

IN THE SUPREME COURT OF THE STATE OF NEVADA

LESLIE P. BARTA,  
Appellant,  
vs.  
STATE OF NEVADA EX REL. BOARD  
OF EQUALIZATION, AND WASHOE  
COUNTY,  
Respondents.

No. 42779

FILED

FEB 16 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order that denied a petition for judicial review challenging a State Board of Equalization (State Board) determination of the taxable value of real property. Second Judicial District Court, Washoe County; James W. Hardesty, Judge.

Appellant Leslie P. Barta challenges the 2000 taxable value of his Reno commercial property. The Washoe County Assessor (Assessor) determined that value, and the State Board found that it did not need to be adjusted. The district court denied Barta's petition for judicial review and affirmed the State Board's findings, which Barta argues were made in error. We disagree.

The court will consider the evidence presented to show legislative intent

As a preliminary matter, the State Board argued that this court should not consider some of the materials Barta relied upon in his brief because he presented them for the first time on appeal. Barta argues that since those materials support his legal argument, we should consider them. Barta's argument has merit.

When reviewing the meaning of a statute, this court can consult outside sources such as legislative history and evidence of

legislative intent.<sup>1</sup> One of Barta's arguments below centered on the proper test to be used when applying NRS Chapter 361. Barta presented, to this court, the materials in question to demonstrate the legislature's intent in drafting that statute. We conclude that it was proper for us to consider those materials while determining the merits of Barta's argument.

### Standard of review

Statutory construction is a question of law, which this court reviews de novo.<sup>2</sup> When the district court reviews a petition for judicial review under NRS 361.430, it presumes the State Board's determinations are valid.<sup>3</sup> To overcome that presumption, the taxpayer bears the burden of showing "by clear and convincing evidence that the valuation established by the State Board is unjust and inequitable."<sup>4</sup> A taxpayer satisfies that burden by showing, inter alia, that the Assessor or State Board "applied a fundamentally wrong principle" in valuing or equalizing the taxable value of his property.<sup>5</sup> When the State Board does not use its independent judgment in rendering a decision, the taxpayer may meet his burden by showing that the decision "is clearly erroneous in light of the

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<sup>1</sup>Las Vegas Downtown Redev. v. Crockett, 117 Nev. 816, 824 n.14, 34 P.3d 553, 559 n.14 (2001).

<sup>2</sup>Seino v. Employers Insurance Company of Nevada, 121 Nev. 146, 149, 111 P.3d 1107, 1110 (2005).

<sup>3</sup>Imperial Palace v. State, Dep't Taxation, 108 Nev. 1060, 1066, 843 P.2d 813, 817 (1992).

<sup>4</sup>Weiss v. State of Nevada, 96 Nev. 465, 467, 611 P.2d 212, 214 (1980); NRS 361.430.

<sup>5</sup>Weiss, 96 Nev. at 467, 611 P.2d at 214.

substantial evidence on the record.”<sup>6</sup> Substantial evidence is evidence “a reasonable mind might accept as adequate to support a conclusion.”<sup>7</sup> Thus, when we review district court decisions denying judicial review of the State Board’s determinations, we, like the district court, consider whether the taxpayer has met his burden.<sup>8</sup>

The Assessor and State Board used the correct principles

Barta argues that the Assessor and State Board applied fundamentally wrong principles in valuing his property and equalizing that value. We disagree.

When equalizing the taxable value of real property, the Assessor and State Board do not apply fundamentally wrong principles if they determine the taxable value of that property using the methods prescribed in NRS 361.227 and the taxable value of the property does not exceed its full cash value.<sup>9</sup> We conclude that the procedures the Assessor and State Board used here to assess and equalize the taxable value of Barta’s property satisfy those requirements.

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<sup>6</sup>Washoe County v. John A. Dermody, Inc., 99 Nev. 608, 611, 688 P.2d 280, 282 (1983); see also NRS 233B.121(8), NRS 233B.125, NRS 233B.135.

<sup>7</sup>Bing Constr. v. State, Dep’t of Taxation, 109 Nev. 275, 278, 849 P.2d 302, 304 (1993) (quoting State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986)).

<sup>8</sup>E.g., Imperial Palace, 108 Nev. at 1072, 843 P.2d at 821; Dermody, 99 Nev. at 611, 688 P.2d at 282.

<sup>9</sup>Imperial Palace, 108 Nev. at 1063, 1070, 843 P.2d at 816, 820; NRS 361.227(5).

The Assessor valued Barta's land using the method prescribed

Under NRS 361.227(1)(a)(2), county assessors are required to value improved land at full cash value. Full cash value is determined "using market data or a comparative approach to valuation."<sup>10</sup>

The County Assessor used five comparables to value Barta's property in 2000. The State Board found that it was not inequitable for the Assessor to use the comparables in question. The resulting value was in line with the other comparable values used. There is substantial evidence in the record to support that finding. Therefore, we conclude that the Assessor determined the value of Barta's land using the proper principles.

The Assessor used the proper method to value Barta's building

Under NRS 361.227(1)(b), the Assessor is required to use replacement costs to calculate the taxable value of improvements on real property. Replacement costs must be determined using the guidelines published by the Marshall and Swift Publishing Company.<sup>11</sup>

Barta concedes that the Assessor used the Marshall and Swift guidelines to assess the value of his building and that his building is what those guidelines classify as a "flex" style building. However, Barta challenges the 3.0 quality rating the Assessor assigned to his building. The State Board found that the 3.0 quality rating the Assessor assigned to Barta's building was accurate because the building's characteristics

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<sup>10</sup>NAC 361.118.

<sup>11</sup>NAC 361.128(2)(b).

matched the characteristics Marshall and Swift listed to describe a 3.0 flex building. Substantial evidence supports that finding.

It is not a fundamentally wrong principle to equalize property values using the taxable value versus full cash value comparison test

This court must read a statute so as to “give plain meaning to all of its parts” and “multiple legislative provisions [must] be construed as a whole.”<sup>12</sup> Additionally, when a statute is clarified through legislative amendment, the court can consider those amendments as persuasive evidence of what the legislature originally intended.<sup>13</sup>

Barta argues that after 1981, the legislature intended to abandon the taxable value versus full cash value test for equalizing property values. However, to support his argument, he misconstrues both NRS 361.395(1)(b), which addresses equalizing county tax rolls, and a footnote from Imperial Palace v. State, Department of Taxation.<sup>14</sup> In addition, there is language in NRS Chapter 361 that contradicts Barta’s position,<sup>15</sup> and we continue to approve of the State Board’s approach.<sup>16</sup> We

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<sup>12</sup>Diamond v. Swick, 117 Nev. 671, 676, 28 P.3d 1087, 1090 (2001) (quoting Gaines v. State, 116 Nev. 359, 365, 998 P.2d 166, 169-70 (2000)).

<sup>13</sup>Sheriff v. Smith, 91 Nev. 729, 734, 542 P.2d 440, 443 (1975).

<sup>14</sup>108 Nev. 1060, 1065 n.10, 843 P.2d 813, 817 n.10 (1992) (allowing for an adjustment where a mathematical error resulted in a highly inequitable taxable value, even though it did not exceed the property’s full cash value). Barta alleges no mathematical error here.

<sup>15</sup>NRS 361.227(5); NRS 361.345 (amended after the 1981 tax shift).

<sup>16</sup>Imperial Palace, 108 Nev. at 1072, 843 P.2d at 821 (approving of the taxable value versus full cash value comparison test).

conclude that NRS Chapter 361 clearly directs boards of equalization to use the taxable value versus full cash value comparison approach.

We have considered Barta's other contentions and conclude that they are without merit. Therefore, we conclude that the district court did not abuse its discretion by denying Barta's petition for judicial review and affirming the State Board's decision, as Barta failed to prove by clear and convincing evidence that the valuation of his property is unjust and inequitable. Therefore, we

ORDER the judgment of the district court AFFIRMED.

Maupin, C.J.  
Maupin

Gibbons, J.  
Gibbons

Douglas, J.  
Douglas

cc: Second Judicial District Court Dept. 9, District Judge  
Leslie P. Barta  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick/Civil  
Division  
Washoe District Court Clerk