicable in the 2003/04 and 2004/05 years. He said there has been a recent promulgation of regulations by the Nevada Tax Commission, which became effective in August of 2004, addressing the valuation of property. The subject parcels, whether designated view parcel, lakefront or other areas, were valued using a certain methodology not regulated which has now been regulated. Mr. Azevedo said another point pertinent to

the eight percent increase is the factoring process. As discussed, the Assessor prepares the land factor based on sales, and it is then submitted to the Department of Taxation for verification. The Department of Taxation stated they were unable to validate the conclusions reached by the Washoe County Assessor. He said one of the significant issues for his clients was the manner in which the Assessor measured the view; and the new regulation changed that.

Chairman Sparks summarized that the factor and NRS 233B did not follow the methodology as proclaimed by the new regulations. Mr. Azevedo stated that was correct.

Appraiser Wilson submitted the following documents into evidence.

Exhibit I, Assessor's Fact Sheet(s) including comparable sales, maps and subject's appraisal records

Exhibit II, memorandum from Washoe County Assessor dated February 4, 2005

Exhibit III, memorandum, Washoe County District Attorney, dated November 18, 2004.

Exhibit IV, Statistics

Exhibit V, Washoe County Single Family Sales Ratio Summary/Lake Tahoe Area

Exhibit VI, State of Nevada Tax Commission Teleconference Open Meeting dated October 4, 2004

Exhibit VII, State of Nevada Tax Commission Teleconference Open Meeting dated November 1, 2004

Exhibit VIII, Median Sales Price of Single Family Residences for Incline Village

Appraiser Wilson reviewed Exhibit II, a memorandum dated February 4, 2005, responding to allegations cited on the Petitions for Review of Assessed Valuation. He further testified the petitioner referenced in Petitioner Exhibit B, a study performed by Dr. Marvin Wolverton, which stated the mean assessment ratio was 103.9 percent; the median assessment ratio was 74.2 percent with the coefficient of dispersion of 56.3 percent. This presentation was made to the Nevada Tax Commission. Subsequent to the presentation, the Assessor also submitted their own report dealing with the mean and median assessment ratios of the sales which occurred during the same time parameters as established in the Wolverton study. Mr. Wilson said, as to the application and the determination of the factor, the Assessor did not reappraise Incline Village with respect to the newly adopted regulations, and he explained how the factor was determined.

Member Krolick asked for the definition of invalid and bad sales. Mr. Wilson replied the verification codes are listed in Assessor Exhibit V, which would explain if and why sales were excluded.

Mr. Wilson stated the Assessor does not value land analyzing improved sales and believes the newly adopted regulations are requesting an insufficient number of vacant land sales. An improved sales ratio study, with mandated 1.5 percent a year depreciation, would take you further away from market as the property ages. He stated Nevada is not a market value state.

Member Schmidt asked, if a sale re-listed at the same or similar price, would the Assessor use that as a comparable sale; and if it had been re-listed for greater than six months, would it be considered an inappropriate comparable sale. Mr. Wilson said staff looks at sales, not listings,

Chairman Sparks remarked a single sale does not make a market. It takes more than one sale or one listing to make a market.

Member Schmidt asked if the Assessor's office would be willing to re-examine, under the new regulations, the properties in Incline Village for the view assessment. Mr. Wilson said the Assessor's office has an open-door policy and would be willing to make a physical examination of any taxpayer's property.

Member Schmidt requested Terrance Shea, Deputy District Attorney, be sworn in to provide testimony concerning documents he signed that were submitted in Assessor's Exhibit III and read into evidence by Appraiser Wilson. Amy Harvey, County Clerk, swore in Mr. Shea. Member Schmidt proceeded to ask Mr. Shea who his immediate supervisor was. Mr. Shea responded Paul Liparelli, Chief Deputy District Attorney, was his supervisor. Member Schmidt referenced a letter in Assessor Exhibit III where Richard Gammick, District Attorney, was mentioned on the bottom of the letter; however, the letter is signed by Terrance Shea. Member Schmidt said the stated letter "the opinion of this office is that the new regulation should be applied". He asked if Mr. Shea was assigned to the Assessor's Office. Mr. Shea replied he was there to advise them when they ask, and that was one of his assignments.

Peter Simeoni, Deputy District Attorney, questioned the relevance of these questions.

Chairman Sparks also questioned the relevance of these questions, noting the Board is in a middle of a hearing dealing the factoring of Incline Village. He said Board members have the right to consider the weight of the evidence; however, questioning of the Counsel assigned by the County to the Assessor's office is irrelevant.

Member Schmidt responded there are written legal opinions before the Board from a variety of sources; and, without this information, he could not assess appropriately, as an individual Board member, what weight, if any, he would give to those opinions.

11:25 am The Board took a recess.

11:45 am The Board reconvened with all members present.

In rebuttal, Mr. Azevedo testified that the Department of Taxation stated as follows, “an accurate statistical determination either for or against factoring typically could not be made.” He said the Department of Taxation did not agree or disagree with the proposed factor. Mr. Azevedo said the taxpayers for 2003/04 and 2004/05 have always raised concerns over a failure to equalize within the County. He said included in Petitioner Exhibit I, the Assessor cites the ratio study, which pursuant to statute is intended to protect taxpayers from types of issues believed to be present at Lake Tahoe. He further said on page three of that study, the Nevada Tax Commission could not fulfill its statutory mandate unless the ratio study addresses, with respect to any County, each major class of property within that County. Consequently, the ratio study has not provided an adequate basis for the Commission to conclude that all properties subject to taxation within the County have been assessed at the proper percentage. He said, if the Assessor’s office were willing to review his clients’ views based on the new regulation standards and report their findings to the State Board, he would accept that. Mr. Azevedo said alternatively, he is requesting a reduction of the eight percent factor on the grounds that the eight percent was not properly determined based on the current regulations.

Chairman Sparks asked, what evidence has been presented substantiating a different number than eight. Mr. Azevedo responded the eight percent was calculated without taking the regulations into consideration. He said the correct number would have to be the same as the year before, which would be zero or one.

The Chairman closed the hearing.

Member Schmidt stated the Board has alternatives other than a decision. He said at this point in time, with all the documentation submitted for this hearing, he was not prepared to rule on this matter and would like it taken under submission and possibly continued.

Chairman Sparks said the petitioner’s claim for inequity was based on NRS 233B, as far as the appropriate application of appraisal methodology. He believes that 233B is beyond the scope of this Board and that the Assessor has made their case of following appraisal methodology; so, therefore, it should go to the State Board. Chairman Sparks said since there is disagreement on the application of the methodology or the quality of the data to support that methodology, the State Board of Equalization and/or District Court, under the proclamation of how to affect that methodology needs to review. He said the Petitioner thought the factor was inappropriate, and although the State Tax Commission could neither disagree nor agree, they ultimately did approve the factor.

Based on the FINDINGS that the taxable value does not exceed full cash value to the point that 233B was not specifically put into evidence and the factor was approved by the State Tax Commission, as evidenced by the Assessor, on motion by Chairman Sparks, seconded by Member Koziol, which motion duly carried with Member

Schmidt and Member Krolick voting “no,” it was ordered that the taxable value of the land and improvements on the following Parcel Numbers be upheld:

LT0030	VENTO, NICOLE LLC	122-192-06
LT0031	GLEN, ALAN AND SAMANTHA	122-251-11
LT0032	VENTO, LANA J. TR	122-530-36
LT0033	BUCK, CAROL F.TR ET AL	123-021-02
LT0034	ERDMAN, CALVIN P. JR.ET AL	123-021-03
LT0035	CUMMING, NANCY TR	123-021-07
LT0036	ZANJANI, ESMAIL D. ET AL	123-151-05
LT0037	WINKLER, AGNIESZKA M. TR	123-260-07
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LT0044	PENO BOTTOM LIMITED PTSP	130-230-07
LT0045	PENO BOTTOM TRUST	130-230-08
LT0046	GANG, LEONARD I. & ROBERTA FAMTRUST	131-211-24
LT0047	REBANE, MARGARET A. & TOOMAS TR	126-262-08
LT0049A	BARNHART, JANE A.	123-260-06
LT0049B	BARNHART, JANE A. (reopened roll 04/05)	123-260-06

BOARD MEMBER COMMENTS

Member Schmidt commented, while acting Chairman of the Board after Chairman Sparks left the meeting on the evening of February 9, 2005, he distributed copies to the Board of a recommendation to the County Commissioners that they support two changes in NRS related to the Board of Equalization. He also requested this matter be placed on a future agenda to consider a recommendation to both the County Commission and the State Legislature.

PUBLIC COMMENTS

Gary Schmidt, Washoe resident, stated he believed the Board of Equalization’s attorney has an attorney/client relationship with the Board and the attorney for the Assessor’s office has the same relationship with the Assessor’s Office. The District Attorney’s office has acknowledged the so-called “Chinese Walls” are in place, which means opposing counsels from the same law firm would not communicate with each other within the office and would not be supervised by the same person(s).

1:30 p.m. There being no further hearings or business to come before the Board, the Board recessed until February 11, 2005, at 9:00 a.m.

ATTEST:

STEVEN SPARKS, Chairman
Washoe County Board of Equalization

AMY HARVEY, County Clerk
and Clerk of the Washoe County
Board of Equalization

*Minutes prepared by
Stacy Gonzales, Deputy Clerk*