

NEVADA COUNTY ASSESSMENT APPEALS BOARD

Meeting Minutes

March 17, 2021

(Meeting was held remotely via Microsoft Teams)

REGULAR MEETING:

Call to Order:

ACTION TAKEN: Chair Bushore called the meeting to order at 9:00 a.m.

The following Board Members present:

Gerald Bushore (Chair)
James Rees

The following Board Member absent:

James Dal Bon (excused absence)

Pledge of Allegiance:

ACTION TAKEN: Pledge of allegiance held.

Corrections and/or deletions to the agenda.

ACTION TAKEN: No corrections noted.

Public Comment:

None.

CONSENT CALENDAR

1. 19/20 Regular Assessment #19-002: Michael Taylor, Applicant. APN# 004-420-066-000. Property located at Cedarson Road, Nevada City, CA. Assessor's current value on the roll: \$518,900. Request for a written stipulation between the Assessor and Applicant for a new stipulated value of \$210,000 (land) and \$240,000 (improvements) for a new value of \$450,000. Findings of Fact are not requested.
2. Supplemental Assessment #S-603: Michael Taylor, Applicant. APN# 032-660-012-000. Property located at Cedarson Road, Nevada City, CA. Assessor's current value on the roll: \$310,000. Request for a written stipulation between the Assessor and Applicant for a new stipulated value of \$150,000 (land) and \$145,000 (improvements) for a new value of \$295,000. Findings of Fact are not requested.
3. 19/20 Regular Assessment #19-004: Michael Taylor, Applicant. APN# 032-660-012-000. Property located at Cedarson Road, Nevada City, CA. Assessor's current value on the roll: \$310,000. Request for a written stipulation between the Assessor and Applicant for a new stipulated value of \$150,000 (land) and \$45,000 (improvements) for a new value of \$295,000. Findings of Fact are not requested.

4. Supplemental Assessment #S-604: Michael Taylor, Applicant. APN# 004-420-010-000. Property located at Sun Shadow Circle, Nevada City, CA. Assessor's current value on the roll: \$200,000. Request for a written stipulation between the Assessor and Applicant for a new stipulated value of \$150,000 (land) and \$9,100 (improvements) for a new value of \$159,100. Findings of Fact are not requested.
5. 19/20 Regular Assessment #19-003: Michael Taylor, Applicant. APN# 004-420-010-000. Property located at Sun Shadow Circle, Nevada City, CA. Assessor's current value on the roll: \$200,000. Request for a written stipulation between the Assessor and Applicant for a new stipulated value of \$150,000 (land) and \$9,100 (improvements) for a new value of \$159,100. Findings of Fact are not requested.

ACTION TAKEN: Chair Bushore introduced the consent calendar and called for a motion to approve.

MOTION: Motion made by James Rees, seconded by Gerald Bushore, to approve the consent calendar, all Agenda Items 1 through 5. On a roll call vote the motion passed unanimously. (James Dal Bon absent.)

ASSESSMENT HEARINGS:

6. 19/20 Regular Assessment #19-012: Ron Arashi, Applicant. Assessment #006-380-053-000. APN 860-000-384-000. Property located at John Bouer Avenue, Grass Valley, Airport Hangar. Applicant's opinion of value: \$53,500. Assessor's value: \$64,839. Findings of Fact are not selected.

ACTION TAKEN: Chair Bushore read the title of the agenda item into the record. Although the Applicant's video was not working his sound was audible, so the hearing moved forward.

Chair Bushore explained that because the property under review is not a single-family dwelling, the Burden of Proof was the Applicant's responsibility, and Ron Arashi, Applicant, concurred.

Tine Mathiasen, Clerk to the Assessment Appeals Board, swore in the following individuals: Ron Arashi, Applicant; and Ernie Thompson, Chief Appraiser.

James Rees noted that only two of the three Board members were present and asked if the Applicant was prepared to proceed with only two members in attendance during the hearing. Applicant Arashi was willing to proceed.

The Applicant reported that he submitted his Exhibit this morning; he was not sure if the Board members received the Exhibits, or if they had an opportunity to review them. Clerk Mathiasen emailed the Exhibits to individuals who were in attendance remotely and provided a paper copy to Chair Bushore who was meeting from inside the County offices.

After receiving the Exhibits, James Rees shared concerns that he was not able to adequately review them on his home equipment. Clerk Mathiasen shared the documents in the Teams environment. Applicant Arashi clarified that the first Exhibit consisted of the Board of Equalization's Property Tax Rules relating to possessory interest and valuation and explained that his intent was not for the Exhibit to be reviewed during the hearing and suggested the Board review them after the hearing. Chief Appraiser Thompson had no objections to the Exhibit and the Chair entered it into the record as evidence.

Applicant Arashi began the presentation, stressing that due to the terms of the lease the property is clearly being overtaxed. The lease as written provides for no extensions and all improvements are to be surrendered upon expiration, and yet they are being taxed more than a fee simple ownership. Not only are they paying rent they are being taxed at the full assessment of their purchase price. Unlike a fee simple purchase where the purchase price is then assigned a portion of the amount toward the land value and the remainder toward improvements, an additional amount above the purchase price has been added to land value. In addition to paying rent and high property taxes, they also have to maintain the public roadway in front of the house, and snow removal is not provided. He urged the Board members to put themselves in his shoes; nothing about the situation seems fair.

Applicant Arashi suggested that other Counties do not handle this situation in the same fashion. He reviewed Napa County's process for assessing Airport hangars, explaining that the term of the lease is taken into consideration when a value is placed on Airport hangar property. In their case, the term is not being taken into consideration. As far as a resale value, the hangars are not purchased for resale. When he is finished using it, the property will be useless.

The Applicant noted that he sent the Board a prepared written statement, and he read it into the record: The following is California interpretation of how Possessory Assessments differ from other assessments. The valuation of Possessory Interests differs significant form other forms of property tax appraisal in that it is the appraiser's job to value only those rights held by the private possessor. The appraiser must not include the value of any rights retained by the public owner or any rights that will revert back to the public owner at the end of the term of possession. As a result, Possessory interest Assessments are normally less, and often significantly less, than fee simple assessments of similar, privately-owned property. The Applicant stressed that this is not the way they are being taxed.

Responding to the Applicant's presentation, Chief Appraiser Thompson explained that the hangar is privately owned, while the land is owned by the County. It is a different situation than the Napa County example. The Applicant is paying the possessory interest on the land. Chief Appraiser Thompson reported that the County has taken into account the terminating term on the lease.

Board questioning and discussion ensued.

Chief Appraiser Thompson began his presentation, reporting that the property in question is a 1,538 square foot Airplane Hangar located at the Nevada County Airpark. The date of valuation is January 1, 2019 and the Assessor is comparing that to the factored base. The hangar space was constructed in 2004 as part of a larger hangar structure. The structure is located at the Nevada County Airport on land owned by Nevada County. After construction, a master lease for the space under the larger hangar structure was created between Executive Hangar Association (EHA) and Nevada County. Chief Appraiser Thompson reported that the lease terminates in 2046. EHA owned the structure and is a private entity; the use of the land represented a taxable possessory interest (TPI) per California Constitution Article XIII, Section 1, and Revenue & Taxation Codes 103, 104, and 107. Many of the individual hangar spaces have been sold by EHA to individuals and subleases for their land portion were created. The transfers represented a change in ownership of the hangars and the portion of the TPI on the land under the hangars.

The Applicant purchased the hangar for \$53,500 in December 2015. The purchase price was enrolled by the Assessor's office as the market value for the space. The value of the TPI was reappraised based on the rent and remaining term of the lease. The value of the TPI was determined to be \$7,600 resulting in a total assess value of \$61,100. This value has been factored under Proposition 13 since then, and the 2019/20 Factored Base Year Value was \$64,830. The Applicant did not agree with the value and filed the Appeal.

Applicant Arashi agreed that if he indeed owns the hangar, he understood the taxation. However, the lease states that upon the end of the lease ownership is surrendered to the County. In that case, he should not be taxed since he does not own it. As far as the resale value, they were done privately, not on the open market; sales have to be done on the open market if values are by comparison. Also, the land value was added; Applicant Arashi asked if that means he does not possess the rights to the land. Chief Appraiser Thompson responded that is the taxable possessory interest, which as a lessee provides

Applicant Arashi with a part of the bundle of the rights. Chief Appraiser Thompson explained that the value of the taxable possessory interest is the value to the landowner; Applicant Arashi could not have purchased the rights from the previous owner as it was not theirs to give.

Chair Bushore redirected the conversation back to the Board members, and Board questioning and discussion ensued.

MOTION: Motion made by James Rees to take the matter under submission and make a decision at a later date following review of the Exhibits entered into the record, after deliberation in closed session.

Doug Johnson, Attorney for the Assessor's office, introduced a case for the Board's review and consideration. He asked if he could provide the information to the Board for their review during deliberation, suggesting the Applicant also be provided an opportunity to provide additional information.

MOTION: Motion restated by James Rees, seconded by Gerald Bushore, directing the parties to submit all of their evidence; in two weeks the Assessor will submit the case law discussed and legal argument to the Clerk of the Board who will provide it to the Applicant and the Board. The Applicant will have two weeks to respond to that information, which will be submitted to the Clerk of the Board, who will provide it to the Assessor and the Board. The matter will then be taken it under submission. The Board will deliberate and reach a decision in closed session, which will be provided to both parties in writing. On a roll call vote the motion passed unanimously. (James Dal Bon absent.)

7. Supplemental Assessment #S-612: Andrew McCadden, Applicant. Assessment #990-004-393-000. APN 040-230-018-000. Property located at Saxon Way, Truckee. Applicant's opinion of value: \$456,750. Assessor's value: \$541,008. Clerk of Assessment Appeal Board requested a postponement from the November 18, 2020, hearing to the January 20, 2021, hearing. Applicant requested a one-time postponement from the January 20, 2021, hearing. Findings of Fact are not selected.

ACTION TAKEN: Chair Bushore read the title of the agenda item into the record.

Tine Mathiasen, Clerk to the Assessment Appeals Board, swore in the following individuals: Andrew McCadden, Applicant; Ernie Thompson, Chief Appraiser, and Matthew McDermott, Appraiser I. Chair Bushore clarified that because the property under review is a single-family dwelling, the Burden of Proof was the Assessor's responsibility.

Clerk Mathiasen distributed Exhibits to both parties, and the Board members, Assessor's staff, and the Applicant took a few moments to review the documents. No objections to the Exhibits were raised by either party.

Chair Bushore shared concerns that there was a lawsuit involved and wondered if the Board should even be hearing the Appeal. James Rees responded that this was the first time he was aware that litigation was involved but could not say whether or not that would prevent them from hearing the Appeal. James Rees requested that in future hearings all of the Exhibits be provided to the Board a week prior to the hearing date to provide the time for review. Rhetta VanderPloeg, Attorney III, explained that one of the individuals named in the lawsuit, Kathryn Reynolds, was ordered ineligible to practice law as of March 31, 2019 and was disbarred from the California State Bar in September 7, 2019. Attorney VanderPloeg saw no reason to prevent the Board from going forward with the hearing.

Appraiser McDermott provided the Assessor's presentation by reviewing the status of the property under appeal, which was built in 2001 and is in average condition with no significant updates. The property transferred ownership in 2019 creating a 100% reappraisable event. The home was purchased from a public auction site at the price of \$456,750. The Assessor did not accept the purchase price as

market value and estimated its market value to be \$525,000. Applicant McCadden contacted the Assessor's office regarding his Notice of Supplemental Assessment and was advised of the process of property assessment valuation upon transfer of ownership. The Applicant believed the sales price to be indicative of market value and filed a formal Appeal.

Appraiser McDermott explained that the Sales Comparison Approach was used as the primary indicator of value. The Assessor's request for an exterior inspection was granted, however the owner denied access for internal photos. The exterior access was limited to the front of home as the rear of the house was blocked by a fence, but Appraiser McDermott was able to view the rear of the house from a parallel street. Comparable sales of four like properties were reviewed, supporting the market value of \$525,000.

Andrew McCadden, Applicant, started his presentation by reviewing the documents provided prior to the start of the hearing. The Applicant's initial opinion of value was \$456,750. After speaking with a real estate professional and attorney, the Applicant now believed the value to be \$435,000, which was the purchase price of the property less the 5% buyer's premium charged by the auction site. The Applicant reported that upon purchase the property required repair due to deferred maintenance along with unknown and unforeseen liabilities associated with the property, including the lawsuit discussed earlier. Applicant McCadden had to disassemble the marijuana grow space in the crawlspace under the structure and was told by a real estate agent that he would have to disclose that in any future sales of the property. Additional issues needing to be addressed included: extensive excavation within the crawlspace; issues relating to deferred maintenance of the mechanical systems; the property being boarded-up to prevent the previous owners' entrance; all utilities being shut off; mold remediation; and ongoing impacts relating to the behavior of the previous owners.

Board questioning and discussion ensued.

The Board members deliberated on the fair market value. James Rees agreed that a reduction in the value was appropriate and based on the information provided by both parties believed the value to be at the lower end of the Assessor's comparables.

MOTION: Motion made by James Rees, seconded by Gerald Bushore, determining the value of the property to be \$514,000.

Board questioning and discussion continued.

MOTION: Motion restated by James Rees, seconded by Gerald Bushore, determining the value of the property to be \$514,000. On a roll call vote the motion passed unanimously. (James Dal Bon absent.)

Applicant McCadden requested an opportunity to provide his closing statement. Chair Bushore reopened the hearing so the Applicant could provide his closing statement, and the Applicant read his statement into the record. Chair Bushore thanked the Applicant and closed the hearing.

Attorney VanderPloeg requested the Clerk confirm the Board's final action on the Appeal. Clerk Mathiasen reported that \$514,000 was the final value decided upon by the Board.

8. 18/19 Regular Assessment #18-023: Dolgen California, LLC (Dollar General), Applicant. Invoke Tax Partners (CTMI, LLC), Agent. APN 035-400-019-000. Property located at Nevada City Highway, Grass Valley. Applicant's opinion of value: \$2,135,155. Assessed value: \$2,962,017. Scheduled for April 20, 2020, hearing and rescheduled (due to meeting cancelation) to May 18, 2020, then .to July 20, 2020. A written stipulation between the Assessor and Applicant for a new stipulated value of \$650,000 (land) and \$1,850,000 (improvements) for a total value of \$2,500,000 was rejected by the Assessment Appeals Board on July 20, 2020, and the appeal was scheduled for full hearing on March 17, 2021. Two-year waiver submitted and approved. Findings of Fact are not requested.

ACTION TAKEN: Chair Bushore read the title of the agenda item into the record.

Tine Mathiasen, Clerk to the Assessment Appeals Board, swore in the following individuals: Peter Villaverde, CTMI, LLC, Agent for the Applicant; Ernie Thompson, Chief Appraiser, and Karen Park, Senior Appraiser.

Clerk Mathiasen distributed Exhibits to both parties, and the Board members, Assessor's staff, and the Applicant took a few moments to review the documents. No objections to the Exhibits were raised by either party.

For the record, Clerk Mathiasen reported that one of the Assessor's Exhibits references an incorrect Application number and confirmed the correct number.

Chair Bushore clarified that because the property under review is not a single-family dwelling, the Burden of Proof was the Applicant's responsibility.

Agent Villaverde agreed with the Assessor's opinion of value in the proposed stipulation and therefore suggested that the Assessor provide their presentation. Although their exhibits may differ, their opinion of value is the same.

Chief Appraiser Thompson remembered that at the previous hearing held on July 20, 2020, the Board raised concerns regarding the lease amounts, and asked if the Board wanted to hear the full presentation or just focus on the Assessor's backup information for the amounts used in the Income Approach.

James Rees remembered the issue was that he, and possibly the whole Board, did not feel there was adequate documentation to reduce the assessed value from the sale price. The lease was one of the issues he had prior to receiving the new Exhibits. It now appears that comparables have been provided clarifying how the Cap Rate was used to get to the value. James Rees believed an abbreviated presentation would be adequate.

Chief Appraiser Thompson provided the section of his presentation that focused on the issues that were raised, entitled 'Rent Survey,' confirming that \$1.63 per square foot is basically the contract rent. It is a little different because Assessor's office has different square footages than the Applicant does. Chief Appraiser Thompson reviewed the Assessor's comparables, which are located in various shopping centers in Grass Valley. Most are a bit smaller, as it was difficult to find comparables that are of the same size as the subject property. All of the leases are adequate for the event date of the assessment. Chief Appraiser Thompson reported that while the subject property is larger than most of the comparables, it is located in a spot in the Brunswick area that is being redeveloped and therefore less desirable. He believed \$1.50 per square foot would be an adequate amount for the property. Additionally, Chief Appraiser Thompson was able to find five comparables that supported the 6% cap rate. The Income Approach supported their proposed value of \$2,500,000, and the Cost Approach they prepared also supported the value. Chief Appraiser Thompson concluded the presentation, recommending the Board approve an allocation of Land value at \$650,000, Improvement value at \$1,850,000, for a total value of \$2,500,000.

Agent Villaverde was in agreement with the Assessor. He briefly reviewed the Applicant's presentation, which was in alignment with the proposed value. Agent Villaverde pointed out the discrepancy in the square footage: his documentation showed the subject property as a 9,002 square foot building, while the Assessor showed calculated it as a 9,100 square foot building. Agent Villaverde reviewed the terms of the lease and confirmed the agreed-upon value of \$2,500,000.

No objections were raised by either party.

MOTION: Motion made by James Rees, seconded by Gerald Bushore, to approve the stipulated value of \$2,500,000. On a roll call vote the motion passed unanimously. (James Dal Bon absent.)

Clerk Mathiasen checked on the May and June hearings. Chief Appraiser Thompson was in agreement regarding the need for the additional hearings, although he wanted to make sure that the Board members were comfortable with the remote hearing process. The need to receive documents before the hearing was discussed, and the Board members requested all documents be provided to the Clerk's office on the Thursday prior to the following Wednesday meeting.

Clerk Mathiasen looked to the Board of Equalization (BOE) for guidance on remote hearings, and it is stated very explicitly that in compliance with Rule 313 and as required for in-person hearings, evidence submitted by a party prior to the commencement of a remote hearing must not be made accessible to the other party until the hearing commences and the subject evidence has been introduced. It does not sound as if the Clerk is *not* allowed to provide it to the Board, but the evidence still has to be submitted in real time to the Assessor and the Applicant and allow enough time for review during the meeting. This guidance was received from BOE in December. James Rees believed this to be fine for the Board's process, as it still allows time for review prior to the hearing.

Senior Appraiser Karen Park shared concerns regarding the amount of time Assessor's staff has to prepare the materials prior to each hearing. She was in agreement with providing documents on the Thursday prior to the Wednesday hearing, clarifying that the concern is regarding potentially shortening that time even further.

Clerk Mathiasen suggested she check the BOE's guidance to ensure she has the most updated guidelines and email it to the Board members. The guidance does provide timelines for submitting evidence.

James Rees shared concerns regarding the amount of hearings that are mounting up and suggested the Safeway Appeal Arashi Appeals be scheduled for the same date.

Clerk Mathiasen asked if James Rees would be willing to come into the Eric Rood Administrative Center for future meetings, suggesting it would be useful to have all Board members in the same space; and 6-foot social distancing could be provided. James Rees concurred.

ADJOURNMENT:

ACTION TAKEN: There being no further business, Chair Bushore adjourned the meeting at 12:13 p.m.



Chair of the Assessment Appeals Board

ATTEST:

By: 
Julie Patterson Hunter, Clerk of the Board