

BOARD OF EQUALIZATION, WASHOE COUNTY, NEVADA

FRIDAY

9:00 A.M.

FEBRUARY 11, 2005

PRESENT:

Gary Schmidt, Vice Chairman
William Brush, Member
John Krolick, Member
Marsha McCormick, Alternate Member
Jerry Hogan, Alternate Member

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

ABSENT:

Steven Sparks, Chairman
Thomas Koziol, Member

The Board met pursuant to a recess taken on February 10, 2005, in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada. County Clerk Amy Harvey administered the Oath of Office to Alternate Member Hogan. The meeting was called to order by Vice Chairman Schmidt, the Clerk called the roll, and the Board conducted the following business:

Vice Chairman Schmidt requested starting the meeting with the Pledge of Allegiance. Peter Simeoni, Deputy District Attorney, stated the Pledge was not on the agenda. In response to Vice Chairman Schmidt's statement that he did not believe it had to be on the agenda, Mr. Simeoni advised the Vice Chairman not to recite the Pledge. Vice Chairman Schmidt asked Member Brush if he wanted to lead a voluntary Pledge, and Member Brush responded he would rather stick to the agenda. Vice Chairman Schmidt stated he would lead a voluntary Pledge, and Member McCormick replied she felt that would put everyone in a very awkward situation. She said, if it was important to the Vice Chairman, he should put it in on a future agenda. Vice Chairman Schmidt stated, since he was Chairman, he would like to request a written legal opinion on whether the Pledge of Allegiance has to be on the agenda.

WITHDRAWN PETITIONS

The following petitions scheduled on today's agenda have been withdrawn by the Petitioner:

Hearing No. 0052B, Sierra Development Company, Parcel No. 011-061-19
Hearing No. 0052C, Sierra Development Company, Parcel No. 011-061-03

ROLE AND FUNCTION OF THE BOARD - DISTRICT ATTORNEY

Peter Simeoni, Deputy District Attorney, stated that, as a result of his observation of the Board over the last few days, he would like to clarify, particularly for the newer members, the role and function of this Board. He said the Board should weigh Petitioner's evidence on disputed assessments for real or personal property and exclude, as much as possible, all personal bias. He said that is the critical and core function of the Board. Mr. Simeoni said comments made about the adversarial role between the Board and the Assessor's Office is not the function of the Board or the relationship it should have with any party, whether a petitioner or the Assessor's Office. He stated the Board's role is to be an individual decision maker.

Mr. Simeoni said, during the course of the hearings, he has attempted to provide the Board with legal advice, which on some occasions has been ignored; and Board members have attempted to interpret legal statutes on their own without the advice of Counsel. He stated NRS 361.340 designates the District Attorney as Counsel for the Board. Mr. Simeoni reminded the Board that the District Attorney represents the Board, but also the interests of Washoe County, as do they. He stated it is inappropriate for the Board to take an adversarial role against either one of the parties.

Vice Chairman Schmidt reminded everyone about the public comments allowed at the end of each hearing on any item not specifically on the agenda. He read into the record NRS 361.340 subparagraph 4 that stated in part that, "the Chairman of the Board of County Commissioners shall nominate persons to serve on the County Board of Equalization who are sufficiently experienced in business, generally, to bring knowledge and sound judgment to the deliberations of the Board or who are elected public officers." He noted that it states sound judgment or knowledge are not necessary for an elected public officer to serve on the Board, but are for a non-elected public officer.

CONSOLIDATION OF HEARINGS

Vice Chairman Schmidt stated no petitions being heard this morning lend well to being consolidated. He said petitioners who are is present will be heard in the order signed in.

05-64E HEARING NO. 0032 – CES MACHINE PRODUCTS, INC
PERSONAL PROPERTY I.D. 2/559-002

A petition for Review of Assessed Valuation received from CES Machine Products, Inc, protesting the taxable valuation on Personal Property I.D. 2/559-002, located at 7755 Security Circle, Reno, Washoe County, Nevada, was set for consideration at this time.

Tom Sokol, Appraiser, duly sworn, oriented the Board as to the location of the subject property.

Norm Azevedo, Petitioner's representative, was sworn and submitted the following documents into evidence:

Exhibit A, Amended financial information for 2001 through 2003
Exhibit B, Authorization for Representation
Exhibit C, Appraiser's 2004 Analysis and Recommendation letter with
March 2, 2004 decision letter
Exhibit D, Appraiser's 2004 Analysis and Recommendation with 2003
Property Tax Declaration
Exhibit E, Appraiser's letter of January 26, 2005 requesting an income
statement
Exhibit F, Equipment Appraisal
Exhibit G, Realtor's brochure for 440 Anitra Drive

Mr. Azevedo testified the Petitioner is requesting the previous year's valuation of \$1,500,000 for the equipment with applicable depreciation, based on the Petitioner's income and the current financial position. He described the type of business, the financial position of the business since 9-11, and the steps taken by the Petitioner to alleviate the situation.

In response to Vice Chairman Schmidt, Mr. Azevedo said Exhibit A should have stated Net Income before depreciation and taxes, not after. He said there is a marginal upward trend following a significant loss. Mr. Azevedo said the amended financial data was prepared in response to a request by the Assessor's Office.

In response to Member Hogan, Mr. Azevedo said there were 40 full time employees. He felt the financial information, as finally supplied by the accountant, was accurate; but he had not seen the backup.

In response to Vice Chairman Schmidt, Appraiser Sokol said last year the equipment was valued from \$1.6 to \$2.1 million, and the Board agreed with the valuation of the April 2003 reappraisal in their decision.

Appraiser Sokol submitted the following documents into evidence:

Exhibit I, Assessor's Fact Sheet(s) including personal property declaration, equipment life, and correspondence, pages 1 through 12

Appraiser Sokol spoke about the personal property declaration, and said that there were no purchases or removal of equipment. He said to evaluate the personal property the Assessor's Office used the items listed in the April 2003 appraisal to which the appropriate replacement costs and depreciation factors were applied.

Ernie McNeill, Senior Appraiser, said the income and expenses for the building should be looked at, and it is totally inappropriate to look at the business income.

Appraiser Sokol said the sales used in the April 2003 appraisal to value the personal property were distress and out of business sales and auctions. He said the items were taken individually and not valued as part of a going concern. He stated that is why the Assessor's Office feels the taxable value should be more than \$1.5 million. Appraiser Sokol said using the State's factors to arrive at a taxable value of almost \$2.1 million for 2004 is appropriate because the Petitioner has not supplied any evidence that indicates the value should be kept where it was 12 months ago.

In response to Member McCormick, Appraiser Sokol said a personal property list is required by July 31st every year, but the Petitioner only referred to the April 2003 appraisal. He said the Petitioner's declaration stated he had the same equipment as 13 months ago.

Vice Chairman Schmidt said the Board was not given evidence packets sufficiently in advance of the hearing to be able to review the packet. He said he would wait until the public hearing was closed to make additional comments.

Mr. Azevedo said there would not be changes to the equipment on a year-to-year basis because they are specialized, large pieces of manufacturing equipment. He said, regarding the relevance of the income information, Appraiser Sokol requested it. Mr. Azevedo thought it was relevant because the equipment is only worth what money it generates. He said the owner would not be selling his house and moving into an industrial building if he were not on the brink of going out of business. Mr. Azevedo said most of the revenues from the business were going toward paying a \$50,000 a week payroll.

Vice Chairman Schmidt said he sees no relevance to the income statement. He asked if Mr. Azevedo agreed it does not appear appropriate to put full weight, if any weight at all, on the previous Board's decision. Mr. Azevedo said every year is a new evaluation. He said to give full weight would be binding on a successive Board, and would not be appropriate. Mr. Azevedo said the taxpayer's bill of rights requires consistency, and in the context of this proceeding, an appraiser valued the equipment the previous year at \$1.5 million. He stated equipment generally does not go up in value from year to year because it is a depreciating asset. He said to rely on the previous year's decision and the appraisal is appropriate given the nature of the property.

Vice Chairman Schmidt said the appraisal should be submitted if Mr. Azevedo wanted it considered for this action. Member McCormick responded that the Board already had the total value of the appraisal and should consider that amount, but did not feel the actual appraisal was necessary. In response to comments by Vice Chairman Schmidt, Mr. Azevedo submitted the appraisal.

Appraiser Sokol said a change in value made by the Board only applies to the fiscal year in which the assessment was made. He stated the Assessor's Office reviews those changes each year and maintains or removes them as circumstances warrant. He spoke about the information and the calculation used to arrive at the taxable value of \$2,096,029.

In response to Member Hogan, Appraiser Sokol reiterated the greatest difference was the \$1.5 million dollar value used prices from auctions and used equipment rather than valuing the business as a whole.

In response to Vice Chairman Schmidt, Peter Simeoni, Deputy District Attorney, stated the 2003/04 ruling by the Board is not binding on this Board, but each member can place weight on the evidence submitted as they chose and as they feel is relevant.

Appraiser Sokol said the Petitioner owned the machine shop, the land, and the building, so the income approach was slightly more relevant last year. He stated this year the value could be a little higher if the Board gives weight to the income. Appraiser Sokol said the appraisal done in 2003 was accurate for 2003 and there would be a definite possibility that there is a value change since then.

Mr. Azevedo said any consideration given to the previous valuation would be greatly appreciated. He said the petitioner is selling his residence to pump the money into the business to maintain it as a going concern. He said, if the Board looked at the total sales line, it indicates the current state of the business.

The Vice Chairman closed the hearing.

Member Brush stated he saw no relevance to the income statement. He said the value of the equipment has not gone up from \$1.5 million last year and would have depreciated further.

Member McCormick agreed, stating she had looked at the reason for last year's lowering of the value because of the company's financial difficulties; and she was torn.

In response to Member Hogan, Peter Simeoni, Deputy District Attorney, said, if the Board reviewed last year's information, the Board could adopt the previous valuation.

Vice Chairman Schmidt stated last year the Assessor placed a value on the equipment of \$2.1 to \$1.6 million. He agreed the income statement is irrelevant, and he supported a value of \$1.5 million.

Member Krolick stated going below \$1,510,825 would not be appropriate. Member McCormick agreed.

Based on the evidence presented by the Assessor and the Petitioner, on motion by Member Brush, seconded by Member Krolick, which motion duly carried, it was ordered that the taxable value of the personal property, I.D. 2/559-002, be reduced to \$1,625,000. The Board also made the finding that, with this adjustment, the personal property is valued correctly and the total taxable value does not exceed full cash value.

HEARING NO. 0042 – ROGER BAYLOCQ AND MARK BJORLIN
PARCEL NO. 006-166-01

A petition for Review of Assessed Valuation received from Roger Baylocq, protesting the taxable valuation on land and improvements located at 1275 Stardust Street, Reno, Washoe County, Nevada, was set for consideration at this time. The property is zoned CC and designated commercial H.

Van Yates, Appraiser, duly sworn, oriented the Board as to the location of subject property.

Roger Baylocq, Petitioner, was sworn and testified that his property taxes increased 25 percent while everyone else in downtown was losing value. He said the building was purchased in 2001 for \$2 million, his net income is down, expenses are up, and the obsolescence from last year was removed. Petitioner Baylocq said the comparable sales were not adequate and the closest comparable, which was not used by the Appraiser, was the Riverboat Hotel that sold last summer for \$2 million. He wondered, if the Riverboat sold for \$2 million, how his property could be worth \$2.3 million. He said a 30-unit motel does not compare to his property, nor does the property in Sparks. He stated he was okay with last year's value of \$1.9 million.

In response to Member Brush, Petitioner Baylocq said he believed the net operating income (NOI) for 2004 should be \$252,000 not \$259,518 as shown on the proforma income statement. He said his NOI is going down, not up, while expenses go up every year without his being able to increase the weekly/monthly rates. Appraiser Yates responded the 2004 proforma NOI was an estimation.

Vice Chairman Schmidt asked what Petitioner Baylocq's source of information was regarding the Riverboat sale. Petitioner Baylocq responded a friend purchased it, and the Riverboat rooms were comparable to his property in size and layout.

Ernie McNeill, Senior Appraiser, stated the Showboat (Riverboat) information was not included because there was not time to analyze the information; but he wondered if it was a going concern or if it was closed at the time of sale. In response to Vice Chairman Schmidt, Petitioner Baylocq said he was not sure.

In response to Member Krolick, Petitioner Baylocq said it was called the Riverboat and 95 percent of his rooms are rented weekly at \$135 to \$150 a week.

In response to Member McCormick, Petitioner Baylocq said his gross income is stable because they cannot raise the room rates. He said he also disagrees with the cap rate, because they are weekly rentals and they very seldom have overnight guests.

Appraiser Yates submitted the following documents into evidence after correcting a clerical error on page 2 under the subject property (NOI-\$305,901; Exp. Ratio-56 percent; OAR-15.3 percent):

Exhibit I, Assessor's Fact Sheet(s) including comparable sales, maps and subject's appraisal record, pages 1 through 20

Appraiser Yates reviewed the comparable sales indicating the closest comparable is IS-1 on Victorian Avenue. He also reviewed the restaurant and bar rents, the weekly rental rates, and proforma versus reported income. He said, to give the property the benefit of the doubt, he used a higher overall rate of return that gives a lower indicated value. He stated, using both the sales and income approach, the taxable value should be upheld. He said a downtown hotel/casino is a different type of property and is not an appropriate comparison. In response to Member Krolick, Appraiser Yates said none of the comparables were franchises.

In response to Vice Chairman Schmidt, Appraiser Yates said there is not a classification for weekly rentals because classification is based on building type. He said he felt that the rooms are weekly rentals was taken into account when selecting comparisons, and the Victorian Avenue property has more economic potential because it is located closer to town. He said he believed there would be a stigma on a downtown hotel/casino that was closed versus an operation that was a going concern.

Appraiser McNeill said the Riverboat was closed at the time of sale, and the Assessor's Office did not verify the sale so he cannot confirm any of the information presented.

Petitioner Baylocq said the Spark's comparable has a better location, but the Riverboat property is very similar to his. He said a casino had not been operated at the Riverboat for five years, it was being rented as a weekly, and his cap rate should be between 13 to 15 percent because of the nature of the rentals. He stated the small comparables were purchased to speculate on the land and would be torn down because 13 hotel rooms cannot be operated economically.

The Vice Chairman closed the hearing.

Member McCormick stated she would give more weight to using the income approach and she supports a 10 percent cap rate. Member Brush agreed.

Vice Chairman Schmidt said he was at the Riverboat auction and he knows it is operated as a weekly rental. He said the Assessor should look at the Riverboat property because it is an appropriate comparable. He stated he would support the income approach, but not the 10 percent cap rate because the Petitioner purchased the property based on a 15 percent cap rate. Vice Chairman Schmidt said he would accept the testimony of the Petitioner as to the Riverboat's sale price because the Assessor's Office had offered no evidence to the contrary, and they had a due diligence obligation to have knowledge of the Riverboat property. He said he supports the Petitioner's recommendation of \$400,000 on the land and \$1.5 million on the improvements with any difference in the improvements being attributed to obsolescence.

Member Krolick said the land was not in dispute, and the land was the real value of the property. He said the stated income may not support a total taxable value of \$2,330,000, but he would not support dropping it to \$2,000,000; and the cap rate should be readdressed to meet somewhere in the middle.

In response to Vice Chairman Schmidt, Ernie McNeil, Senior Appraiser stated the value based on a prorata income of \$259,518, rounded to \$260,000, and a 15 percent cap rate, would be \$1,733,333.

In response to Vice Chairman Schmidt saying it was unanimous that the income approach would be used and an income of \$260,000, Member McCormick stated she did not want to look at any other cap rate. She also said the per unit value and the comparables are great, and the Riverboat is irrelevant; therefore, she did not agree.

In response to Vice Chairman Schmidt, Appraiser McNeil said, using a value of \$1,900,000, the cap rate would be .136842. Vice Chairman Schmidt said, if the requested relief were granted for a total taxable value of \$1,900,000 based upon the income analysis done by the Assessor, the cap rate would be 13.68 percent.

Based on the FINDINGS that economic obsolescence should be applied to the subject property, on motion by Vice Chairman Schmidt, seconded by Member Brush, which motion duly carried with Members McCormick and Hogan voting “no,” it was ordered that the taxable value of the land on Parcel No. 006-166-01 be upheld at \$408,975, and the improvements be reduced to \$1,591,025, for a total taxable value of \$2,000,000. The Board also made the finding that, with this adjustment, the land and improvements are valued correctly and the total taxable value does not exceed full cash value.

11:27 a.m. The Board recessed.

11:40 a.m. The Board reconvened with all members present.

05-66E **HEARING NO. 0053 – ELDORADO RESORTS, LLC**
PERSONAL PROPERTY I.D. 2/287-008

A petition for Review of Assessed Valuation received from the Eldorado Resorts LLC, protesting the taxable valuation on personal property, I.D. 2/287-008 located at 345 North Virginia Street, Reno, Washoe County, Nevada, was set for consideration at this time.

Tom Sokol, Appraiser, duly sworn, oriented the Board as to the location of subject property.

Kelsey Hernandez and Mike Bosma of Grant Thornton, Petitioner representatives, and Earl Howsley, Eldorado Resorts, LLC Finance Director, were sworn and submitted the following documents into evidence:

Exhibit A, Grant Thornton letter with enclosures A through H dated February 7, 2005

Exhibit B, Eldorado Resorts LLC authorization for Grant Thornton representation

Exhibit C, Grant Thornton letter dated January 11, 2005

Exhibit D, Sales Tax Included in Original Declaration, summary

Ms. Hernandez testified that the declaration categories were completely changed this year, and it was difficult deciding where the fixed assets fit into the nine categories. She said the fixed asset list submitted to the Assessor included the sales tax and the net cost calculations were incorrect. She said the corrected amount is included in Exhibit D, and she identified additional corrections provided in Exhibit D.

Ms. Hernandez discussed the items that were listed as part of personal property that should have been included in the base building cost for a casino based on Marshall Swift, and some repairs that should not be part of the declaration. She said the bowling alley should be removed because it does not exist.

Ms. Hernandez said the taxable value requested is \$15,486,157 and the total sales tax is \$3,462,459. She said included in the total decrease is the taxable value for the sales tax of \$1,111,854.56.

Mr. Bosma said the Appraiser's Office was in agreement with about half of the reclassifications.

In response to Member Hogan, Ms. Hernandez said the Statute allows the sales tax to be taken off the cost. Appraiser Sokol said removing the sales tax was not in dispute.

Appraiser Sokol submitted the following documents into evidence:

Exhibit I, Assessor's Fact Sheet(s) including response to Marshall-Swift issues, personal property declaration, asset listing, and Assessor's Appendix A

Appraiser Sokol stated the calculations of the personal property taxable value used the asset listing supplied by the Eldorado and applied the appropriate depreciation and replacement cost factors. He stated the taxpayer and the Assessor were not that far off. Vice Chairman Schmidt interjected \$2 million.

Mark Stafford, Appraiser, stated light, sound, surveillance, security, and alarm are not included in Marshall Swift costs. He said the electrical that serves the systems is included in the base cost, not the systems. He said restaurant costs were not used for any portion of the building, only casino and hotels costs. Appraiser Stafford spoke about stages, flagpoles, and the reporting of the sign repair costs as a taxable item.

Vice Chairman Schmidt asked if the Assessor's Office had a rough estimate, besides the sales tax, on what percentage of the roughly \$2 million they are in agreement with the Petitioner. Appraiser Sokol said using the taxable value of \$17.4 million minus the sales tax is \$16,299,419 taxable value, but the Petitioner's opinion of taxable value is \$15,486,157. He said the disagreement is roughly \$1.1 million. He stated of the \$16.3 million he took out the stage, acoustical ceiling, and slightly over \$100,000 for repairs to the exterior signs. Appraiser Sokol said he did not remove a portion of the stage light costs that would be the permanent electrical or the camera or video monitors as part of the security system. In response to Vice Chairman Schmidt, he said there is a difference between security and surveillance.

Mr. Bosma said the Marshall Swift dollars per square foot for a casino include the surveillance, alarm, and security systems. Appraiser Stafford said the Assessor's Office believes they are not included in Marshall Swift and they need to be included on the secure roll.

Mr. Bosma said they are in agreement with the Assessor's Office on a reduction of \$2,050,000, but disagree on \$330,000 of exemptions that they believe are included in real property, with the majority being the surveillance equipment. He discussed working with the Assessor's Office and the classification of items as real property or personal property based on Marshall Swift. He said the other \$670,000 in dispute is over the life attributed.

Member Brush said the property has come to the Board for a decision on the tax aspect, but it sounds like the Board is being asked to settle an accounting disagreement.

Member McCormick requested examples of what the Petitioner believes should be classified as part of the building cost. Mr. Bosma replied the entire surveillance system, including the bubbles, should be part of the building cost.

Ms. Hernandez provided an explanation of Marshall-Swift charts.

Member Krolick suggested postponing the hearing for the Assessor's Office and the Petitioner to work out their differences.

The Vice Chairman closed the hearing.

Vice Chairman Schmidt said he was opposed to a continuance because it is a small amount of difference in taxable value, and that he favored splitting it approximately down the middle. He said they have a year to work out their differences and make it more accurate for next year. He said apparently there was a new system that made it difficult this year and maybe next year the task will be easier.

Member Brush agreed and said, if the Board wanted to settle it today, they could split the difference.

Member McCormick said the system was new, but all casinos were using it; and, if one assessment was changed, they all would have to be changed. She suggested going with the Assessor's valuation on the items in which there was no agreement, at least for this year, because all of the casinos were done at the same time; and, if there is really a problem, it needs to be worked out with all of the casinos, not just one.

Member Hogan said he felt the Petitioner's position was more reasonable from the evidence presented, and they have convinced him that they are entitled to the reduction.

Vice Chairman Schmidt said he could support that or going somewhere down the middle, but not the Assessor's figure. Regarding Member McCormick's comments, he said, if other parties had petitions before the Board, they would be treated equally; and the Board has the responsibility and authority to treat the appellant before the Board because the appellant raised the issue.

Member Krolick said the Assessor's Office stated the surveillance system was not included in the real property; and, if it were not, the remedy would be to include it in the personal property. He said that adjustment would make the case for the \$16,299,419.

Vice Chairman Schmidt said there is a casino category in Marshall-Swift that lists what is included in that category. He said he believed that the Board had the authority, when assessing the real property of a casino, to potentially include things other than those on the example list that are commonly included. He said that could be an interpretation the Board could make on what is included in the base cost.

Peter Simeoni, Deputy District Attorney, said he agreed with that statement.

Member Hogan said, if he were building a casino, he would factor in the cost of the surveillance system and that is why he would support \$15,850,000.

Based on evidence presented by the Assessor's Exhibit I and Petitioner's Exhibit A, on motion by Vice Chairman Schmidt, seconded by Member Krolick, which motion duly carried with Member McCormick voting "no," it was ordered that the taxable value of the personal property I.D. 2/287-008 be reduced to \$15,850,000. The Board also made the finding that, with this adjustment, the personal property is valued correctly and the total taxable value does not exceed full cash value.

12:37 p.m. The Board recessed until 1:30 p.m.

1:30 p.m. The Board reconvened with all members present as in the morning.

1:30 P.M. BLOCK 2

05-67E **HEARING NO. 0044 – NORMAN AND BARBARA EVANS, ETAL –
PARCEL NO. 055-150-33**

Petition for Review of Assessed Valuation received from Norman and Barbara Evans, Etal, protesting the taxable valuation on land and improvements located at 5555 Franktown Road, Washoe Valley, Washoe County, Nevada, was set for consideration at this time. The property is zoned LDR, GR, OS, MDR and designated vacant, single.

Ron Shane, Appraiser, duly sworn, oriented the Board as to the location of the subject property and stated this was an issue of conversion.

Karen Dickerson, representing the petitioner, and Ed Evans, petitioner, were sworn and submitted the following documents into evidence:

Exhibit A, Map

Ms. Dickerson testified this involved 119.37 acres with the change in zoning not requested or changed on 44.5 acres of the subject parcel. The only zone change occurred on 60 acres, which went to LDR; however, the entire parcel was reassessed back six years to the agriculture deferment. Ms. Dickerson referred to Assessor's Exhibit I, page 3 of 24, that pointed to NRS 361.031 as a basis for the taxpayer to divide the property and not have it all reassessed. She did not read it as the taxpayer separating the property to avoid reassessment of the entire parcel. She said it was assumed only 50 acres would be reassessed and the appellants do not believe six years of back taxes are owed on the agriculture deferment removal. Ms. Dickerson said this property had been designated agriculture since 1971 when the appellants applied for and received the agricultural tax deferment. She stated this property had not changed in use except for a zone change while the Assessor had not considered this as remaining agricultural property. The appellants did not realize a zone change would take away the tax deferment. As a final point, she stated if back or current taxes are owed, the County did not use similar comparable properties to fairly assess the property. She said the 44.5 acres, which remain in agricultural zoning front on Franktown Road, the 60 acres rezoned to LDR front on Old Highway 395, which was a million dollar difference. The appellants felt the reassessment is out of line.

Member McCormick asked if the Evans requested the zone change for one portion because of future development plans. Ms. Dickerson said the appellants requested the zone change on 60 acres in the event of placing that part of the ranch on the market in the future.

Vice Chairman Schmidt asked if the parcels were originally 5 acres. Ms. Dickerson replied yes, when the property was first purchased in 1971.

Vice Chairman Schmidt cautioned Legal Counsel, Peter Simeoni, not to have private conversations with Board members, and all comments should be directed to the Chairman when recognized. Member Hogan apologized and said he had not realized that was the rule. Vice Chairman Schmidt said it was a new rule for this Chair. Mr. Simeoni requested all Board members be advised when new rules have been imposed or adopted so the Board could be aware of them. Vice Chairman Schmidt replied he had just advised them of the new rule.

Vice Chairman Schmidt asked if the appellants were requesting the entire parcel be maintained in the agricultural deferment or just the part not recently rezoned. Ms. Dickerson responded it was the appellants understanding they could apply for the agricultural deferment on the entire parcel for this year and receive it since it was still being used as agriculture.

Appraiser Shane submitted the following documents into evidence:

Exhibit I, Assessor's Fact Sheet(s) including comparable sales, maps and subject's appraisal record, pages 1 through 24

Appraiser Shane reviewed sales of comparable properties substantiating the Assessor's total taxable value does not exceed full cash value. He further testified the act of conversion was not unique to the Assessor's office. The legal justification for the conversion for this subject was NRS 361A.031 as listed in Assessor Exhibit I, page 3 of 24, "a change in zoning to a higher use made at the request of the owner." The Assessor's office attempted to apply the law equally when it fits the situation. He said NRS did not say only part had been converted when the entire parcel had a zone change to a higher use, in this case residential. He said to avoid the creation of a parcel prior to a zone change would require splitting the parcel so the portion rezoned could exist, then the Assessor would only apply the conversion to that portion. Mr. Shane said NRS 361A.270 states, "ceases to be used exclusively for agricultural use or is converted." He said in addition, as stated in paragraph two of sub-section one NRS 361A.270, an option was open to the appellant, but not utilized, requiring a notice by section one stating an owner of agriculturally accessed land who wished to have a portion of the parcel converted to a higher use rather than the entire parcel must record and transmit to the County Assessor a survey of the portion of the parcel to be converted. The survey must be transmitted to the County Assessor at the same time, as the notice required by sub-section one; the recordation of a survey pursuant to this sub-section does not create a new parcel. Mr. Shane said under NRS 361A.155 going back seven years would be a standard practice, when any portion of agricultural land was converted to a higher use the County Assessor determined its taxable agricultural use values against which to compute the deferred tax for each fiscal year the property was under agricultural assessment during the current fiscal year and the preceding six fiscal years.

Ms. Dickerson rebutted, the conversion took place on 50 acres, the agriculture zoning stayed the same and a change was not requested for the remaining acreage. She said it may be standard practice to go back seven years; however, her perception of the statute does not tell the owner the agriculture deferment could go back.

Vice Chairman Schmidt asked if the appellant was contesting the loss of the agriculture deferment program for the entire parcel or just the portion not rezoned. Ms. Dickerson replied the appellant would contest it for the entire portion but would accept whatever was offered. Vice Chairman Schmidt asked appraiser Shane if the appellant had completed the record of survey prior to the zone change would that have protected the portion of property without a zone change. Mr. Shane said that was correct, the survey had not been used prior to a zone change.

Member Hogan asked Mr. Simeoni, after hearing the application of statute to the facts, was there any legal opinion that differs. Mr. Simeoni replied, no, in reading NRS 361A.031, dealing with converted to higher use, clearly of the four descriptions of conversion to a higher use as defined, subsection two does not include subsection D, in harmonizing with NRS 361A.270. The particular owner had available to them a means by which they could designate a remaining portion of a parcel as maintained in agricultural use. Therefore, he agreed with the Assessor's office interpretation.

The Vice Chairman closed the hearing.

Based on the FINDINGS that the land and improvements are valued correctly and the total taxable value does not exceed full cash value as evidenced by the Assessor's appraisal of the subject property, on motion by Member Krolick, seconded by Member McCormick, which motion duly carried with Vice Chairman Schmidt voting "no," it was ordered that the taxable value of the land and improvements on Parcel Number 055-150-33 be upheld.

2:50 pm The Board recessed

3:00 pm The Board reconvened with all members present.

05-68E **HEARING NOS. 0052A, 0052D, 0052E, 0052F, 0052G, 0052H, 0052I**
- SIERRA DEVELOPMENT COMPANY - PARCEL NOS. 011-072-
13, 011-062-27, 011-062-13, 011-062-15, 011-062-12, 011-162-14, 011-
062-28

Petitions for Review of Assessed Valuation received from Sierra Development Company, protesting the taxable valuation on land, improvements and personal property, located at P.O. Box 2071, Reno, Washoe County, Nevada, were set for consideration at this time. The property is zoned CB, HCD and designated casino/hotel/general/commercial.

Mark Stafford, Appraiser, duly sworn, oriented the Board as to the location of the subject property.

Jeffrey Wilson, Petitioner, was sworn and submitted the following documents into evidence:

Exhibit A, NGC-17 Financial Statements

Petitioner Wilson testified that he had accepted the revised recommendation of the Assessor's office on the Cal-Neva properties, including the unsecured personal property. The figure was \$13,750,000 for the Hotel/Casino and \$2,375,000 on the First Street Parking Garage.

Appraiser Stafford submitted the following documents into evidence:

Exhibit I, Assessor's Fact Sheet(s) including comparable sales, maps and subject's appraisal record, pages 1 through 56

Appraiser Stafford reviewed sales of comparable properties substantiating that the Assessor's total taxable value does not exceed full cash value. He further testified the recommendation was found on Assessor Exhibit I on page 5 of 56. Mr. Stafford said he segregated out all the revenue and expense items associated with the Cal-Neva Club. A number of adjustments were listed that separated out the satellite sports book income, Virginian Hotel Income, and the Nevada Tower to reach EBITDAR (earnings before interest, taxes, depreciation, amortization & rent), for the Club Cal-Neva.

Jeffrey Wilson, Petitioner, agreed with the recommendations and the current valuation of the properties.

The Vice Chairman closed the hearing.

Based on the FINDINGS that obsolescence should be applied, as evidenced by the Assessor's and Petitioner's Exhibits, and as recommended by the Assessor, on motion by Member Brush, seconded by Member Krolick, which motion duly carried, it was ordered that the taxable value on land, improvements and personal property be reduced as follows. The Board also made the finding that, with these adjustments, the land, improvements and personal property are valued correctly and the total taxable value does not exceed full cash value.

<u>PARCEL</u>	<u>LAND</u>	<u>IMPROVEMENTS</u>	<u>TOTAL</u>
011-072-13	\$1,427,000	\$ 847,090	\$2,274,090
011-062-27	\$1,391,300	\$ 922,019	\$2,313,319
011-062-13	\$ 503,378	\$1,903,017	\$2,406,395
011-062-15	\$ 310,725	\$1,106,602	\$1,417,327
011-062-12	\$ 259,643	\$ 955,261	\$1,214,904
011-062-14	\$ 247,710	\$ 875,838	\$1,123,548
<u>Total Real Estate</u>	<u>\$4,139,756</u>	<u>\$6,609,827</u>	<u>\$10,749,583</u>
<u>Unsecured Personal Property</u>			<u>\$ 3,000,417</u>
<u>Total Cal-Neva Operations</u>	<u>\$4,139,756</u>	<u>\$6,609,827</u>	<u>\$13,750,000</u>
011-062-28	\$1,087,200	\$1,287,800	\$2,375,000

BOARD MEMBER COMMENTS

Vice Chairman Schmidt requested placed on the next available agenda and all future agendas the Pledge of Allegiance. Member McCormick asked if this was a decision of the Chair. Vice Chairman Schmidt remarked the placing of items on an agenda was at the discretion of the Chair. Member McCormick suggested Vice Chairman Schmidt was abusing his discretion, since he was not usually the Chairman and was using this opportunity to change the normal course of events. She said if it were important, the entire Board, who sit regularly when the Chairman was present, should discuss it, rather than on the Vice Chairman's "one-shot". Vice Chairman Schmidt also requested scheduled an additional meeting of the Board for March 1, 2005 at 9:00 am. He said this would be to consider policy and/or procedural matters, which may include adoption of policies, sending letters of recommendation to the County Commissioners, the State Department of Taxation, the State Department of Equalization, the State Legislature, the Assessor's office, and the District Attorney's Office, concerning any issue being discussed or resolved at that meeting. He said specific items to be included would be, notice of hearings, early submission of evidence, legal representation, and rules and rules of order. Member McCormick stated she believed this was again abuse of the Vice Chairman's discretion since these issues had already been discussed and decided. Vice Chairman Schmidt ruled Member McCormick out of order since she was not aware of the actions or the discussions of this Board in the past, and her statements were incorrect.

PUBLIC COMMENTS

Gary Schmidt, Washoe resident, read section 405, page 21, of the Open Meeting Law Manual.

3:38 p.m. There being no further hearings or business to come before the Board, the Board recessed until February 14, 2005, at 9:00 a.m.

ATTEST:

GARY SCHMIDT, Vice Chairman
Washoe County Board of Equalization

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

*Minutes prepared by
Jan Frazzetta, Deputy Clerk
Stacy Gonzales, Deputy Clerk*