

**ASSESSMENT APPEALS BOARD MINUTES  
COUNTY OF SAN LUIS OBISPO  
STATE OF CALIFORNIA**

Friday, April 21, 2006

The Assessment Appeal Board of the County of San Luis Obispo, State of California, met in regular session at 9:00 o'clock A.M., in the Board of Supervisors Chambers, County Government Center, San Luis Obispo, California.

**PRESENT: Appeals Board Members** Mr. Tom Baron and Vice Chairperson Janele Buttery

**ABSENT: Appeals Board Member** Chairperson Kem Weber

Mr. Wyatt Cash, Deputy County Counsel, is present and represents the Assessment Appeals Board.

Mr. Tom Bordonaro, Assessor, Ms. Charron Sparks and Ms. Lesa Silva, Deputy Assessors are present and sworn.

- (1) This is the time set for members of the public wishing to address the Board on items not set on the Agenda.

**Vice Chairperson Buttery:** opens the floor to the public without response.

- (2) This is the time set to consider the timeliness of Application No. 2005-97, APN 023-111-029 and 013-084-017, Dennis Metz, is presented.

Mr. Dennis Metz is present.

**Ms. Silva:** states she supports the Board accepting Mr. Metz's application as timely filed.

**Thereafter, on motion of Mr. Baron, seconded by Ms. Buttery, with Mr. Weber being absent, motion carries and the Board accepts the Application No. 2005-97, for APN 023-111-029 and 013-084-017, Dennis Metz as timely filed.**

- (3) This is the time set to consider the timeliness of Application No. 2005-85, Gloria Montesinos, APN 047-061-053, is presented.

The applicant is not present.

**Thereafter, on motion of Mr. Baron, seconded by Ms. Buttery, with Mr. Weber being absent, motion carries and the Board denies Application No. 2005-85, Gloria Montesinos as untimely filed.**

**(CHAIRPERSON KEM WEBER IS NOW PRESENT)**

- (4) Application Nos. 2002-60, 2003-60, 2003-122, 2004-41, Charter Communication Properties, LLC and Application Nos. 2005-61 and 2005-62, Charter Communications, are presented.

**Chairperson Weber:** ask the Assessor and Applicant to waive the reading of the applications, with both parties agreeing.

**Mr. Peter W. Kotschedoff,** Agent, **Mr. Ed Merrill** and **Mr. John Reed,** Charter Communication (Charter), are present and sworn.

**Mr. Wayne Walcoff,** Court Reporter, is present and sworn.

**Mr. Kotschedoff:** states he is requesting Findings of Fact for all the Charter applications presented today.

**Ms. Charron Sparks:** presents the Assessor's case (**Assessor's Exhibit 2 – Staff Report**).

A discussion regarding the consolidation of the applications occurs with both parties agreeing. Mr. Cash reminds the parties that the evidence submitted at the prior hearing regarding Application Nos. 2002-60 and 2003-60 are already part of the record and that all new evidence should address all years.

**Ms. Sparks:** recommends holding the Assessor's enrolled values; describes the properties; addresses the response from the Board's letter to the State Board of Equalization (SBE); presents a synopsis of the SBE's response; addresses the term of the contract used and her methodology; states she was not given good figures from Charter regarding the franchise payments; speaks to using a 6% growth rate, 10% market rent, discount rate of 12%, expense ratio at 2% and a 15 year term for the contracts; states the differences in variables are what the Board needs to determine.

**Mr. Kotschedoff:** states he agrees with the synopsis as presented; addresses his concern regarding new and additional information for the 2002 and 2003 appeals.

**Ms. Sparks:** quotes from the transcript of the hearing and the Board's intent to kept the hearing open.

**Mr. Cash:** agrees with Ms. Sparks statement regarding the Board's intention and indicates new and additional information should be allowed to be submitted.

**Mr. Kotschedoff:** states he will stipulate to a discount rate of 12% and a growth rate of 6% for all the years.

**Ms. Sparks:** speaks to market rent; her opinion that 10% for market rent is reasonable; addresses her use of 2% for the expense ratio is due to a lack of information from Charter; speaks to the use of 10 years for the term of the contract based upon the 10-K report stating "all franchises will be renewed indefinitely"; states a nondeclining term of 15 years will be utilized according to the public statements by Charter; discusses the Federal Communication Act of 1936; highlights the current terms for the contracts under appeal.

**Board members:** address various issues, comments, and concerns regarding the terms of the contracts and the expired contracts.

A discussion regarding Rule 21 occurs.

**Mr. Kotschedoff:** cross examines Ms Sparks on various portions her testimony.

**Mr. Bordonaro:** speaks to Rule 107 (**Assessor's Exhibit 3 – Rule 107**).

**Mr. Kotschedoff:** speaks to some settlements with other counties; addresses the 10% rent; discusses the impacts of satellite dishes on the cable industry.

**Ms. Sparks:** addresses an incorrect value that was enrolled for the 2002-03 Roll for APN 940-001-106 and the actual value should be \$4,138,719.

**Mr. Edward L. Merrill,** Charter Communication Vice President and General Manager of the North Central California Operations, highlights his duties and qualifications; speaks to how cable television works; addresses utilities and how they are sharing rights-of-way; addresses the franchise agreement process (**Applicant's Exhibit B – 2005 Franchise Agreement**); states renewals of franchises are not automatic as there is a negotiation process that occurs; comments on competitors in the industry and their impacts; explains how Charter used to go for as long a term as possible to protect their investments but that is no longer the case; outlines the lawsuit with Santa Cruz County.

A discussion regarding franchise agreement negotiations occurs.

**Mr. Kotschedoff:** presents **Applicant's Exhibit C – Duff & Phelps Valuations**, highlights his qualifications as an appraiser; addresses how the term of possession and Rule 21 apply to this appeal; states economic rents range from 3% to 5%; speaks to the economic rent analysis by Kane Reece Associates, Inc. and their opinion of 5%; comments on dish penetration into the market; provides his opinion of a 5% expense allowance; states the average term of the contracts were 12 years, but wants a 10 year term used; discusses Revenue and Taxation Code Section 107.7 and Rule 21; states he doesn't believe that the Assessor has overcome the presumption of correctness regarding economic rents; states their opinion of term is consistent with the SBE and the Assessor has not presented clear and convincing

evidence; urges the Board to put the Assessor in compliance with State law.

**Mr. Bordonaro:** addresses Rule 21 and Revenue and Taxation Code Section 107.7; discusses the differences in opinion between Mr. Cash and the Assessor's Counsel regarding Rule 21.

**Board members:** addresses various issues, comments, and concerns regarding the differences between "mutual understanding" and "mutual agreement" and Rule 21.

**Chairperson Weber:** defines the dates of value for the appeals as follows: Application No. 2002-60, the date of value is January 1, 2002; Application No. 2003-60, the date of value is January 1, 2003; Application No. 2003-122, for APN 940-001-103 and 940-001-104, the date of value is January 1, 2002, on APN 940-011-106, date of value is January 1, 2000 and January 1, 2001; on APN 940-011-108, and 940-011-110, date of value is January 1, 2001; and the stipulated value for the discount rate is set at 12% and the growth rate is set at 6%.

**Thereafter, on motion by Mr. Baron, seconded by Ms. Buttery and unanimously carried, the Board directs staff to use a market rent of 10% for the term of the contract and the stated term of the renewal contract shall be used on a non-declining basis and the expense rate is set at 2%.**

A discussion regarding defining the "term of the renewal contract" and the preparation of complex Findings of Fact, to be approved at the September meeting, occurs.

**Thereafter, on motion by Mr. Baron, seconded by Ms. Buttery and unanimously carried, the Board amend the previous motion to direct staff to use the contract term on a non-declining basis on all the applications; the contracts which have completed their contract term, but have not been renewed, that the renewal contract term be used on a non-declining basis and continues the approval of the values to be enrolled to the July 17<sup>th</sup> reorganizational meeting.**

- (5) **Minutes for the March 17, 2006 Assessment Appeals Board Hearing, are presented.**

**Thereafter, on motion of Mr. Baron, seconded by Ms. Buttery and unanimously carried, the minutes for the March 17, 2006 Appeals Board Hearing are approved as presented and the Chairperson is instructed to sign the same.**

- (6) This is the time set for discussion regarding the Rules of Evidence for Assessment Appeals Board Hearings.

**Thereafter, on motion of Mr. Baron, seconded by Ms. Buttery and unanimously carried, the Board continues this discussion to the July 17, 2006 reorganizational meeting.**

- (7) **This is the time set for Board members, Assessor and/or Staff to bring up items to be discussed at the next meeting.**

**Chairperson Weber:** calls for comments without response.

On motion duly made and unanimously carried, the Assessment Appeals Board of the County of San Luis Obispo, State of California, does now adjourn.

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Chairperson

**ATTEST:**

**JULIE L. RODEWALD**, County Clerk-Recorder  
and Ex-Officio Clerk of the Assessment Appeals Board

By:  
Deputy Clerk-Recorder  
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