

# CARSON CITY BOARD OF EQUALIZATION

## Minutes of the February 13, 2007 Meeting

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A regular meeting of the Carson City Board of Equalization was scheduled for 10:00 a.m. on Tuesday, February 13, 2007 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Chairperson Ron Allen  
Marilyn Koschella  
William Lewis  
Mary Sanada  
Roy Semmens

**STAFF:** Dave Dawley, Assessor  
Steve Walker, Chief Property Appraiser  
Kimberly Adams, Property Appraiser  
Heather Mandel, Property Appraiser  
Tim Clark, Property Appraiser  
Melanie Bruketta, Chief Deputy District Attorney  
Kathleen King, Recording Secretary

**NOTE:** A recording of these proceedings, the board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record, on file in the Clerk-Recorder's Office. These materials are available for review during regular business hours.

**A. CALL TO ORDER AND DETERMINATION OF QUORUM (10:00:00)** - Chairperson Allen called the meeting to order at 10:00 a.m. Roll was called; a quorum was present.

**B. ACTION ON APPROVAL OF MINUTES - January 23, 2007 (10:00:30)** - Member Semmens moved to approve the minutes. Member Koschella seconded the motion. Motion carried 5-0.

### **C. DISCUSSION AND ACTION ON PETITIONS FOR REVIEW OF ASSESSED VALUATION**

**C-1. CAPITAL CHRISTIAN CENTER, APN 010-221-15; 1600 SNYDER AVENUE; and**  
**C-2. CAPITAL CHRISTIAN CENTER, APN 008-921-10; 1987 OLD HOT SPRINGS ROAD**  
(10:00:42) - Chairperson Allen introduced this item, and Mr. Walker identified the 1600 Snyder Avenue property. (10:01:11) Attorney Norman Azevedo introduced himself for the record and advised he was representing Capital Christian Center. He stated there was no dispute over the exemption status for either property, as designated by the Assessor's Office and the District Attorney's Office. He provided an overview of his April 24, 2006 letter to the City Treasurer and the April 26, 2006 letter from the District Attorney's Office, and distributed copies of the same to the board members and staff. He referred to NRS 361.125, distributed copies of the same to the board members and staff, and read subsection 3 into the record. He pointed out that the April 26, 2006 letter from the District Attorney's Office directs Capital Christian Center to appeal the denial of exemption for the 1987 Old Hot Springs Road parcel to this board. He displayed a tax exempt application provided by the Assessor, and advised he had never completed it. He further advised of having provided a letter "that incorporated all the relevant portions" of the application to the District Attorney and to the Assessor which he believed "facilitated the granting of the exemption."

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Mr. Azevedo requested the board members to consider the language of NRS 361.125(3) which ties the exemption to the date the property transferred ownership. He referred to an August 12, 2005 letter from Assessor Dave Dawley which initiated contact with Capital Christian Center but did not reference the tax exempt application. He expressed the belief that the property is tax exempt, and advised that use of the property has remained consistent since the date of acquisition. He expressed the opinion that retention of the taxes, paid under protest, would be inconsistent with the subsequent determination of exemption.

In response to a question, Mr. Azevedo advised that taxes were paid under protest only on the Hot Springs Road property, not on the Snyder Avenue property. He acknowledged there is no issue with the Snyder Avenue property, and explained he had filed the petitions "because it's one church." In response to a question regarding the tax exempt application, Mr. Azevedo reiterated that he had submitted a letter containing the information requested in the tax exempt application in October of 2006. He referred again to the Assessor's "first communication" with Capital Christian Center to which Pastor Stanley Friend responded immediately "with the documentation requested."

In response to a comment, Mr. Azevedo advised that NRS 361.125 does not refer to a June 15<sup>th</sup> deadline. Subsection 3 ties tax exemption to the date a property transfers ownership. Capital Christian Center didn't own the Hot Springs Road property until July 2005 and, therefore, couldn't have filed a request for tax exemption. Mr. Azevedo respectfully suggested this is the purpose for the statute language, and pointed out that NRS 361.125 does not require submission of the tax exempt application as a condition precedent to exemption. He acknowledged having received the tax exempt application from the Assessor's Office. Chairperson Allen inquired as to the reason for not submitting the tax exempt application. Mr. Azevedo reviewed various provisions of NRS 361.125, and expressed the understanding that the Board of Equalization process "was to address all possible exemptions we were choosing to pursue." He advised "there was never any mention of the exemption" in August 2005 "when the Assessor initiated this process." He further advised that the District Attorney's Office had rendered an opinion deeming the property to be non-exempt "without even the issue of this exempt packet." He expressed the belief that the tax exempt packet is inapplicable to churches in light of NRS 361.125.

Mr. Azevedo acknowledged that the Old Hot Springs Road property is used for a daycare / preschool operation. In response to a further question, he advised that fees are paid by the families whose children attend the daycare. He reiterated that the church operates as one organization; the daycare is not a separate subsidiary or different entity. In response to a further question, he advised that the curriculum offered is religious in nature and there is a worship element directed to the children. He advised of research conducted in an attempt to ensure Capital Christian Center's request "was consistent statewide" and that the mandates of the Uniform and Equal Clause of the Nevada Constitution were being adhered to. Based on his research, Mr. Azevedo advised that the conclusion reached by the District Attorney in the latter part of January is correct and consistent with other counties in the State given the scope of the exemption under NRS 361.125. In response to a question, he advised of having researched the substantive elements of the exemption. He expressed the opinion that the tax exempt application packet appears to have been created by the Carson City Assessor's Office. He was uncertain as to whether other jurisdictions use the document. He advised that if each county assessor has a similar tax exempt packet, "it would run afoul of a recent Nevada Supreme Court ruling in *State of Nevada vs. Bax*." Chairperson Allen called for additional questions or comments from the board members and, when none were forthcoming, requested the Assessor's Office to present their case.

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(10:21:09) Mr. Walker advised that the property at 1600 Snyder Avenue, APN 010-221-15, is exempt and that the Assessor's Office recommended continued exemption. Chairperson Allen entertained a motion to accept the findings, as reported by the Assessor's Office for APN 010-221-15, located at 1600 Snyder Avenue. **Member Sanada so moved. Member Koschella seconded the motion. Motion carried 5-0.**

(10:22:55) Mr. Walker reviewed the staff report pertinent to the 1987 Old Hot Springs Road property which was included in the agenda materials. In response to a question, he advised that the tax exempt packet is "pretty much verbatim from Washoe County." In response to a further question, he advised that the property was considered to be exempt once assertions were made regarding worship. A daycare facility on exempt property is also exempt. In response to a further question, Mr. Walker read NRS 361.157(2)(m) into the record. Ms. Bruketta advised that research into the issue of what constitutes worship revealed a split opinion among the United States Supreme Court justices. She further advised that the two daycare centers owned by Capital Christian Center are operated in the same manner, and that the two facilities cannot be differentiated by geographic location.

In response to a question, Mr. Dawley advised that St. Theresa's Catholic School is designated exempt pursuant to NRS 361.105. Chairperson Allen called for additional questions or comments. Member Sanada suggested the entire issue had to do with the timely submission of the requested exemption application. In response to a question, Mr. Azevedo advised that his client received the request on August 12, 2005. Mr. Azevedo was in the process of addressing the District Attorney's opinion designating the property as non-exempt at that time. He submitted a letter on October 24<sup>th</sup> in answer to the tax exempt application. He advised of having come away from the May 3, 2006 meeting with Assessor's Office staff with the impression that the tax exempt application was for "all types of exemptions." He reiterated the understanding, from the District Attorney's April 26, 2006 letter, that he would be required to appear before this board to appeal the denial of exemption. He advised that the information requested in the tax exempt application is "not as voluminous as the information ... produced in my October 24<sup>th</sup> letter." He reiterated that the tax exempt application was not completed because of responding to the District Attorney's denial of exemption. He advised of having conducted a walk through of both the 1600 Snyder Avenue facility and the 1987 Old Hot Springs Road facility in December 2006. He further advised of exchanging information and providing access to the District Attorney's Office since his involvement in this process.

Member Sanada expressed understanding for the requirement of prescribed forms. She referred to the applicable statute and noted that, if the property has been deemed exempt, "it was exempt when they got it." She noted the testimony indicating no requirement that the exemption is conditioned on completing an application. She suggested that Mr. Azevedo and Pastor Friend could submit the application if it is important for Assessor's Office records. She expressed the belief that people who bring their children to a Christian daycare center expect an element of prayer, worship, and religious instruction. She reiterated the opinion that if the property has been determined to be exempt, it was exempt at the time of purchase.

In response to a question, Mr. Dawley advised that the exempt status determination was based on the information provided by Mr. Azevedo as part of his October 24, 2006 correspondence. He provided an overview of the time line associated with requesting the tax exempt application, as provided in the agenda materials. In response to a further question, Mr. Dawley advised that no follow up request was made for the exemption application. Chairperson Allen called for additional comments or questions and, when none were forthcoming, entertained a motion. **Member Sanada moved that the Board determine that Capital Christian Center, APN 008-921-10, at 1987 Old Hot Springs Road, became exempt on the date of**

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**purchase and that any taxes paid after that date should be prorated in accordance with the statute and refunded to Capital Christian Center. Member Lewis seconded the motion.** Member Koschella suggested amending the motion to include a requirement to complete the exemption application for the Assessor's Office records. **Member Sanada accepted the amendment. Member Lewis continued his second. Motion carried 3-2.**

**D. PUBLIC COMMENT (10:43:30) - None.**

**E. DISCUSSION AND POSSIBLE ACTION REGARDING NEXT MEETING DATE (10:43:42)**  
- Mr. Dawley advised there were no other appeals, and thanked the board members for their service.

**F. ACTION ON ADJOURNMENT (10:44:11) - Member Semmens moved to adjourn the meeting at 10:44 a.m. Member Koschella seconded the motion. Motion carried 5-0.**

The Minutes of the February 13, 2007 Carson City Board of Equalization meeting are respectfully submitted this 12<sup>th</sup> day of March, 2007.

ALAN GLOVER, Clerk-Recorder

By: \_\_\_\_\_  
Kathleen M. King, Deputy Clerk / Recording Secretary