

BOARD OF EQUALIZATION, WASHOE COUNTY, NEVADA

TUESDAY

8:30 A.M.

FEBRUARY 28, 2007

PRESENT:

Pat McAlinden, Vice Chair
James Covert, Member
Benjamin Green, Alternate
Gary Schmidt, Member
John Krolick, Member*

Nancy Parent, Chief Deputy County Clerk
John Bartlett, Deputy District Attorney

The Board convened in the Washoe County Administration Complex, Health Department Conference Room B, 1001 E. 9th Street, Reno, Nevada. Vice Chair McAlinden called the meeting to order, the Clerk called the roll and the Board conducted the following business:

8:30 A.M. – BLOCK 1

Member Schmidt requested an immediate copy of every document and paper provided to the Chair that had not been provided to other Board members and also asked that copies be placed on the table for the public. He pointed out the public was entitled to copies of each and every document provided to Board members for consideration in the hearing process and asked for a recess until one or more copies of the 2007 Board of Equalization Manual that had been provided to members could be placed on the table for the public. Vice Chair McAlinden commented there were petitioners waiting for their hearings and she thought it would be inappropriate for the Board to recess. Member Schmidt expressed his belief that noncompliance with his request would be a violation of the Open Meeting Law and every action of the Board for the rest of the day would be subject to being set aside by the court or the office of the Attorney General.

Deputy District Attorney John Bartlett inquired as to what documents Member Schmidt was referring to. Member Schmidt indicated the Chair had read from a document the previous day where she made a declaratory statement in regard to what the Board could or could not consider in relation to the Nevada Supreme Court ruling. Vice Chair McAlinden stated she had read from the Nevada Revised Statutes (NRS) the previous day. Member Schmidt alleged this was a nonsensical statement because the NRS did not refer to the Supreme Court ruling concerning Incline Village. Mr. Bartlett observed that the manual Member Schmidt referred to contained copies of the applicable statutes and regulations germane to the work of the Board. Since the information was already publicly available through a number of sources, he did not see any reason to make copies for those in the audience and did not see any violation of the Open Meeting

Law. According to Member Schmidt, the Open Meeting Law clearly stated documents provided to Board members must be provided to the public, whether they were public records or law or not. Mr. Bartlett repeated that the documents were already publicly available. Member Covert asked what position was supported by case law. Mr. Bartlett stated he was not aware of any authority that said, if each member of the Board of County Commissioners had a copy of the relevant laws they were supposed to enforce, that those had to be provided to each and every member of the audience. It was information already in the public domain, not information only accessible to Board members and staff.

Based on the advice of counsel, Member Covert suggested the Board move on with its business. Member Schmidt objected, citing NRS 241.020-5. Member Covert suggested that Member Schmidt make his objections during the comments section of the agenda. Member Schmidt declared that Member Covert was not chairing the meeting. Vice Chair McAlinden expressed support for Member Covert's suggestion. Member Schmidt quoted, "Upon any request, a public body shall provide, at no charge, at least one copy of any other supporting material provided to members of the public body."

Vice Chair McAlinden asked legal counsel about the process for removing a member of the Board from a meeting if they were disruptive. Member Schmidt indicated he would leave if the Chair requested him to, but the request would be "at her own peril". Member Green stated there was a great deal of work before the Board and he believed petitioners were there to have their concerns aired, not to hear the petty arguments of the Board. He referred to the posted agenda, which called for comment at the end of the hearing and commented that anybody's opinion would be relevant at that time. In the meantime, he thought it would be prudent to get started. Vice Chair McAlinden asked counsel to answer her question. Mr. Bartlett indicated he had not looked it up specifically but if it were the consensus of the Board that one member was obstructing the operations of the Board, he believed that particular member could be asked to leave. He did not believe the Board was at that point yet and suggested they move on with the agenda. Vice Chair McAlinden agreed to proceed.

WITHDRAWN PETITIONS

The following petitions scheduled on today's agenda had been withdrawn by the Petitioners:

- Hearing Nos. 593A, 593B, 593C, 593D, 593E, 593F and 593G
Golden Road Motor Inn, Inc.; Parcel Nos. 020-254-57, 024-040-08,
024-040-06, 020-254-40, 020-254-37, 020-254-38 and 020-254-39
- Hearing No. 58; LBA Realty Fund II WBP III LLC; Parcel No.
025-374-06
- Hearing Nos. 597, 598, 599 and 600; Red Hawk Land Company LLC;
Parcel Nos. 522-030-01, 522-030-02, 522-030-03 and 522-030-04
- Hearing No. 602; Loeb enterprises LLC; Parcel No. 522-793-01

07-76E **PETITION NOT TIMELY FILED – HEARING NO. 1066 – JOHN NEERHOUT, JR. – PARCEL NO. 123-271-08**

***8:40 a.m.** Member Krolick arrived.

A petition for Review of Assessed Valuation was postmarked February 20, 2007 and received in the Assessor’s office February 22, 2007 from John Neerhout, Jr. protesting the taxable valuation on land located at 120 Highway 28, Unit #40, Crystal Bay, Washoe County, Nevada. The property was zoned MDS and designated condominium or townhouse.

Following discussion, on motion by Vice Chair McAlinden, seconded by Member Covert, which motion duly carried, it was ordered that the petition by John Neerhout, Jr. be denied due to late filing based upon Nevada Revised Statutes 361.355, 361.356 and 361.357.

CONSOLIDATION OF HEARINGS

Vice Chair McAlinden indicated the Board would consolidate items as necessary when they each came up on the agenda.

07-77E **HEARING NO. 590 – BARTA INVESTMENTS INC. ETAL – PARCEL NO. 012-231-26**

A petition for Review of Assessed Valuation was received January 16, 2007 from Leslie Barta protesting the taxable valuation on land and improvements located at 280 Greg Street, Reno, Washoe County, Nevada. The property was zoned IC and designated commercial or industrial.

Senior Appraiser Gary Warren, duly sworn, oriented the Board as to the location of the subject property.

Petitioner Leslie Barta, duly sworn, submitted the following documents into evidence:

Exhibit A, Petitioner’s handout titled “Improper Factor Methodology” with supporting documents titled “Exhibit 1” through “Exhibit 6”.

Mr. Barta stated he was among a group of Incline Village residents who spent approximately two years working with the Nevada Tax Commission at meetings, hearings and workshops to develop the new set of regulations approved August 4, 2004 in NAC 361.118 and 361.119. He was therefore very familiar with the process, language and intent of the regulations, which were developed for the purpose of giving assessors a method with which to measure the full cash value of land. Mr. Barta expressed frustration that certain assessor’s offices still had their own methods and pointed out the recent Supreme Court ruling that assessors must follow the methods prescribed by the

Nevada Tax Commission for valuing land. He pointed out the mandatory provision in NAC 361.624, under which the county board of equalization is required to equalize property both geographically and, if relevant, throughout the county.

Mr. Barta discussed the legal arguments supporting his position, outlined in detail in Petitioner's Exhibit A and summarized as follows:

- (1) It was absolutely mandatory that assessments comply with regulations. (See Exhibit 1: Supreme Court decision in Bakst)
- (2) Like physical reappraisal, factoring must comply with Nevada Tax Commission regulations. (See Exhibit 2: NRS 361.260)
- (3) The methodology prescribed by the Nevada Tax Commission for appraising the full cash value of land was the comparable sales approach. (See Exhibit 1: Supreme Court decision in Bakst)
- (4) The comparable sales approach was set forth in NAC 361.118. (See Exhibit 3: NAC 361.118)
- (5) The Lake Tahoe Special Study would be an example of the comparable sales approach used to develop a ratio study or factor. (See Exhibit 4: Lake Tahoe Study Plan)
- (6) The methodology used by the assessor was not the comparable sales approach and was not authorized by any statute or regulation. (See Exhibit 5: Assessor's Factor Summary)
- (7) The Assessor increased the taxable land value by a factor of 23% using a method of assessment that was not authorized by the Nevada Tax Commission regulations. The factor assessment must be declared invalid and the taxable value of land for the subject property must be reduced to \$750,100, its 2006/07 value.

Member Covert referenced Mr. Barta's comment that values had gone up but the question was how to measure the increase. He asked if the sales price of the property itself would not be the most reliable measure. Mr. Barta stated he was in favor of legislation or changes to the system that would allow consensus about what constituted a verified selling price. He pointed out the vast majority of properties had to be valued without a sale, necessitating the use of comparable sales of similar land with similar use and location. Member Green asked if the price paid by a knowledgeable person at the time of purchase could not be used as a measure of value. Mr. Barta indicated, although reasonable people could come up with a reasonable idea of a property's value, opinions differed and the law required anyone appraising the full cash value of land to use the specific methods prescribed by the Nevada Tax Commission. He added that county and State boards of equalization were also required to comply with those regulations.

Member Covert asked about the four alternative methods in addition to abstraction that had been provided to assessors in NAC 361.119. Mr. Barta stated there were other methods given but only the abstraction and allocation methods were applicable to residential property. He pointed out the comparable sales approach for valuing vacant land could not be used because there were not enough vacant land sales in

the area. The abstraction method was therefore used, which took improved property sales and subtracted all components of value that accrued to the improvements, leaving the land value as the remainder. Mr. Barta stated there was still no fixed definition for “vacant land”, although there were components of value such as developer’s profit and developer’s costs for the improvements. He observed that one had to want to learn the value rather than try to reestablish a preexisting view of what the value should be in order to do it properly.

Member Green asked if off-site costs were considered a component of improvements and wondered if vacant land could be defined as its value with no improvements but still including value for things such as frontage. Mr. Barta explained there was a definition in the regulations for improved land, something like ‘land upon which there was an improvement sufficient to identify use’. He pointed out one definition for vacant land could be ‘land that had the minimal amenities necessary for building’ and stated that distinctions had been made in the law for raw land upon which there was absolutely no form of improvement. As far as off-site costs were concerned, Mr. Barta commented they had been used on occasion to make adjustments to the purchase price of land.

Member Schmidt asked Mr. Barta if he had been present during his earlier request for records under the Open Meeting Law. Vice Chair McAlinden inquired whether Member Schmidt had a question for the Petitioner that was pertinent to the appeal. Member Schmidt noted Mr. Barta’s reference to the Supreme Court ruling and stated there were Board members present, including and specifically the Chair, who alluded and proclaimed that the Supreme Court ruling had no effect or relevance outside its application to 17 specific properties. Vice Chair McAlinden commented that Member Schmidt was misquoting her. Member Schmidt pointed out she had read from a document that appeared to have been coached and he had requested a copy of the document. Vice Chair McAlinden again asked Member Schmidt if he had a question for the Petitioner that was relevant to the appeal. Member Schmidt asked Mr. Barta to respond to the position that the Supreme Court ruling had no effect outside of 17 specific parcels.

Mr. Barta explained that the Supreme Court decision in Bakst contained a specific citation stating that any taxpayer affected by any of the four disputed and unconstitutional methodologies was entitled to have his or her taxes rolled back to the level presumed proper, which was 2002/03, and was entitled to a refund of all excess taxes. He thought it was clear what the direction of the Court was and that the Court’s decision applied to a lot more people than just the 17 who had been parties in the case. He conceded there was no language in the Bakst decision that immediately enabled refunds for everyone in Incline Village for retroactive years, although individuals could seek legal remedies for that. Mr. Barta stated any current assessment that was under appeal and affected by the unconstitutional methodologies was directly subject to the rulings of the Supreme Court in Bakst.

County Assessor Josh Wilson and Senior Appraiser Gary Warren submitted the following documents into evidence for the subject property:

Exhibit I, Assessor's fact sheets including comparable sales, maps and subject's appraisal records.

Exhibit II, Assessor's packet dated February 8, 2007 with attachments A through J discussing legal issues.

Exhibit III, letter dated 5/7/1996 from the Nevada Department of Taxation to users of the "Manual of Assessment Policies and Procedures".

Exhibit IV, NAC 361.144, NAC 361.146 and NAC 361.150.

Mr. Wilson noted the core of Mr. Barta's argument seemed to revolve around the factoring process and the Supreme Court decision. He read from pages 3 and 4 of the Bakst decision, "The Supreme Court in Bakst recognized that the factor method of valuation is a statutorily approved method of adjusting the value of land since it was last reappraised under a regulation adopted by the Nevada Tax Commission." Based on that, Mr. Wilson pointed out that the Supreme Court clearly felt factoring was an appropriate method. He identified the reason for the unconstitutionality of the Bakst decision coming into play was that the Supreme Court said the Nevada Tax Commission was derelict.

Mr. Wilson described the factoring process wherein the assessor gathered all of the land sales in a specific area, compared those land sales to their assessed value, and then determined an appropriate factor so that the median ratio fell between 30 and 35 percent. He stated all of the information was forwarded to the Department of Taxation for review and then subsequently submitted to the Nevada Tax Commission for final approval. Mr. Wilson indicated the full Factor Study and the approval of the Nevada Tax Commission in Exhibit II were clear indications that the Commission was very aware of the factoring process and the manner in which factors were determined for specific areas.

Mr. Wilson read three paragraphs titled "Statutory Framework", "Practical Purpose" and "Analytical Criteria" from the Factor Study on page 22 of Exhibit II. With respect to the factoring worksheets provided in Mr. Barta's Exhibit, he emphasized that those documents were templates provided to the Assessor by the Department of Taxation. The worksheets were designed for the Assessor's office to paste sales data into a spreadsheet, which then automatically calculated factors and measures of statistical analysis. Mr. Wilson commented that Mr. Barta's statement about the Factor Study not being authorized by the Nevada Tax Commission was false. Although he was not aware of any regulations governing the factoring process, Mr. Wilson pointed out that the statute clearly indicated how the factor was to be derived. He argued that the Nevada Tax Commission was clearly aware of the factors and the manner in which they were determined because it signed off on the factors.

Member Green asked how the subject property ended up with a 23 percent increase if the idea of factoring was to make sure there was not a huge increase in values. He did not believe there had been that kind of increase in commercial property in any one

year in the Reno area. Mr. Wilson stated the area where Mr. Barta's property was located had been reappraised and brought up to full cash value for the 2005/06 year using sales that occurred prior to July 1, 2004. He explained the Assessor's recommendation of a 1.0 factor for the 2006/07-tax year was an indication that there had not been a substantial number of sales or that the sales numbers already placed the ratio within the statutory range. Sales occurring in the subsequent year determined that a factor of 1.23 was appropriate to bring the ratio between 30 and 35 percent.

Member Schmidt asked Mr. Wilson to point out where the Nevada Tax Commission had provided and approved "how the factor is applied". Mr. Wilson clarified he had not used the statement "how the factor is applied" but had commented that the Tax Commission was very familiar with the factoring process utilized through their approval of it. Member Schmidt asked Mr. Wilson about the Tax Commission's approval of the process. Mr. Wilson indicated the Nevada Tax Commission approved the Factor Study on November 13, 2006. Member Schmidt suggested the Tax Commission's approval was for a number that fell within the required parameters of 30 to 35 percent but did not indicate they had examined the process of how the Assessor got to that number. Mr. Wilson noted the Department of Taxation, which provided the worksheet for deriving the factor, was the working arm of the Nevada Tax Commission through the inclusion of the Executive Director acting as their Secretary. He assumed the Tax Commission would not have approved the factor if they thought something about it was inappropriate. Member Schmidt pointed out the Department of Taxation was an administrative body and the Nevada Tax Commission was an appointed commission that acted in a public forum under the Open Meeting Law with controls on them far beyond the Department of Taxation. In that respect, he stated the Tax Commission had nothing to do with the Department of Taxation. Mr. Wilson countered that the Department of Taxation acted as the staff that performed studies and other functions for the Nevada Tax Commission, such as the Flex Study conducted on Mr. Barta's property and the Lake Tahoe Special Study. He suggested that Member Schmidt might need to ask the Nevada Tax Commission itself about the process and reiterated that they approved the factors to Washoe County property in November 2006 through the analysis done with the Assessor's office and the Department of Taxation. Member Schmidt stated there was no evidence offered that demonstrated to him the Nevada Tax Commission approved the route used by the Assessor's office to arrive at the 30 to 35 percent figure.

Member Krolick inquired about the history of approval with the State in regard to the factors and wondered how often factor studies were thrown back for more information. Mr. Wilson explained that his office typically provided the analysis conducted in August and September to the Department of Taxation, which contacted the Assessor's office for clarification if there were questions. His office staff would then meet with the Department to provide explanations and the Department would ultimately endorse or not endorse the factors submitted. Mr. Wilson pointed out the Department had supported a significantly higher factor of about 1.36 rather than the factor of 1.15 proposed by the Assessor's office for Area One at Lake Tahoe. Once the information was provided by the Assessor's office and the Department of Taxation, the Nevada Tax Commission ultimately decided on what the appropriate factor should be. Member

Krolick asked if there was a history to show the Nevada Tax Commission had completely disapproved of a factor and sent it back to an assessor. Mr. Wilson indicated it had happened and the Commission's process was not just a rubber stamp of the Department of Taxation. He believed there had been some issues this year with Carson City.

Mr. Bartlett suggested that Member Schmidt's question was getting to where the raw data came from and how it was verified. Member Schmidt stated that one could not use an illegal unconstitutional process to arrive at an appropriate result. A discussion ensued between Member Schmidt and Mr. Wilson about the use of obsolete properties and some of the circumstances surrounding the factoring process for Incline Village and Area One. Member Schmidt concluded that, until he had evidence that the Nevada Tax Commission had approved the factoring process, he would not accept any of the Assessor's factors as legitimate this year.

Mr. Warren stated he was an appraiser and not an attorney. His understanding of the law was that statutes set the big framework and regulations gave the detail of how those statutes were to be implemented. Mr. Warren acknowledged there were no regulations regarding factoring but believed the statute was very clear and did not require further clarification. He directed the Board's attention to subsection 2 on page 1 of Petitioner's Exhibit A, stating that NRS 361.360 was misquoted to conclude "the assessor is directed to appraise property each year". Mr. Warren read NRS 361.260-1 and NRS 361.260-5, also provided in Exhibit 2 of Petitioner's Exhibit A. He emphasized the words in subsection 5 that said, "for any property 'not reappraised' in the current assessment year". Mr. Warren pointed out the subject property was in Area Three, which was not reappraised by the Assessor's office this year but was factored instead. He remarked there was a sharp and distinct difference between reappraisal and factoring, and that property did not have to be appraised each year. Mr. Warren read the rest of the language in subsection 5 and concluded that it spelled out the statutory method for factoring land.

Mr. Warren referred to the statute cited by Mr. Barta saying the Assessor must follow the Handbook prepared by the Nevada Tax Commission. He pointed out that page 1 of Exhibit III was the cover page for the last time the Department of Assessment Standards of the Department of Taxation provided updates to their Assessor's Handbook, titled "The Manual of Assessment Policies and Procedures". Mr. Warren observed the date of May 7, 1996 on the cover letter, which was many years prior to the regulations approved in August 2004.

Mr. Warren read from page 2 of Exhibit III regarding land factors, "To comply with NRS 361.260, each year, assessors must develop factors for taxable land not situated in the current reappraisal area, and send these factors to the Nevada Tax Commission for approval. Prior to Commission approval, assessors present these proposed factors, along with adequate data justifying the reasons for their selection, to the Division of Assessment Standards for review. The Division's appraisers evaluate the data and make alternative recommendations, if necessary, before the final factor recommendations are authorized by the Nevada Tax Commission. The purpose of

applying these land factors yearly to the land's assessed value is to mitigate any changes in land values between reappraisals. The factor adjusts the assessed values of land in the factored (non-reappraisal) area to reflect the trends in land values."

Member Schmidt asked Mr. Warren to place the full Handbook into the record so he could see the context. Mr. Warren responded he did not have the whole Handbook with him but the sections provided were those pertaining to land factors. Member Schmidt asked Mr. Warren to provide it later, along with information about when the Handbook had been specifically approved by the Nevada Tax Commission. Mr. Warren explained that Mr. Barta had already identified NRS 361.280 as prescribing the Handbook for assessors to use and this was the most current edition of that Handbook. Mr. Wilson pointed out that the Handbook was published by the Department of Taxation, not by the Assessor's office. Member Covert asked if the Handbook was in the public domain. Mr. Warren stated it was not available on the Internet but the Department of Taxation would have it on file. Member Schmidt commented that he would not consider Mr. Warren's quote unless he presented the context from which it was quoted into evidence. Mr. Warren pointed out he had already explained the context, that the quote was out of Section I of the "Manual of Assessment Policies and Procedures" adopted in May of 1996. Mr. Wilson stated that Member Schmidt could weigh the evidence as he saw fit. Member Schmidt declared, under NRS 239, that he was making a public records request for a copy of the Handbook. Mr. Wilson commented that it was the Department of Taxation's document. Member Schmidt indicated the Assessor was obligated to provide it if it was in his possession and he would be subject to the purview of the courts and all legal fees necessary to obtain it if he failed to do so on a timely basis. Vice Chair McAlinden asked Member Schmidt if he had any further questions for the Assessor's office. Getting no response, she directed Mr. Warren to continue with his presentation.

Mr. Warren directed the Board's attention to Exhibit IV, emphasizing that NAC 361.144 required the assessor to identify the areas of reappraisal, NAC 361.146 specified what records were required for reappraisals, and NAC 361.150 specified what reports the assessor was required to provide to the Department of Taxation. He pointed out the distinction in the regulations between reappraisal and factoring and reiterated that the subject property was factored and not reappraised. Mr. Warren declared the use and method of factoring were clearly specified under NRS 361.260-5, the statutory method was followed by the Assessor's office, and the Nevada Tax Commission appropriately approved the factor.

Mr. Warren stated it was not accurate to say the Special Lake Tahoe Study was a factor study as purported by Mr. Barta. He directed the Board's attention to Exhibit 4 in Petitioner's Exhibit A; "The purpose of the Lake Tahoe Valuation Study is to provide information to the Nevada Tax Commission with regard to the equitable appraisal of residential property in the Lake Tahoe by the county assessors of Douglas and Washoe Counties."

Mr. Warren turned to the land sales and improved sales on page 1 of Exhibit I, commenting that they indicated the taxable value of the subject property after factoring did not exceed its full cash value. He highlighted the land sales at the bottom of the page, stating the prices that ranged from \$9.25 to \$14.29 per square foot were substantially higher than the taxable land value of \$8.61 per square foot after factoring.

Mr. Warren referenced pages 6 through 12 of Exhibit I, containing a recent Supreme Court decision that said the Assessor's office had properly classified the Petitioner's "flex" warehouse building with a 3.0 quality rating from Marshall and Swift.

Mr. Warren pointed out pages 13 through 16 of Exhibit I, containing the Factor Study that had been submitted by the Assessor's office to the Department of Taxation, evaluated and reviewed by its staff, submitted to the Nevada Tax Commission for approval, and approved by the Commission on November 13, 2006. He reiterated the format used was provided by the Department of Taxation for assessors to fill out their factor study information. Mr. Warren reviewed the information on page 13 of Exhibit I used to derive the 1.23 factor as required by statute and stated the commercial properties in Area Three all had to receive the factor to be in compliance with the law.

Member Covert asked if the Assessor was required to decrease the taxable value if the factor resulted in a valuation higher than market value. Mr. Warren stated the property owner would have a right to appeal and it would be up to the County Board of Equalization to lower the value.

Mr. Warren explained the land use codes (LUC) for commercial property included on page 15 of Exhibit I. LUC 13 designated sales of multifamily property, LUC 14 was for commercial property sales, and LUC 15 represented industrial property sales.

To address Member Green's earlier question regarding the appreciation in values, Mr. Warren turned to pages 21 and 22 of Exhibit I, which contained sets of paired sales and resales for the same property. He commented these were provided as additional supporting documentation for the 1.23 factor and to illustrate the substantial appreciation of values in reappraisal Area Three.

Member Krolick asked whether the 30 sales used to derive the 1.23 factor combined commercial, multifamily and industrial property sales in the same group. Mr. Warren indicated that was correct. Member Krolick stated that did not seem appropriate, as the land values could differ for each type. Mr. Warren responded that the Assessor's office was following the process provided by the State for developing factors. He observed there was a residential factor and commercial factor in each of the reappraisal areas and properties that were not designated single-family residential property defaulted to the commercial classification. Mr. Warren agreed with Member Krolick's statement that there could be different property types appreciating at different levels within the commercial land factor and stated separate analyses had not been done by the Assessor's office.

Member Schmidt pointed out the data in Pairing 1 on page 21, emphasizing that the two sales only eight months apart computed to an annual appreciation rate of over 100 percent. He discussed the statistical concept of throwing out the highest and lowest values in a range. Member Schmidt did not believe that 100 percent annual appreciation could be justified in the marketplace and indicated there must be something wrong with the pairing. Mr. Warren explained the pairings were not purported to represent any specific appreciation rate in the market, just to illustrate there had been a substantial increase in commercial sales prices in Area Three over the last few years. Member Schmidt reiterated that sales unrepresentative of the normal marketplace should not be utilized. Mr. Warren stated this was not a statistical analysis and all of the sales were verified arms-length transactions.

Member Covert commented that one could not assume property appreciated on a straight-line basis and it was incorrect to infer that the sales were not representative transactions.

Member Green stated he would have a problem with the factor if the Assessor were to pick and choose which sales to use in the Factor Study. He asked if all arms-length sales transactions had been used. Mr. Warren responded that the 30 sales included in the Factor Study were all those found by the Assessor's office to be market value transactions. He indicated that sales transactions were researched and excluded from the study if found not to be arms length, such as bankruptcy sales or sales to family members.

Member Green inquired if there was a reason to exclude the top and the bottom sales when doing an appraisal. Mr. Warren stated an appraisal would use the most recent comparable sales to represent current market conditions.

In response to a question by Member Covert, Mr. Warren described the sales verification process used by the Assessor's office. He clarified that all sales were obtained from the Recorder's office and the Assessor's subpoena power was used to verify the price and terms for each sale with the title company. A letter was also sent to each buyer asking about any conditions or unusual circumstances involving the sale.

Member Schmidt inquired whether sales excluded from the Factor Study and the reasons for exclusion were analyzed and reviewed by the Nevada Tax Commission, whether that information was provided to appellants or property owners, and whether the information was in evidence before the Board. He commented it was the Board's and the Tax Commission's duty to review the performance and methods of the Assessor's office. Mr. Warren explained the Assessor's office provided everything encoded in their computer about all sales to the Department of Taxation once or twice a year. Sales submitted to the Department of Taxation for the Ratio Study were those that had been verified and found to be appropriate for use in the Factor Study. Member Schmidt asked if the reasons for rejecting sales were also submitted. Mr. Warren responded that the Assessor's sales verification codes were provided. Member Schmidt asked if the Assessor's office provided the detailed sales verification information to the

Nevada Tax Commission and whether they had also provided it to the Board. Mr. Warren indicated that level of detail was not provided.

Member Green asked if the subject property's total value of \$2,689,791 was greater than the actual cash value of the property. Mr. Warren responded it was not. He explained the taxable value was still less than the \$2,840,000 the Petitioner paid for the property eight years ago in November 1997.

In response to a question by Vice Chair McAlinden, Mr. Warren clarified that the reference to the subject property being on an interior lot meant it was not on a corner lot.

Mr. Wilson read from NRS 361.227-5 concerning the reduction of a property's taxable value when it was determined that its taxable value exceeded full cash value. He concluded that the Assessor's office would reduce the value when they were aware of it and commented the Board had seen evidence where the Assessor had recommended reductions in order to clarify or correct specific assessments.

With respect to sales verification, Mr. Wilson reassured Member Schmidt that the Assessor's office was very thorough. He referenced the Nevada Department of Taxation's Assessment Ratio Study, last conducted on Washoe County in 2005/06 and included as attachment G to Exhibit II. He referred to the Ratio Study as the "report card" for the Assessor's office. Mr. Wilson read the opening paragraph of the study; "In order to ensure property in the State is appraised equitably by county assessors, the Department tests a variety of information using applied statistics to determine if inequity or assessment bias exists. The Department also surveys and analyzes assessor work practices to ensure the uniform application of valuation and assessment methodology as provided by law and assessment standards. If inequity or bias is discovered, NRS 360.215 and 361.333 provide the Nevada Tax Commission the authority to pursue certain procedures designed to correct inequitable conditions." To emphasize to the Board that it was not just taking the Assessor's word about the process, Mr. Wilson pointed out that the Washoe County Assessor's procedures for sales collection and sales verification had been determined to meet standards in the Department's work practices survey and had been given ratings of 3, the highest rating possible.

Mr. Barta pointed out during his rebuttal that any regulation approved by the Nevada Tax Commission would be located in the Nevada Administrative Code (NAC). For the purposes of assessment, he commented that appraisal discretion and practice was restricted by law to certain definitions of value arrived at through very restrictive procedures and this was necessary to make sure there was uniformity in the process and to avoid disputes. Mr. Barta stated he had not come before the Board to dispute whether or not the 1.23 factor value was correct. He identified that his main purpose was to point out the method used to arrive at the valuation was not approved by Nevada Tax Commission regulations. Mr. Barta emphasized, even if the value were 100 percent correct and very reasonable, the Nevada Supreme Court had made it very clear

that the value was invalid if the Assessor did not use a methodology prescribed by the Nevada Tax Commission.

Mr. Barta explained that NRS 361.260, which referred to factoring, was a statute and not a regulation. He believed a fair case could be made that there was no specific regulation governing factoring, but pointed out the Supreme Court had said the assessor cannot have his own methods and had even called the Nevada Tax Commission derelict for not coming up with enough regulations. Mr. Barta stated everything described in NRS 361.260 had to be done according to the regulations of the Tax Commission and the Tax Commission required the use of the comparable sales approach, which was not the method used for the subject property. He questioned why appreciation of land in one part of town should be considered a reflection of the value of land in another area that might already be built out or might be experiencing slow sales. Mr. Barta described that the purpose of the comparable sales approach was to stratify different types of property, determine whether that particular type of property had an increase in value, and determine what a reasonable reflection of the increase was.

Mr. Barta referenced the Lake Tahoe Special Study conducted by the Department of Taxation and stated, while it had not been titled as a factor study, it was certainly equivalent in process and had been frequently referred to as a factor study or ratio study. He referred to it as the type of schematic set up in order to come up with a more accurate determination of the full cash value of land in different areas.

Mr. Barta declared that this hearing was a determination of whether the process itself was approved under regulation and law the way the Supreme Court said it should have been done. He acknowledged there was a statute saying one must use a factor to achieve a ratio between 30 and 35 percent. Mr. Barta stated that the entire fraction was wrong whenever there was a problem with either the numerator or the denominator. Since the full cash value of land was part of the numerator in the ratio, then the ratio was invalid and void if it was not arrived at by the method prescribed in the Nevada Tax Commission regulations. He pointed out he had not heard testimony about what section of the NAC specifically enabled the Assessor's "one size fits all" methodology of comparing sales prices directly to their own assessed values, observing that the 30 sales used in the factor may have been under-assessed. Mr. Barta concluded that the Board was required to remind the Assessor and every other taxing authority in the State that, unless they followed the regulations and did so strictly in the manner required by law, there would be endless disputes resulting in invalid assessments.

Member Covert asked Mr. Barta exactly what he was asking the Board to do. Based on the factor methodology not being approved by the Nevada Tax Commission, Mr. Barta requested that the 1.23 factor be set to a factor of 1.0 or that the taxable value be restored to the previous year's taxable value without the factor.

Member Schmidt disclosed that he had known Mr. Barta for close to two decades and the two of them had been co-appellants before the County and State Boards of Equalization in the 1990s. He indicated he had not seen Mr. Barta outside the confines

of a hearing process, administrative hearing or workshop, and Mr. Barta had not been a contributor to Member Schmidt's campaign for the Board of County Commissioners. Member Schmidt expressed confidence in his objectivity to consider Mr. Barta's appeal. He disclosed he had never visited the subject property and had never discussed the subject property with Mr. Barta.

Vice Chair McAlinden verified with the Petitioner and the Assessor's office that they had been given enough time to make their presentations. She closed the public hearing and brought it back to the Board for discussion.

Member Krolick commented that the issue at hand was not as simple as a decision to uphold or reduce but instead the decision seemed to be the starting point in a process to correct a flawed system. He stated the factoring process, through no fault of the Assessor's office, did not provide sufficient guidelines. Member Krolick particularly disagreed with the practice of lumping all categories of commercial land together because the value of the land really did have a lot to do with its zoning and use. He hoped to get support from fellow Board members toward a resolve that would move the process forward.

Member Green thought there were two questions before the Board. He stated the first question was whether the factor was arrived at in an approved manner and the second was whether the property was valued appropriately. Member Green thought the taxable value was in line with the comparable sales the Board had looked at. He agreed with Member Krolick that the factor process needed to be changed and the three types of commercial properties separated. Member Green expressed concern about the Board's decision placing a number of properties out of equalization. He indicated he would support the Assessor's value for this particular hearing but thought the factor should be changed to be more representative of individual properties. Member Green was uncertain if changing the factor would produce a different result but stated it would at least leave nothing open to challenge.

Member Covert agreed with Mr. Barta that the right answer did not justify the wrong process. He applauded the Assessor's previous statement that he would work to get away from using factors. Member Covert pointed out the Petitioner had cited certain areas of the law to support his position and the Assessor's staff had rebutted that with other sections of the law to support their position. He did not think the Board possessed the knowledge or ability to sort things out from a legal standpoint but agreed with Member Schmidt that clarification on the issue was necessary. Member Covert believed the best approach was to support the Assessor's value and allow Mr. Barta to go before the State Board of Equalization with his appeal.

Member Schmidt stated that upholding the value was not the only alternative because the Assessor would appeal to the State if the factor was set aside. He thought the real question was what message the Board would send on appeal and did not want to imply that the Board was happy with the process by approving the Assessor's recommendation. Member Schmidt indicated his position and opinion were consistent

with that of the Supreme Court. He thought the most appropriate way to send that message was to notice in the motion that the process was flawed.

Member Schmidt discussed the form and language of a trial motion. He suggested the standard language about land and improvements being valued correctly should be left out, that the motion should set aside the factor, and that it should also include a finding that the process in which the factor rate was determined was flawed. Member Schmidt asked legal counsel if it was appropriate to leave out the phrase “and find that the land and improvements are valued correctly”. Mr. Bartlett agreed the phrase was just a guideline. He stated that, if it were the consensus of the Board, they could make a motion containing a legal conclusion that the methodology used to arrive at the value might not comply with the law. Mr. Bartlett pointed out that issues of law were reviewed de novo by the reviewing bodies. Member Schmidt indicated he would prefer the term “flawed” because the Board might have different opinions as to whether the methodology was unconstitutional, the regulations were not explicit enough, or at what level the methodology was flawed.

Member Green stated he would have a problem supporting such a motion. He was confident Mr. Barta would take the appeal forward if the Board upheld the Assessor’s value. Member Green commented the Board’s job was to see that properties in the County that came before it were valued properly. He argued the subject property was undervalued compared to the Petitioner’s purchase price of \$2,840,000 in 1997, there had been tremendous increases in property values since that time, and the Assessor had used some comparable sales that supported the value on the property. Member Green had a problem with how the factor was derived but did not support stating that in the motion.

Member Krolick indicated the Petitioner would be at a disadvantage going up against a government agency without some sort of statement in the motion by the Board. He did not necessarily agree with the motion as proposed by Member Schmidt but thought it was inappropriate to just uphold the value without making any comments.

Member Covert supported Member Green’s position. He thought that Member Schmidt’s suggestion assigned blame and stated he was not there to blame anybody. Member Covert emphasized that both the Petitioner and the Assessor had adequately supported their positions. He believed the matters of law should be handled at a higher level than the County Board.

Vice Chair McAlinden agreed with Members Green and Covert.

Based on the evidence presented by the Petitioner and the Assessor’s office, Member Schmidt made a motion to uphold the Assessor’s appraisal of the subject property. He found that the land and improvements were valued correctly and the total taxable value did not exceed full cash value. Additionally, he found that the factor process was flawed at some level within the system and needed to be addressed at the State level. Member Green seconded the motion.

Member Schmidt stated he had made the motion based on the comments of fellow Board members but would not support the motion because he thought the process was the real issue before the Board and the trial motion he discussed earlier was the one he believed the Board should be passing. He indicated he would only vote for it if his vote were required to pass the motion.

Member Covert did not support the motion. He objected to the word “flawed” because it was judgmental and he had no direct knowledge that the process was flawed. Member Covert’s position was that the factor system needed to be clarified.

Vice Chair McAlinden also had concerns about using the word “flawed”. She had questions about the factor system but could not approve the motion as stated.

Member Schmidt amended the motion, substituting the word “clarified” for the word “flawed”. Member Green agreed with the amendment. Chief Deputy Clerk Nancy Parent read the amendment; “Additionally, we find that the factoring process needs clarification at some level within the system and needs to be addressed at the State level.” Vice Chair McAlinden agreed with the amended language.

Member Green withdrew his second of the motion, stating he could support wording that the factor needed clarification but did not want to specify at what level. Member Covert and Vice Chair McAlinden supported Member Green’s suggestion.

Member Schmidt asked if fellow Board members would support the wording “substantial clarification”. Vice Chair McAlinden and Member Covert did not agree.

Member Schmidt withdrew his previous motion and submitted a new motion, seconded by Member Green, as stated below.

Member Krolick stated he would support the new motion and appreciated the comment about clarification of the factoring system. He expressed concern that the Nevada Tax Commission had not addressed the issue.

Member Schmidt indicated his belief that the issue of whether or not the land was valued correctly was paramount to what the Board should be considering.

Based on evidence presented by the Petitioner and the Assessor’s office, with the finding that land and improvements were valued correctly and the taxable value did not exceed full cash value, on motion by Member Schmidt, seconded by Member Green, which motion passed on a 4-1 vote with Member Schmidt voting “no”, Vice Chair McAlinden ordered that the Assessor’s appraisal on Parcel No. 012-231-26 be upheld. The Board found further that the factor system needs clarification.

**07-78E HEARING NO. 56 – ROTER INVESTMENTS OF NEVADA –
PARCEL NO. 024-140-13**

A petition for Review of Assessed Valuation was received January 16, 2007 from Robert Roth, owner of Roter Investments of Nevada, protesting the taxable valuation on land and improvements located at 4001 South Virginia Street, Reno, Washoe County, Nevada. The property was zoned AC and designated general commercial.

Chief Deputy Clerk Nancy Parent swore in Petitioner Robert Roth.

Stacy Ettinger, Appraiser III, duly sworn, oriented the Board as to the location of the subject property and submitted the following documents into evidence:

Exhibit I, Assessor's fact sheets including comparable sales, maps and subject's appraisal records.

Mr. Ettinger explained the Assessor's recommendation on page 2 of Exhibit I was to reapply obsolescence and reduce the taxable value of the improvements on the subject property, with obsolescence to be reviewed annually. The Petitioner was in agreement with the Assessor's recommendation.

Mr. Roth discussed his use of the subject property as a shopping mall and named some of the tenants currently leasing space there.

Member Schmidt and Mr. Roth discussed the small vacancy rate, some of the other businesses leasing space in the mall, and their lease rates.

Based on evidence presented by the Petitioner and the Assessor's office and the finding that economic obsolescence should be applied to the subject property, on motion by Member Covert, seconded by Member Green, which motion duly carried, Vice Chair McAlinden ordered that the Assessor's recommendation on Parcel No. 024-140-13 be upheld, reducing the taxable value of improvements from \$9,674,641 to \$5,165,046 by applying obsolescence. The Assessor was directed to make the appropriate adjustments and the Board found, with these adjustments, that the land and improvements were valued correctly and the total taxable value did not exceed full cash value.

11:18 a.m. The Board took a brief recess.

11:25 a.m. The Board reconvened with Member Schmidt absent.

07-79E

**HEARING NOS. 4 & 4R06 – DILLARD INTERNATIONAL, INC. –
PARCEL NOS. 142-390-03 & 049-230-37**

A petition for Review of Assessed Valuation was received December 18, 2006 from Dick Curry, Vice President of Property Taxes for Dillard International, Inc, protesting the taxable valuation on land and improvements located at 13933 South Virginia Street, Reno, Washoe County, Nevada for the 2006/07-tax year. The property was designated general commercial.

A petition for Review of Assessed Valuation was received January 8, 2007 from Dick Curry, Vice President of Property Taxes for Dillard International, Inc, protesting the taxable valuation on land and improvements located at 13933 South Virginia Street, Reno, Washoe County, Nevada for the 2007/08-tax year. The property was designated general commercial.

11:28 a.m. Member Schmidt returned to the meeting.

On motion by Vice Chair McAlinden, seconded by Member Covert, which motion duly carried, it was ordered that Hearing Numbers 4 and 4R06, Parcel Numbers 142-390-03 and 049-230-37, for Dillard International, Inc. be consolidated. It was pointed out that the parcel number was recently changed and both hearings are for the same parcel.

Stacy Ettinger, Appraiser III, duly sworn, oriented the Board as to the location of the subject property and submitted the following documents into evidence:

Exhibit IA, Assessor's fact sheets including comparable sales, maps and subject's appraisal records for the 2006/07-tax year.

Exhibit IB, Assessor's fact sheets including comparable sales, maps and subject's appraisal records for the 2007/08-tax year.

Mr. Ettinger explained some of the unique characteristics of anchor department stores, which are typically valued based on gross sales. He pointed out the Assessor's recommendations on pages 2 and 3 of Exhibits IA and IB to apply obsolescence and reduce the taxable value of the improvements on the subject property, with obsolescence to be reviewed annually.

Chief Deputy Clerk Nancy Parent swore in Petitioner Dick Curry. Mr. Curry submitted the following documents into evidence:

Exhibit A, Summary Appraisal of Dillard's Department Store at Summit Sierra Mall.

Mr. Curry read the Assessor's recommendations to the Board and indicated his agreement with them. He explained the role of anchor properties within a shopping mall and why they were valued differently.

Member Covert and Mr. Curry discussed the seasonality of the income figures provided in Exhibits IA and IB.

Member Schmidt, Mr. Curry and Mr. Ettinger discussed the amount of build-out at the Summit Sierra Mall and the percentage of it occupied by Dillard's.

Member Green asked whether Dillard's would expect to benefit from increased traffic if Station's Hotel were to be built on a nearby corner. Mr. Curry commented that any increased development would be beneficial.

Mr. Ettinger pointed out the valuation techniques used for the subject property were consistent with those used for other department stores in the area, as well as with techniques used by Clark County.

Vice Chair McAlinden verified with the Petitioner and the Assessor's office that they had been given enough time to make their presentations. She closed the public hearing and brought it back to the Board for discussion.

Based on evidence presented by the Petitioner and the Assessor's office and the finding that economic obsolescence should be applied to the subject property, on motion by Member Covert, seconded by Member Schmidt, which motion duly carried, Vice Chair McAlinden ordered that the Assessor's recommendation be upheld, reducing the taxable value of improvements on Parcel No. 142-390-03 from \$17,907,525 to \$7,200,300 and the taxable value of improvements on Parcel No. 049-230-37 from \$17,621,424 to \$7,200,300 by applying obsolescence. It was ordered that the Assessor review obsolescence for the subject property on an annual basis. The Assessor was directed to make the appropriate adjustments and the Board found, with these adjustments, that the land and improvements were valued correctly and the total taxable value did not exceed full cash value.

07-80E HEARING NO. 14 – WC-DD, LLC – PARCEL NO. 163-190-12

A petition for Review of Assessed Valuation was received January 5, 2007 from Herrmann Glockler, owner of WC-DD, LLC, protesting the taxable valuation on land and improvements located at 9450 Double R Boulevard, Reno, Washoe County, Nevada. The property was zoned PUD and designated as office.

Van Yates, Appraiser III, duly sworn, oriented the Board as to the location of the subject property and submitted the following documents into evidence:

Exhibit I, Assessor's fact sheets including comparable sales, maps and subject's appraisal records.

Exhibit II, updated Office Rental Chart to replace page 7 of Exhibit I.

Chief Deputy Clerk Nancy Parent swore in Petitioner Herrmann Glockler. Mr. Glockler submitted the following documents into evidence:

Exhibit A, Financial Summary.

Exhibit B, letter to the Board of Equalization and fax to the Assessor dated February 20, 2007 containing the Petitioner's valuation estimates.

Mr. Glockler explained he lost 45 percent of the income for the subject property in August 2005 when his single tenant downsized and renegotiated the lease. He subsequently spent a considerable amount of money to convert the building from a single-tenant to a two-tenant office building. Mr. Glockler entered into an agreement with a leasing agent but had thus far been unsuccessful in finding a tenant. He requested a tax reduction, at least temporarily, in recognition of 18 months of vacancy with possible future vacancy.

Mr. Glockler directed the Board's attention to page 5 of Exhibit I, stating the capitalization rate of 7.0 used by the Assessor's office was not realistic when applied to a building with a 37 percent vacancy rate for the last 18 months. He also pointed out that the normalized income approach on page 6 would only be a fair value if the whole building were occupied. Mr. Glockler suggested the use of a more realistic capitalization rate of 7.5 or 8.0 percent, as well as calculating the real annualized income rather than normalized income to value the building.

In response to questioning by Member Schmidt, Mr. Glockler stated he owned other properties in the Las Vegas area but not in Washoe County. He was an engineer by profession but had owned commercial properties since about 1984. Mr. Glockler explained to Member Schmidt that he moved to the Reno area in 2000. He purchased the building from his tenant with a five-year leaseback agreement. Member Schmidt and Mr. Glockler discussed investor expectations when purchasing a building. Mr. Glockler commented he would look for a capitalization rate of perhaps 8.0 or 7.75 percent and would also try to obtain a 12-month lease guarantee from the seller if he were now purchasing a similarly situated building. He pointed out there had been a shift in the market for leased offices, with many business owners buying their office buildings rather than leasing them. Mr. Glockler commented that he had experienced similar circumstances with property in Las Vegas and been granted tax relief there without having to go to their Board of Equalization.

Mr. Yates reviewed the comparable sales for the subject property, stating that taxable value did not exceed full cash value.

Member Schmidt asked if the Assessor's comparable sale properties were owner-occupied or tenant-occupied. Mr. Yates indicated there was likely a combination of both. Member Schmidt asked how Mr. Yates would respond to his assertion that an owner intending to occupy a building might be willing to pay more than an investor and he considered owner-occupied a different type of use from an investor-owned tenant-occupied building. County Assessor Josh Wilson pointed out that value for commercial

use properties was determined by arms-length transactions and there was no distinction in use codes between owner-occupied and tenant-occupied property.

Member Green observed that he came up with a value greater than the overall taxable value when he used a capitalization rate of 8.0 percent with the projected income. Mr. Yates explained that he selected a capitalization rate of 7.0 percent based on the overall capitalization rate for a group of similar income-producing properties and discussions with Colliers International. He stated the income approach used current market vacancy and typical capitalization rate to come up with an initial indication of value. Since the building had a higher than normal vacancy rate, there were two methods of adjusting for that. Mr. Yates indicated that one could either adjust the capitalization rate or adjust the value for lost income, but not both. A market vacancy rate of 13 percent was used in either case. He reviewed detailed calculations used to determine the unleased space adjustment given to the Petitioner on page 4 of Exhibit I. Mr. Yates concluded that either method of adjustment resulted in a value that was higher than the current overall taxable value for the subject property. Since the total taxable value did not exceed full cash value of the property, a reduction in the taxable value was not warranted.

Mr. Yates commented further about the 13 percent market vacancy rate. He acknowledged that this particular building would have an actual vacancy rate of 100 percent, 50 percent or 0 percent at any given time. Mr. Yates explained it was typical for appraisers, real estate professionals and investors to use a market average because those purchasing a building evaluated it based on a future income stream over the anticipated holding period. Pro forma calculations were therefore used for typical vacancy rates, typical expense rates and average rental rates for the market when determining value.

With respect to owner-occupied versus tenant-occupied office use, Mr. Yates pointed to the rental designated R-4 on Exhibit II as an example. He explained it had been a single space divided into two, with the owner occupying a portion of one-half of the space. As time went by and more space was needed, the owner took over the entire building. Mr. Yates stated it could just as easily go back to being tenant-occupied as circumstances changed. He emphasized that the value of the building was considered interchangeable whether it was owner-occupied, tenant-occupied or some combination of both.

Member Covert expressed concern about the validity of a 13 percent vacancy rate, especially given the length of the vacancy for the subject property. Mr. Yates explained it was only in the last six to seven months that tenant improvements had allowed the accommodation of a second tenant. He stated there was some additional work still pending to create a second lobby. Mr. Yates talked with the leasing agent, who indicated he would be more likely to find a tenant once the second lobby was available.

Member Covert remarked that a single-tenant building was a higher risk investment as opposed to a building with several tenants and it was appropriate for Mr. Glockler to assume some of that risk. He asked about the outcome using a capitalization

rate of 8.0 percent to determine value. Mr. Glockler interjected that it was more appropriate to use the real income of about \$78,000 per year rather than the normalized income of \$116,000 per year. Mr. Yates reviewed the detailed calculations using an alternate capitalization rate of 8.0 percent. He cautioned that it might be difficult to find market evidence to support the alternate capitalization rate. Member Covert commented that the comparables probably did not have 50 percent vacancy rates. Mr. Yates responded that a few of them might actually have 100 percent vacancy rates because they were brand new when purchased. Member Covert thought that was a different issue and the length of vacancy for the subject property made it an unusual case.

Mr. Yates stated that adjusting the value for lost income resulted in an approximate value of \$1,600,000 and using an alternative capitalization rate resulted in an approximate value of \$1,400,000, in both cases resulting in a higher value than the current overall taxable value of \$953,827 for the subject property. He contrasted that with the Petitioner's purchase price of \$1,232,000 six or seven years ago.

Member Schmidt argued that the issue was one of equalization, not full cash value. He asked what evidence the Assessor had that the subject property was equalized with similarly situated property, as stated on page 5 of Exhibit I. Mr. Yates directed the Board's attention to the comparable improved sales on page 1 of Exhibit I. He identified that the subject property had an overall taxable value of \$127.24/square foot, the approximate overall taxable value for the property designated IS-1 was \$130 per square foot, IS-2 was approximately \$154 per square foot, IS-3 was approximately \$129 per square foot, and IS-4 was approximately \$136 per square foot. Mr. Glockler observed that IS-3 was located in the same complex as his property and had been empty for more than four years until recently being purchased by an insurance company for their own occupancy. Member Schmidt commented the subject property had a lower taxable value but the other properties were occupied and the subject was not. Mr. Wilson reminded Member Schmidt of the Petitioner's statement that IS-3 had been vacant for four years.

With respect to the use of the property, Member Schmidt asserted that an owner-occupied building and a tenant-occupied building were two distinct uses and should be treated differently under the tax code. He gave an example of a house used as a daycare center for seven children and valued as an income-producing daycare center by the Assessor versus the same house being occupied as a residence by a family with six children. If one argued that an office use was an office use, then it could also be said that kids were kids.

In rebuttal, Mr. Glockler stated he had owned the building for five years before it became vacant and he never took issue with his tax rates during that time because he assumed it was equitable with the taxation existing on any of the other buildings. The building had a lower value when his tenant downsized but he was willing to wait until a new tenant could be found. It was only when he did not get a tenant for roughly 15 months that he questioned his tax rate because the building was obviously not fully performing. Mr. Glockler indicated that he was assured the market value was above

what he would be paying tax on. He questioned how a building that had lost 45 percent of its revenues in the first year and 35 percent since then could still be considered equalized in its tax revenue valuation of the building compared to other buildings. This did not make any sense to Mr. Glockler. He thought he either had a building that had been undervalued for the five years it was occupied or one that was now overvalued due to the vacant space. Mr. Glockler stated he was following Member Schmidt's logic and thought something was amiss.

Mr. Glockler directed the Board's attention to Exhibit B, containing valuation calculations he had done as an "exercise of the extremes". He calculated a value of \$731,000 using a capitalization rate of 7.5 percent and actual net income of approximately \$78,000 in one example and a value of \$1,986,000 using comparable sales and current building costs for a shell building in the second example. Mr. Glockler commented that the actual valuation was somewhere in between and he was looking for a comparison to property that was in a similar situation. He did not believe he was getting fair treatment with respect to his property taxes.

Mr. Wilson commented that, using the Petitioner's logic, 100 percent vacancy would equal zero value.

Vice Chair McAlinden verified with the Petitioner and the Assessor's office that they had been given enough time to make their presentations. She closed the public hearing and brought it back to the Board for discussion.

Member Green commended Mr. Yates for his thorough presentation and for providing detailed information to the Board, including the taxable value of comparable properties. He sympathized with the Petitioner's situation and commented, as an investor, that no one had ever saved him from his own business decisions. Member Green observed the comparable sales, including the one that was vacant for four years, certainly upheld the Assessor's taxable value on the subject property. He discussed that the area where the subject property was located had been overbuilt and there was a great deal of competition for tenants. Member Green remarked that when he had personally experienced circumstances similar to those of the Petitioner, he had sometimes found it necessary to reduce his rents or his sales price. He pointed out that was the risk taken by investors.

Member Covert agreed with Member Green that all business people assumed certain risks. He indicated he did not really know where to go given the low taxable value of \$731,000 calculated by Mr. Glockler and the overall value of \$953,827 currently on the tax roll. Member Covert suggested only the improvement value of \$709,827 should be considered and reiterated he was not sure where to go from there.

Member Schmidt stated the Board's principal responsibility was the process and the law. He commented that Nevada had an unusual system of property tax assessment, regulations and laws. Member Schmidt remarked this was not the Board of Full Market Value and the issue was one of equalization. Other than some numbers

“pulled out of a hat” at the last minute, he believed there had been no substantial evidence presented regarding equalization. Member Schmidt indicated he would support a one-year reduction in the improvement value of the subject property if someone else would make the motion.

In talking about equalization, Member Green cautioned that the Board must be careful not to put the subject property out of equalization with other properties. He stated he would support a reduction to \$700,000 for the improvements. Member Covert and Vice Chair McAlinden agreed with that suggestion.

Member Krolick commented the area had obviously been overbuilt and it was challenging for an investor who had gotten in there early to compete with mass builders who could pump out square footage at phenomenal rates. He indicated he could support a reduction but questioned whether it was within the Board’s ability to reduce based on the information provided.

Based on evidence presented by the Petitioner and the Assessor’s office, on motion by Member Green, seconded by Member Covert, which motion duly carried, Vice Chair McAlinden ordered that the taxable value of improvements on Parcel Number 163-190-12 be reduced from \$709,827 to \$700,000. The Assessor was directed to make the appropriate adjustments and the Board found, with these adjustments, that the land and improvements were valued correctly and the total taxable value did not exceed full cash value.

1:04 p.m. The Board took a brief recess.

1:35 p.m. The Board reconvened with Member Krolick absent.

1:30 P.M. – BLOCK

Member Schmidt attempted to read a portion of the Open Meeting Law he felt was relevant to an incident caused by the Clerk's Office. Vice Chair McAlinden stated that would be appropriate during Board Member comments. Member Schmidt said under his authority as a Board member it was appropriate now, and he requested an opinion from legal counsel if he had the right to read this statement during this part of the meeting. John Bartlett, Legal Counsel, replied Member Schmidt could read this during the appropriate time; however, he was not sure this was the appropriate time. Vice Chair McAlinden deemed Board Member comments would be the time for Member Schmidt to read the document.

07-81E **HEARING NO. 611, JOHN Q HAMMONS HOTELS LP**
PARCEL NO. 008-344-07

A petition for Review of Assessed Valuation received from John Q. Hammons Hotels, LP, protesting the taxable valuation on land and improvements located

at 100 E 6th Street, Reno, Washoe County, Nevada, was set for consideration at this time. The property is zoned MUE4 and designated vacant, industrial.

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

The Petitioner was not present but had submitted documents prior to the hearing.

Appraiser Stafford reviewed sales of comparable properties substantiating that the Assessor's total taxable value does not exceed full cash value and 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 16.

In response to Member Green, Appraiser Stafford replied the Holiday Inn operated the property.

1:45 p.m. Member Krolick arrived.

Member Schmidt inquired on the relationship of the price per room to the number of rooms in the unit. Appraiser Stafford replied the selling price per room would decrease as the number of rooms increased. Member Schmidt asked if the appraiser had visited all of the comparable sales used and inspected the rooms. Appraiser Stafford replied he had not. He indicated he conducted an exterior inspection of the comparables and made a judgment in comparability to their condition and level of maintenance.

The Vice Chair closed the hearing.

Member Green stated the petitioner was seeking the structure be adjusted to \$2,062,371, which was considerably less. He asked what the basis was for that large of a decrease. Appraiser Stafford said the petitioner originally submitted income data material: however, the latest data submitted for 2006 was 11 months of net operating income at \$502,000.

Member Schmidt noted the increase was based on the factor, which he thought was unconstitutional and inappropriate. He said he was not convinced there was enough evidence to substantiate the increase.

Member Krolick said the comparable sales were located in the central core of the redevelopment area downtown, but the subject property was a stand-alone property. He asked how the building value went from \$3,482,000 to \$4,722,000. Appraiser Stafford explained with his comparable sales he tried to stay away from properties that were being converted. He said every year he adjusted the obsolescence.

He said the land value was a component of the total value, but in this instance the obsolescence changed to achieve the figure that was market value.

Based on the evidence presented by the Assessor's Office and the Petitioner, on motion by Member Green, seconded by Member Covert, which motion duly carried with Members Schmidt and Krolick voting "no," it was ordered that the taxable value of the land and improvements on Parcel No. 008-344-07 be upheld and the Board found the taxable value did not exceed full cash value and further found the factor system needed clarification.

**07-82E HEARING NO. 7R06, BETHEL HOUSING DEVELOPMENT CORPORATION INC
PARCEL NO. 027-261-27**

A petition for Review of Assessed Valuation received from Bethel Housing Development Corporation, protesting the tax exemption status on land and improvements located at 2655 N. Rock Blvd., Sparks, Washoe County, Nevada, was set for consideration at this time. The property is zoned R1-6 and designated ten or more units.

Ivy Diezel, Department System Support Analyst, duly sworn, oriented the Board as to the location of the subject property.

The Petitioner, Gregory Lewis, duly sworn, was present and submitted the following documents:

Exhibit A, documentation of annual filing for exemption for qualified low-income housing project.

Mr. Lewis explained he was seeking re-establishment of the tax exemption status for the Bethel Plaza Apartments, a senior low-income housing complex. He said the subject property had exemption status since 1997 as staff had made the appropriate filings. However, for 2006/07 that did not transpire. Mr. Lewis noted their organization had restructured so this would not reoccur. Mr. Lewis said a letter dated September 14, 2006, was submitted to the County to re-establish the exemption status.

Ms. Diezel submitted the following documents into evidence:

Exhibit I, Assessor's Fact Sheet(s) and subject's appraisal record, pages 1 through 3.

Ms. Diezel said the application for exemption was required to be filed by June 15th. She explained the roll closed by the end of June, and she did not have the authority to change and apply the exemption after that time.

The Vice Chair closed the hearing.

In rebuttal, Mr. Lewis said in realizing the error, his staff spoke with the Assessor's Office to seek a resolution and indicated this omission had never occurred before.

In response to Member Schmidt, Ms. Diezel replied she was not aware of this situation ever occurring.

John Bartlett, Legal Counsel, said the Board had the authority to consider the reinstatement of the tax exemption status. The Board would need to decide if there was a legally justifiable excuse to consider a late filing.

Member Covert indicated he understood the situation, and he suggested re-establishing the tax exemption status.

In response to Member Schmidt, Mr. Bartlett replied statute read to correct assessments because of a typographical, clerical, or mathematical error. He explained that referred to an error made by either the taxpayer or the County. Mr. Bartlett said to re-open the rolls the Board had to determine whether failure to file the form on time could be used.

Member Green stated he was epithetic to the situation, but he was concerned if the Board had the ability to rectify the situation because of the legalities involved.

Mr. Bartlett said the deadline was set in regulation. He indicated the regulation was not drafted with an exception if the deadline was missed, and realized this was a dilemma for the Board.

In response to Member Schmidt, Ms. Diezel replied the value notices were sent in December; however, at that point in time the applicability of the exemption had not been established for that year because those were not sent until March or April. She explained the exemption was applied during the re-open period.

Member Covert commented due to a change in personnel this was a one-time occurrence.

Mr. Lewis commented in recognizing a mistake was made the first installment of the tax bill was paid in good faith.

On motion by Member Green, seconded by Vice Chair McAlinden, which motion duly carried, it was ordered to accept the re-opening of filing due to a clerical error that occurred in June of 2006 and to accept the application for exemption status concerning low-income housing for the Bethel Housing Development Corporation.

07-83E

HEARING NO. P-1, ELDORADO HOTEL AND CASINO
PARCEL NOS. 007-292-13, 007-292-18, 007-292-20, 007-292-25, 007-292-29, 007-294-35, 007-294-36, 007-295-04, 007-295-11, AND 011-370-46

A petition for Review of Assessed Valuation received from the Eldorado Hotel and Casino, protesting the taxable valuation on land and improvements located at 345 N. Virginia Street, Reno, Washoe County, Nevada, was set for consideration at this time.

Mark Stafford, Senior Appraiser, duly sworn, oriented the Board as to the location of subject property. He said the Assessor's Office was making a recommendation to adjust the value, and the petitioner was in agreement.

Exhibit I, Assessor's Fact Sheet(s) and subject's appraisal record, pages 1 through 3.

Appraiser Stafford reviewed sales of comparable properties substantiating that the Assessor's total taxable value does not exceed full cash value. He further testified that the Eldorado Hotel and Casino was reviewed annually by the Assessor's Office. Appraiser Stafford explained at the present time the Board was hearing the 2007 secured roll, but the personal property division was assessing for the 2006 unsecured personal property roll. He said the 2006 declarations were received before July 31, 2006, after which time staff had until April 30, 2007 to bill the 2006/07 unsecured roll. Appraiser Stafford said when the review was being completed for the 2006 secured roll for the Eldorado, staff used the personal property 2005 declaration and calculated the personal property valuation to incorporate that into the 2006 future calculation for the total valuation of land, building and personal property. He said the 2006 declaration arrived on July 31, 2006, which indicated what would be owned in July 2006. He said in this case, the 2006 total valuation calculated for the Eldorado was \$125,000,000, as was the 2007 total valuation. Appraiser Stafford said the value was held constant on this property based on an analysis of income. He said when the 2006 declaration was processed an increase of approximately \$3,000,000 in personal property was found from what was projected. Because the value was held in both years staff believed it would be inappropriate to raise an interim personal property value \$3,000,000. He said the Assessor's intent was to hold the property value to \$125,000,000 for the two years. He recommended the 2006 unsecured personal property valuation be reduced to \$16,681,632 to achieve the desired \$125,000,000 total valuation for the 2006 tax year.

The Petitioner, Michael Bosma representative for the Eldorado Hotel and Casino, and Earl Howsley, Director of Finance for the Eldorado Hotel and Casino, were duly sworn, and stated they were in agreement with the Assessor's recommendations.

Member Covert disclosed he was an acquaintance of Mr. Bosma.

The Vice Chair closed the hearing.

Based on the evidence presented by the Assessor's Office and the Petitioner, on motion by Vice Chairman McAlinden, seconded by Member Green, which motion duly carried, it was ordered that the 2006 Unsecured Personal Property be reduced to \$16,681,632 to achieve the desired \$125,000,000 total valuation. 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.

07-84E HEARING NO. P-2, SILVER LEGACY RESORT CASINO
PARCEL NO. 007-293-19

A petition for Review of Assessed Valuation received from the Silver Legacy Hotel and Casino protesting the business and personal property located at 345 N. Virginia Street, Reno, Washoe County, Nevada, was set for consideration at this time.

Mark Stafford, Senior Appraiser, duly sworn, oriented the Board as to the location of the subject property and stated this concerned the 2006 unsecured tax roll.

Michael Bosma, representative for the Silver Legacy Hotel and Casino, and Stephanie Lepori, Silver Legacy representative, were sworn and submitted the following documents into evidence:

Exhibit A, projected spreadsheet.

Exhibit B, review of personal property declaration.

Mr. Bosma testified when the property was valued that value hinged on their June 30th standard financial statement. He said it was industry standard to re-invest in property to remain fresh and current. He said in the past the Silver Legacy had not objected to the current depreciation schedule on personal property. Mr. Bosma said when the personal property declarations were filed the Assessor's Office compared that personal property declaration to what was agreed to. He said that allowed the Assessor to see if there were any extenuating circumstances that might increase the overall value of the property. He agreed if there were significant or substantial improvements to the property, then you would be taxed on that.

Vice Chair McAlinden accepted:

Exhibit I, Fact Sheet(s) and subject's appraisal record, pages 1 through 12.

Mr. Bosma explained page 2 of 12 in Exhibit I, showed the EBITDAR (earnings before interest, taxes, depreciation, amortization & rent) for the property concerning the years in question. Page 3 of 12 showed the anticipated value of the property. He explained the personal property that was estimated was \$12,000,000 and the actual personal property that was filed was \$20,650,000, an increase of \$8.6 million in what was taxed and agreed to. He said there was an agreement for the 2007/08-roll year based on the income for June 30, 2006 that was completed in December of 2006. He said

through that process a significant spike was noticed in personal property and in the income of what was estimated from the previous year. Mr. Bosma said the year in question had an EBITDAR of \$30 million and was agreed to based on a stabilized EBITDAR of \$172,000,000. He said irrespective of current year activity it was always relied upon the previous year's cash flow. He said having argued to the State Board of Equalization (SBOE), if results were poorer than expected, a reduction should be made. Mr. Bosma explained there was an increase of cash flow from what was estimated. He believed when the Silver Legacy filed the personal property tax return the spike in the amount of tangible personal property reported resulted in a number of items being misclassified. As a result, they were not given the correct weighting for taxable value. He referred to petitioner Exhibit B, circle page 2, and explained the "life as filed" in the blue column, and the "correct life" in the red column, was the lifespan being proposed for these assets. Mr. Bosma further explained why there should be a reduction in each of the four sections, A, B, C, and D, and why they were misclassified.

Mr. Stafford explained they had discussed many of these items, and he had no problem with the reclassification of the assets except the Mining Rig.

Mr. Bosma explained the animated portion of the Mining Rig was dormant. He said, as stated in the personal property declaration instructions, the primary reason it should be changed from a 20-year life; as filed, to a 15-correct life was to select the appropriate expected life. He explained the Rig was not specifically itemized so it should go to the general code of gaming or the general code for all assets, which was 15 years. He indicated it was no longer operational and past its useful life since the original use was a fully operational amusement device.

Vice Chair McAlinden said there was an increase of \$8.6 million and asked if that was due to misclassifications. Mr. Bosma replied the sum of all the proposed changes was \$9.3 million.

Appraiser Stafford submitted the following documents into evidence:

Exhibit II, adjustment spreadsheet.

Appraiser Stafford referenced page 2 of 12 in Assessor's Exhibit I that described the EBITDAR of the property for fiscal year ending 2004, 2005, and 2006. He said the 2005 EBITDAR at \$30 million would be the figure to estimate the 2006 tax roll value and the \$36.6 million would formulate the 2007 tax roll value. He explained he took all the information that existed at the property and applied that to the 2006 factor so the years could be matched.

In response to Member Covert, Appraiser Stafford replied the Silver Legacy supplied the numbers.

Mr. Bosma noted the Silver Legacy said significant renovation was completed to the rooms, but that there were some errors made in the personal property declaration.

Appraiser Stafford reviewed Assessor's Exhibit II and Petitioner's Exhibit B, circle page 2 and identified the assets believed to be misclassified. He acknowledged where he applied the different factors to the different years and explained what the difference would be in regard to the Mining Rig. He indicated in 2000 the Silver Legacy engaged a consulting firm to review their fixed asset listing and reclassified the equipment. He said those findings were presented to the Assessor's Office and the Assessor accepted the reclassification of the equipment. Appraiser Stafford explained since 1995 the Rig had been classified a 20-year item and when the list was re-submitted in 2000 it remained a 20-year item with all the parties agreeing. He could not find in any manual anything that stated a three story Mining Rig constructed in the middle of a casino should have a 20-year or a 15-year life. He remarked perhaps there was some obsolescence now that unit was 12 years old, but there was the agreement.

Member Covert said he did not find it unusual to have custom equipment made or remanufactured for a different use halfway through its accounting life. He commented there was an agreement in 2000 that this was a 20-year life piece of equipment.

Member Green asked if this could be converted to real property. Appraiser Stafford replied if this were on the real property roll it would have a 67.5 year life.

Member Covert said by doing this the Silver Legacy would be trading an additional tax deduction and sacrificing future tax deductions. Mr. Bosma replied property tax purposes did not work that way. He said for general accepting accounting principles and taxes it was timing. He explained property taxes were determined by the replacement cost new, less depreciation.

In rebuttal, Mr. Bosma believed a 15-year lifespan would be correct.

In response to Member Covert, Appraiser Stafford explained he only intended to bring the 2000 agreement to the Board's attention.

Vice Chair McAlinden said if an item was not specifically itemized the personal property tax manual stated 15 years. Appraiser Stafford replied that was not correct, and he explained if it were not specified then staff would try to find similar items and industry classifications.

Based on the evidence presented by the Assessor's Office and the Petitioner, on motion by Vice Chairman McAlinden, seconded by Member Krolick, which motion duly carried, it was ordered that the Assessors appraisal be adjusted,

changing the life of the items listed in Assessor Exhibit II, for a new taxable value for Parcel No. 007-293-19 would be \$19,248,306.

3:38 p.m. The Board recessed.

3:48 p.m. The Board reconvened.

07-85E **HEARING NO. 43, DAVID BURRELL**
PARCEL NO. 085-482-10

A petition for Review of Assessed Valuation received from David Burrell, protesting the taxable valuation on land and improvements located at 5789 Applegate Drive, Washoe County, Nevada, was set for consideration at this time. The property is zoned MDS and designated mobile home, personal property.

David Burrell, Petitioner, was sworn and submitted the following document into evidence:

Exhibit A, property information packet pages 1-10.

Vice Chair McAlinden inquired why there was an individual in the room taking photographs. Member Schmidt said this was a public meeting in a public room thought the Board should move on. However, since the Chair interrupted the meeting he wanted to take the opportunity to read a portion of the Open Meeting Law into the record. Vice Chair McAlinden stated Member Schmidt was acting inappropriate. Member Schmidt stated the Vice Chair was ill informed and an obstruction.

Petitioner Burrell explained the history of appraisal on his land. He said in 2000 his land was appraised at \$34,000 and from 2001 until this year the appraisal kept increasing. He indicated the improvements on the property were approximately 30 years old. He explained until recently, due to medical problems, he worked many hours a week; however, now that he was home 24 hours a day he was able to observe the neighborhood. Mr. Burrell said while his property increased over the past five years, his neighborhood deteriorated from originally owner-occupied dwellings to rentals and abandoned properties. He said in the past five years the County had appraised his property 60 percent more than the previous year. Mr. Burrell researched other sales in that area and found three lots similar to his that sold between \$65,000 and \$75,000. He said Washoe County raised his property 120 percent over the past six years. He indicated he was opposed to the tax values in Sun Valley; however, he would like to sell his property for what the Assessor's Office stated it was worth, but the reality was that he could not.

Member Schmidt said the Assessor's Office had assigned \$82,000 to a one-third acre lot in Sun Valley. Mr. Burrell stated he did not think that was justified.

Joe Johnson, Appraiser III, duly sworn, oriented the Board as to the location of the subject property.

In response to Member Green, Appraiser Johnson said the property was reappraised this year.

Appraiser Johnson submitted the following document into evidence:

Exhibit I, Assessor's Fact Sheet(s) including comparable sales, maps and subject's appraisal record, pages 1 through 10.

Appraiser Johnson reviewed land sales of comparable properties substantiating that the Assessor's total taxable value does not exceed full cash value. He further testified that the land was valued at \$82,000 as a base lot value and the improvements, based on Marshall and Swift, were consistent for mobile home hook-ups at approximately \$9,944, for a total taxable value of \$91,944.

Member Krolick said typically a corner lot was a higher value.

In response to Member Covert, Appraiser Johnson said the whole area had been equalized through reappraisal.

Member Schmidt stated this reappraisal did not equalize the area. Appraiser Johnson did not agree. Member Schmidt said the petitioner had argued that his property was valued higher than other properties throughout the entire County. Appraiser Johnson said he did not recall that the petitioner stated that and noted his research was specific to Sun Valley. Member Schmidt said based on his personal knowledge he referenced a \$105,000 base lot for acre parcels in the Saddlehorn area. Josh Wilson, Assessor, stated he had appraised Saddlehorn in 2003/04. He said that area consisted primarily of one-acre lots; however, there was sub pockets of half-acre lots and the base lot established, at that time, based on market data available was \$110,000. He said subsequent to that it received an 8 percent factor in 2005, a 2 percent factor in 2006, and a 15 percent factor in 2007 so the current value would be \$135,000 for that area. Member Schmidt stated the Assessor should confine himself to the questions asked.

Vice Chair McAlinden advised Member Schmidt to let the Assessor finish his response. Mr. Wilson pointed out he believed Member Schmidt was attempting to make an equalization argument for the petitioner. Member Schmidt asked the Assessor not to speculate on what he was trying to do just answer the question. Mr. Wilson referenced NAC 361.624, and he said that basing those comments on what Member Schmidt just said this reappraisal took everything out of equalization. Mr. Wilson disputed that. He stated the subject property was brought to its full cash value and the improvements were appropriately depreciated.

Member Schmidt asked if the ArrowCreek area was substantially one-acre lots and valued at \$195,000 for a base lot. Appraiser Johnson stated he did not appraise that area and was unaware of the values in that area. Vice Chair McAlinden asked on the relevance of that question. Member Schmidt emphasized that the Vice Chair did not

question other Board members to the relevance of their questions, and he took offense to her challenging his questioning.

In response to Member Schmidt, Rigo Lopez, Senior Appraiser, stated there were different base values in ArrowCreek. He said the range was from \$75,000 to \$400,000.

Member Schmidt asked if there was information on the base lot range for the Rhodes Road area. Member Green said he did not have that information, and he was unsure where Member Schmidt was going with these questions. He suggested keeping the questions to the subject property.

Appraiser Johnson said the County did not allow manufactured homes in the ArrowCreek or Saddlehorn subdivision. He said there were only certain areas in the County where those were allowed.

Member Schmidt said on comparable sales 1 through 6 there was a sales price that included the hook-ups; so to compare those sales prices to the petitioner's price you would be copying those sales prices to his total improvements. Appraiser Johnson did not agree. He said based on those sales the Assessor's Office came with a base lot value of \$82,000.

Vice Chair McAlinden suggested Member Schmidt ask specific questions without badgering the Appraiser. Member Schmidt informed the Vice Chair these were specific questions. He said the record would speak for itself and that she would be quite embarrassed.

Member Schmidt continued and said land sale No. two, as stated in Assessor's Exhibit I, was a \$90,000 sale that included approximately an \$8,000 value for the hook-up. Appraiser Johnson stated that was correct. Member Schmidt said it was also a half-acre parcel and 40 percent larger than the subject property. Appraiser Johnson said there was no market data to show there was a significant difference and explained market data was not based on one sale.

Vice Chair McAlinden asked if other Board members would like to ask questions. Member Schmidt stated she was an obstruction.

The Petitioner did not have a rebuttal.

Member Schmidt asked if the petitioner was raising an issue of equalization. Mr. Burrell said based upon his experience of the last five years he was being assessed at a property value that he could not get in today's market. Member Schmidt asked if the petitioner thought he was being taxed unfairly or unequally to the parcel's value. Mr. Burrell said no, because he was not aware of or did not dispute the Assessor's Office concerning calculation of one property or another.

Mr. Wilson said that area where the subject property was located was recently reappraised and would be reappraised next year. He indicated a close eye would be kept on the market conditions and adjustments could be made to coincide with the direction the market moved in.

The Vice Chair closed the public hearing.

Member Krolick suggested a \$2,000 decrease.

Based on the evidence presented by the Assessor's Office and the Petitioner, on motion by Vice Chairman McAlinden, seconded by Member Krolick, which motion duly carried with Member Schmidt voting "no", it was ordered that the taxable value of the land on Parcel No. 085-482-10 be reduced to \$80,000, and that the taxable value of the improvements be upheld, for a total taxable value of \$89,944. 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.

07-86E HEARING NO. 41, CLIFFORD WILLIAMS ET AL
PARCEL NO. 071-211-66

A petition for Review of Assessed Valuation received from Clifford Williams, protesting the taxable valuation on land and improvements located at Highway 34 North, 17 miles north, 3 miles west, Washoe County, Nevada, was set for consideration at this time. The property is zoned GR and designated minor improvements.

Petitioner Clifford Williams was not present but had submitted documentation.

Pat O'Hair, Appraiser III, duly sworn, oriented the Board as to the location of the subject property.

Appraiser O'Hair 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 8.

Exhibit II, Replacement page 1 for Exhibit I.

Appraiser O'Hair reviewed sales of comparable properties substantiating that the Assessor's total taxable value does not exceed full cash value. He further testified that the petitioner felt the surrounding parcels were an agricultural exemption, which would value that land at \$6 to \$8.50 per acre for taxable value. Appraiser O'Hair indicated he mailed an application for agricultural exemption to Mr. Williams and explained the form to the petitioner. He said Mr. Williams would like his land assessed agricultural; however, that could not be done without the proper paperwork completed or someone to lease the property who had an agricultural exemption.

In response to Member Covert, Appraiser O'Hair replied a minimum of \$5,000 gross income per year had to be made on the property to be considered agricultural.

Member Schmidt said he was familiar with the agricultural exemption and said the County "piggy-backed" from federal provisions. Appraiser O'Hair clarified it was state mandated through NRS. Member Schmidt said the petitioner could lease the land to someone who had an exemption with livestock already. Appraiser O'Hair said the County had interpreted if there was livestock on the land for three years, even though there was not \$5,000 income they would allow an exemption Appraiser O'Hair believed the petitioner had horses on the land for recreation, but for agricultural exemption they had to be for breeding purposes. Member Schmidt inquired on poultry to establish the three years. Appraiser O'Hair said if he could make \$5,000 gross income. Member Schmidt disclosed that the petitioner was his neighbor in Gerlach, and he had known him for approximately one year. He said he had discussed this process of agricultural exemption with him, but not his property.

Vice Chair McAlinden closed the public hearing.

Member Schmidt did not think the comparable sales supported the \$400 per acre value.

Member Covert asked if the issue was agricultural versus General Rural (GR). Appraiser O'Hair said the whole area was GR. He said the petitioner requested the agricultural valuation, but he did not qualify for that at this time.

Member Krolick commented when considering subject parcels in the GR area a photograph of the rural properties would be helpful in the future.

Vice Chair McAlinden stated she would not support a reduction at this time; however, when the petitioner applied for the agricultural permit then he could receive a reduction in his taxable value.

Member Covert believed the petitioner's relief would arrive when he completed the forms and he would not support a reduction.

Based on the evidence presented by the Assessor's Office and the Petitioner, on motion by Member Schmidt, seconded by Member Green, which motion duly carried with Members McAlinden and Covert voting "no," it was ordered that the taxable value of the land on Parcel No. 071-211-66 be reduced to \$112,000, and that the taxable value of the improvements be upheld, for a total taxable value of \$137,458. 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.

FUTURE MEETING

Vice Chair McAlinden suggested a meeting to understand the flow of the petitions from acceptance to the process between the Clerk's and the Assessor's Office, so that the Board would know its duties and jurisdiction.

Member Schmidt said this Board had not adopted rules, and he hoped that Legal Counsel would be at a meeting to advise the Board on the types of rules in regard to the process that could be adopted without State approval. He suggested scheduling and the agenda also be discussed.

Member Covert concluded an organizational meeting to clarify the Board's duties and functions could be helpful and productive. He declared his time could be better spent than to sit and listen to repeated hatred of the County Commission, the County Commission Chairman, and the Assessor's Office. He said a meeting would be best when there were Board members that could discuss rationally the issues at hand. Member Covert said he was not interested to listen to legal interpretation by what he considered a "jail-house" lawyer. He said he would be interested in a meeting, but he did not want to get into a shouting match or sit and listen to one Board member dominate the meeting, which was all he had heard the past eight days.

Member Krolick agreed with the meeting and thought it would bring clarification to streamline and improve the process.

Josh Wilson, Assessor, agreed a meeting would be good for the Board to understand the flow of the appeals.

Vice Chair McAlinden suggested the following dates be considered for a possible meeting: March 15, 2007, March 16, 2007, March 22, 2007

APPROVAL OF MINUTES

Nancy Parent, Chief Deputy Clerk, explained the process the Clerk's Office used to distribute the draft minutes to the Board members.

Vice Chair McAlinden stated the Board would review the minutes and respond to the Clerk within 15 days if corrections were needed. If no objections were noted, the minutes would be forwarded to the Vice Chair for signature.

BOARD MEMBER COMMENTS

Vice Chair McAlinden thanked the staff of the Assessor's and the Clerk's Office for their hard work, professionalism, support and courtesy during the meetings and preparation for the meetings.

Member Green thanked the Clerk's Office for being professional, courteous and always having a smile; the Assessor's Office for a professional staff, and the Board members for their commitment and professionalism.

Member Covert agreed with Member Green's comments and reaffirmed that he felt County employees were hard working and dedicated and had talented leaders.

PUBLIC COMMENT

Dave Purcell read a statement from Attorney Norm Azevedo concerning the reconsideration of Azevedo clients' hearings on February 28, 2007, which was placed on file with the Clerk.

Josh Wilson, Assessor, replied he attempted to contact Mr. Azevedo at the advice of Legal Counsel, Terrance Shea, and explained this Board made a decision on February 12, 2007 that rolled Mr. Azevedo's client's values back to the 2003/04, which was the reappraisal year. He said upon receipt of the decision letter a staff member in his office, before implementing the changes, went to him and asked if this was what the Board did. He said it was; however, in a later motion in the afternoon they indicated that they had meant to roll the values back to 2002/03. He said his office did not want to implement a change that was contrary to the understanding of what the appellants thought. He said he tried to clarify this situation and attempted to reach Mr. Azevedo multiple times to no avail. He said this letter just read was attempting to set forth grounds that the Assessor's Office was not trying to comply. He said his office was trying to implement what this Board meant to do. He said this was simply an effort to do what was right, and he strongly objected to the letter.

Member Schmidt stated he wished Assessor Wilson every bit of success in his new job, and he would make every effort to assist him. He spoke on the reconsideration item and the concerns he had regarding that item.

Rigo Lopez stated he appreciated all the time and effort the Board members committed to this season. He said the entire Assessor's Office supported Mr. Wilson during the recent election. Mr. Lopez thanked the Clerk's Office staff for their professional and for being cooperative.

* * * * *

5:53 p.m. There being no further hearings or business to come before the Board, the meeting adjourned *sine die*.

PATRICIA MCALINDEN, Vice Chair
Washoe County Board of Equalization

ATTEST:

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

*Minutes prepared by
Lisa McNeill, Deputy Clerk
Stacy Gonzales, Deputy Clerk*