

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

Friday, December 3, 2004

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. Kem Weber, Ms. Marti Kemper, Alternate and Chairperson Tom Baron

ABSENT: Appeals Board Member Ms. Jenele BATTERY

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

Mr. Tom Bordonaro, County Assessor, and Ms. Barbara Edginton, Mr. Michael Garcia, Mr. Rex Fitch, Ms. Charron Sparks, Mr. Jeff Stranlund, Mr. Cory Powell, and Mr. Rod Hallin, 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.

Chairperson Baron: opens the floor to public comment without response.

(2) **Application No. 2003-122, Charter Communications, Inc.,** is presented.

Mr. Hallin: discusses what occurred with the audit that was done by the Department; the appeals were filed on the possessory interest and not on the audit of the personal property and fixtures; states only six of the applications filed are valid.

Mr. Klein: Agent for Applicant, reads Rule 305.3, 1605 and 305 (d) 2 of the Revenue and Taxation Codes.

Board continues the matter until later in the morning.

(3) **Application No. 2002-108, APN 044,332,013, David A. Doody,** is presented.

Mr. David Doody is present and sworn.

Mr. Powell: corrects the information from the Supplemental Notice, the value on the land is \$250,000 and not \$143,319 as shown on the application.

Mr. Stranlund: describes the property, presents Assessor's case (**Assessor's Exhibit A - Comparables, description, location map, aerial and photos of site and comparables**), discusses the need for a well and it could be easily put on the property; highlights the Assessor's comparable sales information.

Mr. Doody: presents his case, (**Applicant's Exhibit 1 - Packet of information - Rule 2, site maps, Schedule A, Exhibit One, Schedule B, Addendum to Water Easement and Maintenance Agreement (2 copies), Application's Exhibit 2 - two photographs**).

Mr. Bryon Grant: Agent for Applicant, is present and sworn, discusses his role in this sale and the market analysis he did to establish the sales price; presents (**Applicant's Exhibit 3 - Comparable sales information and appraisals (Real Estate)(Applicant's Exhibit 4 - Photos of site with home and pool**), explains that the rewriting of the agreement (three times) was due to a water rights issue.

Matter is fully discussed and thereafter, on motion of Mr. Weber, seconded by Ms. Kemper and unanimously carried, on Application No. 2002-108, APN 044,322,013, date of value

January 30, 2002, the full value of the land is fixed at \$170,000 as the Board has determined that the Assessor did not overcome the burden; and for the 2002-2003 Regular Roll the full value on the land is indexed to \$173,400.

The Assessor requests Findings of Fact.

- (4) **Application No. 2003-12, APN 091,174,054, Kurt H. Berger, is presented.**

Mr. Kurt Berger is present and sworn.

Ms. Lesa Silva, Deputy Assessor, is present and sworn.

Mr. Berger: requests Findings of Fact, presents (**Applicant's Exhibit 1, Flow Chart, Applicant's Exhibit 2, Information**); speaks to his and the Wendler properties and that no change in ownership occurred; indicates he and Mr. Wendler are cousins and they corrected deeds on the property to show what their original intent was.

Ms. Edginton: presents **Assessor's Exhibit A - California Revenue & Taxation Code Section 62(1) and Property Tax Rule §462.240(f)** with **Mr. Cash** explaining what does not constitute a change in ownership.

Mr. Edginton: presents and discusses **Assessor's Exhibit B - Chain of Events, Assessor's Exhibit C - Revenue and Taxation Code 61 and 62, Assessor's Exhibit D - Letter to State Board of Equalization dated May 6, 2004, Assessor's Exhibit E - Email from State Board of Equalization dated November 24, 2004, Assessor's Exhibit F - Steps of what occurred, Assessor's Exhibit G - State Board of Equalization letter of May 16, 1980.**

Mr. Berger: states their intent was to correct the deed.

Thereafter, on motion of Mr. Weber, seconded by Kemper and unanimously carried, on Application No. 2003-12, Berger, the Board determines Applicant did not overcome burden of proof and a change of ownership did occur.

Mr. Fitch: describes the property (**Assessor's Exhibit H - description of property and comparables**).

Mr. Berger: amends his application to reflect the value of the home to be \$284,901.

Matter is discussed and thereafter, on motion of Ms. Kemper, seconded by Mr. Weber and unanimously carried, on Application No. 2003-12, Kurt H. Berger, date of value January 1, 2003, for APN 091,174,054, the full value of land is fixed at \$180,000, the full value of improvements is fixed at \$320,000, for a total fixed value of \$500,000.

Matter is further discussed and thereafter, on motion of Ms. Kemper, seconded by Mr. Weber and unaimously carried, the prior motion is amended to reflect that the full indexed value of land is \$101,861, the full indexed value of improvements is \$295,000, for a total indexed value of \$396,861.

Mr. Berger waives his request for Findings of Fact.

- (5) **Minutes of the September 14, 2004 Assessment Appeals Board Hearing, are presented.**

Thereafter, on motion of Mr. Weber, seconded by Ms. Kemper and unanimously carried, the minutes of the Septemer 14, 2004 Appeals Board Hearing are approved as presented and the Chairperson is instructed to sign the same.

- (6) **Request for determination of timely filing for Application No. 2004-10, John D. Fetyko, APN 027,251,001, John D. Fetyko, is presented.**

The Applicant is not present.

Thereafter, on motion of Mr. Weber, seconded by Ms. Kemper and unanimously carried, on Application No. 2004-10, John D. Fetyko, the Board denies the application as untimely filed.

- (7) Application No. 2002-112, APN 069,123,026, Don & Chris Bratt, is presented.

Mr. & Mrs. Bratt are not present.

Thereafter, on motion of Ms. Kemper, seconded by Mr. Weber and unanimously carried, on Application No. 2002-112 is denied for non-appearance.

- (8) Findings of Fact for Application No. 2002-116, Pamela D. Ponce, is presented.

Mr. Bordonaro: expresses his concern about the methods used, by the Board, to determine value.

Matter is fully discussed and thereafter, on motion of Mr. Weber, seconded by Mr. Baron, with Ms. Kemper abstaining, motion carries and Findings of Fact for Application Nos. 2002-116, Ponce are continued to January 28, 2005.

- (9) Request for determination of timely filing for Application No. 2003-122, APN 940,001,103, 940,001,104, 940,001,106, 940,001,108, 940,001,110, Charter Communication, is presented.

Mr. Howard Klein: Agent for Applicant, addresses his conversation with the Assessor (during the break today); presents his case (Applicant's Exhibit 1 - Letter from Assessor dated August 25, 2003, Applicant's Exhibit 2 - Letter from Assessor dated March 5, 2004, Applicant's Exhibit 3 - Letter from Assessor dated March 5, 2004, Applicant's Exhibit 4 - Letter from Assessor dated August 23, 2003); discusses Rule 305, and requests a continuance.

Mr. Bordonaro: objects to a request for continuance indicating the Agent has had a month to prepare and asks that the Board rule today.

Matter is discussed and thereafter, on motion of Ms. Kemper, seconded by Mr. Weber and unanimously carried, the request to continue this matter is denied.

Matter is further discussed and thereafter, on motion of Mr. Weber, seconded by Ms. Kemper and unanimously carried, on Application No. 2003-122, the 2000-2001 Escaped Assessment for APN's 940,001,108, 940,001,110, 940,001,104, and 940,001,103 and the 2001-2002 Escaped Assessment for APN's 940,001,104 and 940,001,103 are denied as untimely filed.

Matter is fully discussed and thereafter, on motion of Mr. Weber, seconded by Ms. Kemper and unanimously carried, on Application No. 2003-122, the 2000-2001 Escaped Assessment for APN 940,001,106, the 2001-2002 Escaped Assessments for APN's 940,001,106, 940,001,108, 940,001,110 and the 2002-2003 Escaped Assessment for APN's 940,001,104 and 940,001,103 are accepted as timely filed.

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

Chairperson Baron: 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.

Chairperson

ATTEST:

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

By:

Deputy Clerk-Recorder