

CARSON CITY BOARD OF EQUALIZATION

Minutes of the February 4, 2003 Meeting

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A regular meeting of the Carson City Board of Equalization was scheduled for 10:00 a.m. on Tuesday, February 4, 2003 in the City Hall Capitol Conference Room, 201 North Carson Street, Carson City, Nevada.

PRESENT: Chairperson Kevin Vukota
Ron Allen
Mary Keating
Roy Semmens

STAFF: Dave Dawley, Assessor
Scott Loff, Chief Property Appraiser
Steve Walker, Property Appraiser
Heather Mandel, Property Appraiser
Jason Woodbury, Deputy District Attorney
Kathleen King, Recording Secretary

NOTE: A tape recording of these proceedings is on file in the Clerk-Recorder's Office and is available for review and inspection during regular business hours.

A. CALL TO ORDER, DETERMINATION OF A QUORUM (1-0001) - Chairperson Vukota called the meeting to order at 10:00 a.m. Roll was called; a quorum was present. Vice Chairperson Saulisberry was absent. Member Keating arrived at 10:19 a.m.

B. DISCUSSION AND ACTION ON PETITION FOR REVIEW OF ASSESSED VALUATION - 2101 KANSAS STREET, APN 9-103-01 (1-0028) - Mr. Loff referred to the petition included in the agenda materials, and identified the property for the record. Bill Hui provided background information on purchase of his property and subsequent development of the adjacent property two years later. He discussed special use permits obtained by the owner of the adjacent property to allow a variance in the setback requirement and installation of machinery outside the building. He circulated photographs of the machinery, and discussed the associated noise pollution. He discussed additional revisions to the building which required additional special use permits. He advised that the neighbor across the street is a semi-truck driver who causes parking problems in the neighborhood. He expressed the opinion that market value should not be used to appraise his property. He further advised that his family lives on a limited income.

Mr. Loff acknowledged that obsolescence is given to this property. It is discounted by \$10,000 because of the adjacent factory, and the improvements are valued at half a class lower than adjacent properties. Mr. Loff advised that the assessment increased slightly because the replacement cost of improvements increased. Other than that, Mr. Hui still receives the same discounts he has been provided over the years. Member Semmens commented that the property is appraised at \$33.08 per square foot lower than surrounding properties. In response to a question, Mr. Hui advised that he purchased the property in July 1978. At that time, the real estate agent did not advise him the adjacent property was zoned industrial. **Member Semmens moved to leave the property at the assessed value. Member Allen seconded the motion. Motion carried 3-0.** Chairperson Vukota advised Mr. Hui of his right to appeal to the State Board of Equalization by March 10, 2003. Mr. Dawley advised Mr. Hui of the State's new rebate program and requested him to pick up an application from the Assessor's Office.

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C. DISCUSSION AND ACTION ON PETITION FOR REVIEW OF ASSESSED VALUATION - 3662 JARRARD COURT, APN 10-621-01 (1-0255) - Mr. Loff identified the property for the record. James Bagwell referred to the map included in the agenda materials, and provided background information on purchase of the property and development of adjacent properties. He discussed development of a drainage ditch next to his property and advised that, because the ditch will be on a 2:1 slope, he will be losing 6.4% of his property to the easement. He expressed the opinion that the assessed value of the property should be reduced by 6.4%. He explained that any future fence will have to be placed on the easement line because the property line "is at the bottom of the bank." He alleged that the Assessor's Office appears to have assigned a portion of the adjacent neighbor's fence to his valuation. He indicated that the neighbor's fence was already installed when he moved in. He described the location of approximately 12' of plastic fence and 26' of permanent fence which he installed for a dog run.

In response to a question, Mr. Loff advised that Mr. Bagwell's property line stops at the end of the cyclone fence. The 20' drainage easement is entirely on the new parcels; none of it is on Mr. Bagwell's property. Every property owner in the development has a utility easement on their property. Mr. Bagwell disagreed and expressed the opinion that the 2:1 slope will be on his property. [Member Keating arrived at 10:19 a.m.] Mr. Bagwell responded to questions regarding the property line, and described how the bank of the ditch will encroach onto his property. In response to a question, he diagramed the ditch, his property line, the location of the fence he plans to construct, and drainage issues associated with the property. He expressed a concern regarding maintenance of the ditch and anticipated erosion problems. He reiterated his request that the assessed valuation be reduced by 6.4%.

Mr. Bagwell acknowledged that lots 12 and 13 are developed, and advised that the original ditch presently runs through the back yards of these lots. Mr. Bagwell acknowledged that the drainage and utility easements were on file with the City Building Department prior to purchase of the lot. Mr. Loff acknowledged that the current assessed value is lower than what the lots are selling for now. In response to a question, Mr. Loff explained the purpose of the current work to straighten and widen the ditch. He referred to the map included in the agenda materials and advised that the entire 20' of ditch is on the new parcels. He acknowledged that the utility easement is different than the storm drainage ditch. In response to a question, Mr. Bagwell advised that the developer is making the adjustments to the property as a requirement for the drainage plan in order that the subdivision can be closed with the City. Mr. Loff responded to questions regarding configuration of the ditch. Member Keating suggested that Mr. Bagwell's issue may be more appropriately addressed with the developer. Mr. Bagwell responded to questions regarding the impact of the ditch on his neighbors. Member Keating pointed out that there would be no reason for the Board to adjust the valuation if it is less than the going rate for the lots. Fence maintenance is the responsibility of the property owner. In response to a question, Mr. Bagwell discussed meetings with City officials to discuss the ditch. **Member Keating moved to leave the assessed value as determined by the Assessor. Member Semmens seconded the motion. Motion carried 4-0.** Chairperson Vukota advised Mr. Bagwell of his right to appeal to the State Board of Equalization by March 10th. In response to a comment, Mr. Loff advised Mr. Bagwell that the Nevada Revised Statutes provide for tax exemption of agricultural, not residential, easements.

D. DISCUSSION AND ACTION ON PETITION FOR REVIEW OF ASSESSED VALUATION - 6701 CENTER DRIVE, APN 009-311-09 AND 6501 CENTER DRIVE, APN 009-311-08 (1-0796) - Mr. Loff identified the parcels for the record. Kathleen Schulz provided background information on the Schulzes' residence in Ormsby County and Carson City. She read prepared remarks into the record, and

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requested that the taxes be reduced until the land can be developed. She expressed the opinion that because of actions taken by Carson City Planning and Community Development staff, the Carson City Planning Commission, and the Carson City Board of Supervisors, the Schulzes' land has "no real value." Donald Schulz also read prepared remarks into the record. He discussed the possibility of the City rezoning the property to four units per acre, according to a specific plan area, which would allow for duplexes, triplexes, four-plexes, and six-plexes on each acre. He advised he would be able to economically develop the land and that there are two contractors who are willing to work with him under this scenario.

Chairperson Vukota referred to the map included in the agenda materials and Mr. Loff responded to questions regarding the location of the race track in relation to the Schulzes' property. Mr. Schulz acknowledged that the Planning Commission is responsible for zoning. Mr. Loff advised that the property is currently zoned single family, one acre. In response to a question, Mr. Schulz asserted that the property is worthless for all practical purposes. He advised that Jim Bawden has expressed an interest in developing the property. Mr. Loff provided background information on the value of parcels in the area, and advised that former Assessor Kit Weaver provided Mr. Schulz a discount in 1995. He pointed out parcels to the south of the Schulzes' property which were developed approximately two years ago at a per lot cost of \$33,000. Mr. Schulz provided background information on the reason for the discount provided by Mr. Weaver.

Mrs. Schulz discussed development of the raceway over the years and the increase in days and hours of operation. In addition, the City has prohibited additional septic systems in the southeast portion of town because of problems with contaminated groundwater. Mrs. Schulz advised that they would never want to develop without sewer. She discussed the master plan amendment filed at the suggestion of City staff. In response to a question, she explained that the value of the property decreased because nothing can be done to economically develop the property. She requested that until Carson City acts on the master plan amendment, which application was received by the Planning and Community Development Department over a year ago, their taxes be "zeroed out" until the area is zoned to the highest and best use. In response to a comment, Mr. Loff advised that the assessment was based on a per-acre valuation. Mr. Schulz expressed the opinion that "behind all of these estimates of value is a given assumption" that sewer and water are available on the property. He stated that City Engineer Larry Werner has informed him there is not enough sewer capacity in the line of the applicable pump station to the Carson City Wastewater Treatment Facility to develop sewer facilities for the Schulzes' property.

Mr. Loff acknowledged that the Schulzes' property should have been appraised at \$6,000 per acre. Member Keating noted that the property was appraised at 1/10 the value for land that could be developed. Mr. Loff further acknowledged that the value of the property, for tax purposes, is \$2,000 per acre. In response to a further question, Mr. Loff indicated that the \$6,000 per acre is from sales in the area of parcels which are comparable to the Schulzes. He explained that the parcels are now selling for \$10,000 to \$12,000 per undeveloped acre. Mrs. Schulz reiterated that the purpose for appearing before the Board is that nothing can be realistically done with the land until the area is rezoned. She reiterated her request that the taxes be temporarily reduced until Carson City rezones the area. She displayed the major project review document, and expressed the opinion that the Schulzes have "met every criteria in trying to do the right thing." She submitted an exhibit indicating what the land would bring in taxes to Carson City if it was developed as the Schulzes wish. **Member Keating moved to leave the value as assessed by the Assessor in the current tax roles. Member Semmens seconded the motion. Motion carried 4-0.** Chairperson Vukota advised the Schulzes of their right to appeal to the State Board of Equalization.

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E. DISCUSSION AND ACTION ON THE PETITION OF THE CARSON CITY ASSESSOR'S OFFICE TO ADD PROPERTY OWNED BY CARSON-TAHOE HOSPITAL LOCATED ON EAGLE VALLEY RANCH ROAD, APNs 008-054-16 AND 007-511-02, TO THE 2002/2003 REAL PROPERTY TAX ROLL (1-1383) - Mr. Woodbury reviewed the Board's request that he research whether a determination that the Carson-Tahoe Hospital ("CTH") property is taxable would have any impact on the bonds. He advised of a conversation with Jennifer Stern, of Swenseid & Stern, who is bond counsel for both the City and CTH. Ms. Stern advised that a determination the CTH property is taxable would have no impact on the bonds. Mr. Woodbury advised that Mr. Pavlakis spoke with Bob Mitchell, of Swenseid and Stern's parent firm, who had a slightly different opinion in that some of the provisions of the bond documents would create the possibility of an impact.

In response to a question, Mr. Pavlakis provided information on Mr. Mitchell's role in developing the bond documents. He referred to the "bond book" compiled by Mr. Mitchell, and advised that the underlying purpose of the bonds was to further the tax exempt purposes of the hospital. Part of that purpose is no private use, indicia of which would be executing a lease or conveying the property to a different entity. Mr. Pavlakis advised he hadn't reviewed the legislative history; however, Mr. Mitchell suggested that the legislative history of the applicable statute would not support imposition of a tax in this particular situation. Mr. Mitchell has referred to various provisions within the bond documents which address private use, in addition to a tax certificate that both the City and the hospital have executed which provides that the proceeds of the bonds would not be used to acquire the tax financed facilities for private use purposes. Mr. Pavlakis referred to discussions which took place at the January 21, 2003 meeting where "it sounded as though the City would agree" that issuance of a building or grading permit would constitute occupancy. He indicated that would be a position the hospital "could live with." He advised of an additional problem, however, in that the City appears to be attempting to impose the tax retroactive to July 1, 2002 on what was tax exempt property at the time. He expressed a concern regarding the precedence this action may set. He suggested that although payment of the tax will not prevent the hospital from proceeding with construction plans, it may result in delaying commencement of construction or have an impact on funds available for other donations to health and welfare organizations. He advised that if no agreement can be reached, the issue may need to be addressed by the legislature. He noted there is no question regarding the purpose of the land.

Member Keating referred to the applicable statute and expressed the opinion that the issue is defined by use of the word "occupy." She referred to discussion at the January 21st meeting wherein Mr. Woodbury informed the Board that there is no case law in Nevada as to the definition of "occupy." She agreed that the legislature may be able to provide some clarification which would allow "occupy" to mean something other than that which is understood by a layman. She commented that "occupy" doesn't mean "running a grader for five hours and turning something into a parking lot." This would be no more of an effort than what the hospital has done in the process of obtaining tax exempt bonds. She discussed her experience with statewide capital improvement projects, and advised that she has never been aware of CIP funds being used to pay any type of tax. She expressed understanding for the City's concern to ensure that non-profit corporations are not allowed to purchase property and hold it for a period of time without developing it.

In response to a question, Mr. Pavlakis advised that the hospital recently received approval of the master plan amendment from the Planning Commission. Construction is anticipated to begin June 1, 2003. Discussion took place regarding the intent of NRS 361.140(2). In response to a question, Mr. Pavlakis advised that the hospital became a 501(c)(3) corporation in January 2002. The non-profit corporation

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acquired the assets of the hospital in March 2002. Mr. Pavlakis acknowledged that the hospital has always operated in a tax exempt status. He clarified that as part of the City, the hospital operated under §115 of the Internal Revenue Code which provided that the income of the hospital was not for tax purposes. In response to a question, Mr. Dawley advised that the property tax for the total year would be approximately \$6,800. However, it would be prorated to the point at which the grading permit is issued.

In response to a question, Mr. Dawley advised that St. Teresa's Catholic Church was on the tax roll until the first service. Member Allen disclosed that he serves on the Carson City Planning Commission. He discussed his opinion of both sides of the issue, and suggested that the 45-acre parcel should be left off the tax rolls. He agreed that the 15-acre parcel intended for medical office buildings which will be leased to physicians should be on the tax rolls. Additional discussion took place regarding the intent of the statute. In response to a question, Mr. Woodbury advised that at the time a building or grading permit is issued, the planning process is essentially over and the owners are authorized to occupy the land.

Mr. Woodbury acknowledged that the City is under an obligation to apply the Board's decision uniformly. He reviewed the language of the statute, and advised that it was up to the Board to decide when actual occupation occurs if the property is to be deemed taxable. He explained his interpretation of the statute was with an eye toward the general scheme which purpose is to prevent a charitable corporation from holding a piece of property, for investment purposes, as tax exempt. Once a building or grading permit is authorized, that is the moment at which the intent is no longer in dispute. The governing body, at that point, has authorized the property owner to do what was planned. Mr. Woodbury acknowledged that the agreement between the hospital and the City to sell tax exempt bonds does not constitute occupancy. In response to a question, Mr. Woodbury advised that the building permit is the final step for construction of the buildings. The building permit is something all organizations have to obtain; a bonding process is not something all organizations have to go through. Discussion took place with regard to ensuring that the decision is applied uniformly. **Member Allen moved to give the hospital the tax exempt status for APN 008-054-16 for the 2002/2003 tax year. Member Keating seconded the motion. Motion failed 2-2.**

Mr. Pavlakis acknowledged that tax exempt bonds were used to purchase the 45-acre parcel and, in response to a further question, advised that the 15-acre parcel was purchased with cash reserves of the hospital. He reiterated that the current intent of the hospital is to develop a portion of the 15-acre parcel for private use which would disqualify that portion from the use of tax exempt proceeds and that property, when it becomes private use, would be taxable. Mr. Pavlakis responded to questions regarding the differences in tax and corporate status when the hospital was a City-owned entity and now that it is a 501(c)(3) non-profit corporation. Mr. Pavlakis submitted that the hospital is currently occupying the land as Mr. Blair has representatives of the hospital regularly visiting the property in order to make presentations to the Planning Commission, to conduct soil evaluations, to determine the type of pilings needed for the foundation, etc. Mr. Pavlakis indicated a willingness, on the part of the hospital, to pay taxes on the 15-acre parcel because its intent is for private use as defined in the Internal Revenue Code. He asked the Board members to consider a common sense approach to this issue. Member Allen explained the intent of his previous motion. Additional discussion took place regarding acquisition of and the purpose for the 15-acre parcel. Mr. Pavlakis advised that the hospital has spent over \$2 million on architects, engineers, consultants, etc. to develop the regional medical center.

Member Allen moved that the 45-acre parcel, APN 008-054-16, will remain off the tax roll as tax exempt property; the other 15-acre parcel, APN 007-511-02, will be placed on the tax roll for the

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2002/2003 tax year. Member Keating seconded the motion. Motion failed 2-2. Mr. Woodbury suggested separating the parcels into two separate motions. **Member Allen moved to place APN 007-511-02 on the tax rolls for the 2002/2003 tax year. Member Keating seconded the motion. Motion carried 4-0.** Mr. Woodbury explained if there is no motion to place the parcel on the 2002/2003 tax rolls, the parcel will remain tax exempt. Mr. Pavlakis suggested that since the Board could not come to an agreement, the petition of the Assessor's Office was not granted. Mr. Woodbury agreed, and requested that the Board take action to place the property on the tax rolls as a matter of procedure. **Chairperson Vukota passed the gavel to Member Keating and moved to uphold the Assessor's request on APN 008-054-16 to place the parcel on the 2002/2003 tax rolls. Member Semmens seconded the motion. Motion failed 2-2.** Acting Chairperson Keating returned the gavel to Chairperson Vukota.

F. DISCUSSION AND POSSIBLE ACTION REGARDING ASSESSED VALUATION OF THE ORMSBY HOUSE, 600 SOUTH CARSON STREET, CARSON CITY, NEVADA, APNs 3-092-02; 3-093-05; 3-096-04; AND 4-061-02 (1-2556) - Mr. Loff advised of a conversation with Don Lehr, who informed him that the renovation project continues. The owners anticipate opening a bar on the ground floor of the parking garage in June, and a portion of the ground floor of the main building in December. Mr. Lehr informed Mr. Loff that the owners have "no problem" with the current assessed valuation of the property. Mr. Loff advised that the Assessor's Office also has no problem with the valuation. He requested Mr. Lehr to address a letter to the Board; however, he never received it. In response to a question, Mr. Loff advised that he has been in the parking garage but not in the main structure. Mr. Loff discussed ongoing construction. Member Allen advised of his main concern that the property is on the current tax rolls at its current value. No formal action was taken.

G. PUBLIC COMMENT ON NON-AGENDIZED ITEMS (1-2654) - None.

H. STAFF REPORTS (1-2645) - Mr. Loff advised that the United Rentals petition was withdrawn. (1-2655) Mr. Dawley thanked the Board for their time.

I. ACTION ON ADJOURNMENT (1-2668) - Member Keating moved to adjourn the meeting at 12:03 p.m. Member Allen seconded the motion. Motion carried 4-0.

Respectfully submitted this 27th day of February, 2003.

ALAN GLOVER, CLERK-RECORDER

By:

Kathleen M. King, Deputy Clerk/
Recording Secretary to the Board of Equalization