

In The Matter Of:
State of Nevada Department of Taxation
State Board of Equalization

Public Meeting - Thursday
October 9, 2014

Capitol Reporters
208 N. Curry Street

Carson City, Nevada 89703

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STATE OF NEVADA
DEPARTMENT OF TAXATION
STATE BOARD OF EQUALIZATION

TRANSCRIPT OF PROCEEDINGS
PUBLIC MEETING
THURSDAY, OCTOBER 9, 2014

THE BOARD: TONY WREN, Chairman
DENNIS MESERVY, Member
AILEEN MARTIN, Member
BENJAMIN JOHNSON, Member
KEITH HARPER, Member

FOR THE BOARD: DAWN BUONCRISTIANI, ESQ.
Deputy Attorney General

FOR THE DEPARTMENT: TERRY RUBALD,
Deputy Director,
Department of Taxation
ANITA MOORE,
Program Officer and Coordinator

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THURSDAY, OCTOBER 9, 2014, 8:11 A.M.

---oOo---

CHAIRMAN WREN: Good morning. This is the time and place for the State Board of Equalization. I am Tony Wren. I'm the chairman. Members present this morning from left to right is Keith Harper, Ben Johnson, Aileen Martin. Dennis Meservy will be joining us a little bit late this morning, however, we do have a quorum. So we will continue to do business or start to do business, I guess. Counsel this morning is Dawn Buoncristiani. Good morning, Dawn.

MS. BUONCRISTIANI: Good morning.

CHAIRMAN WREN: Good morning, Members. Good morning, Terry. If you would identify yourself and your members, please.

MS. RUBALD: Good morning, Mr. Chairman. I'm Terry Rubald. I'm the deputy executive director for the Department of Taxation. And with me today are Anita Moore who is your state board coordinator, and Carrie Gransbury.

CHAIRMAN WREN: Okay. Very good. Entering the room is Dennis Meservy, so we have a full quorum. We'll give Dennis just a second.

I apologize for starting late. I've been watching that clock up there to my left and apparently it's wrong compared to this one to my right. The right is right. The wrong is -- left is wrong.

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1 We're being telecommunicated. We're on TV with
2 everybody this morning. So Terry, if you want to tell us --
3 Did you already tell us who was here?

4 MS. RUBALD: Yes, I already mentioned who the
5 staff was. And yes, we have video-conferencing capabilities
6 to Las Vegas today.

7 CHAIRMAN WREN: Apparently I wasn't paying
8 attention. I apologize.

9 So who's out there in Never Never Land? Nobody
10 because nobody is on the TV.

11 MS. RUBALD: We may have some Clark County
12 representatives in Las Vegas.

13 CHAIRMAN WREN: Here we go.

14 MS. GOODMAN: This is Lori Goodman with Clark
15 County Assessor's Office.

16 CHAIRMAN WREN: Good morning. Are you the only
17 one there?

18 MS. GOODMAN: Good morning. No. Deb Cox and a
19 couple other appraisers from our office are here.

20 CHAIRMAN WREN: Okay. Very good.

21 MS. GOODMAN: And Jennifer Gainer from Lionel
22 Sawyer.

23 CHAIRMAN WREN: Okay. Good morning, everybody.
24 The way we're going to do this this morning like we typically
25 do, as we call each case we will give the petitioner 15

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1 minutes to put on their case. We'll give the respondent 15
2 minutes to answer. We have reviewed all of your cases. If
3 you don't need that full 15 minutes, don't feel like you have
4 to take it. We'll give the petitioner the last five minutes
5 to answer the respondent. We will ask questions as we go
6 through and try to click right along.

7 Dawn, would you like to swear everybody in.

8 MS. BUONCRISTIANI: If you intend to testify,
9 please stand and raise your right hand.

10 (Witnesses were sworn in)

11 CHAIRMAN WREN: Very good. Do we have any public
12 comment first thing this morning? Seeing none, we will
13 proceed.

14 Terry, would you like to call the first case.

15 MS. RUBALD: Mr. Chairman, the first case is
16 14-139. It's Nevada Land, LLC. It's commercial property.
17 The Washoe County assessor is the respondent. You may recall
18 that this case was first scheduled in May and we basically
19 ran out of time at the end of the day to hear the complete
20 case so we rescheduled so we could give the taxpayer the
21 benefit of a full attention.

22 CHAIRMAN WREN: Okay. Very good. When you're
23 ready, if you'd identify yourselves and I'll have the
24 property identified.

25 MEMBER MESERVY: I think I just need to disclose
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1 that I've been on a committee years ago with Mr. Bosma, but I
2 don't believe that that would create any conflict. I just
3 wanted to disclose that.

4 CHAIRMAN WREN: No objections from either side?

5 MEMBER JOHNSON: And I'd also like to disclose
6 that there's reference made to an appraisal that was prepared
7 a few years ago of the Aces baseball stadium. Our firm was
8 the one who did it. I wasn't the one who did it within the
9 firm. I've never seen a full copy of it. And I have no
10 recollection of what's in there now, but I did want to put
11 that on the record.

12 CHAIRMAN WREN: Any objections?

13 MS. BURKE: No.

14 CHAIRMAN WREN: Identify yourselves first,
15 please.

16 MS. BURKE: Cori Burke with the Washoe County
17 Assessor's Office.

18 MR. BOSMA: Michael Bosma and Travis Newman from
19 Bosma Group CPA.

20 CHAIRMAN WREN: Okay. Thank you. And for the
21 people in the audience, if you haven't been here before, when
22 you come forward, identify yourselves, typically spell your
23 name, please. We're having this reported verbatim and she
24 can only type one person talking at a time. So try to talk
25 one person at a time. We'll try to make sure everybody gets
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1 to say what they need to say.

2 Identify the property, please.

3 MS. BURKE: The subject property is Parcel Number
4 11-450-22. It's the Aces Baseball Stadium in downtown Reno.

5 CHAIRMAN WREN: Okay. And we have new evidence.
6 Let's take care of that first. Dawn, could I have the
7 standard of law for new evidence. Wait a minute. Let me --
8 Do we have new evidence? I'm on the wrong one. Just a
9 second.

10 MS. RUBALD: I don't believe we do.

11 CHAIRMAN WREN: Sorry. I was on the wrong one.
12 I apologize. Okay. Go ahead and present your case then.

13 MR. BOSMA: Thank you, Mr. Chairman, fellow board
14 members. Again, my name is Mike Bosma, B-o-s-m-a, from Bosma
15 Group CPA. We submitted a brief that is in your packet
16 located at SB-267. I'm not going to reread that. I'm just
17 going to hit some of the highlights. And that is that we
18 believe the County Board of Equalization failed to address
19 our request for an external obsolescence in this matter
20 stating that they were comfortable with the cost approach and
21 refused to consider any analysis of the income-producing
22 potential of the property.

23 NRS 361.227 states that any person determining
24 the taxable value of real property shall appraise the full
25 cash value of, and I quote, any improvements made on the land
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1 by subtracting the cost of replacing any improvements, all
2 applicable depreciation and obsolescence, unquote.

3 And then kind of continuing on and then if they
4 determine that the full taxable value --

5 (The court reporter interrupts)

6 MR. BOSMA: A person determining whether taxable
7 value seeks full cash value whether obsolescence is a factor.
8 In your packet we put numerous exhibits that really talk
9 about the declining overall values in downtown Reno and in
10 addition to the decrease or what the stabilized cash flow is
11 on the property.

12 And then lastly, in the appraisal of real estate,
13 14th edition, clearly states that external obsolescence and
14 entrepreneurial incentive are concerned even for the cost
15 approach of valuation.

16 As you know, the downtown corridor was devastated
17 in the 2008 recession and really what happened was a lack of
18 development in the area that followed.

19 If you could refer to SB-25 in the case file, it
20 has our evidence that shows that there was a 65 percent
21 decrease in taxable values for downtown special purpose
22 properties since the 2008-2009 roll year. And during the
23 same time, the value of the stadium has increased 6.86
24 percent. Baseball attendance has decreased annually, down a
25 total of 21 percent since inception. The ballpark and the
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1 surrounding redevelopment area were supposed to revitalize
2 the downtown and increase property values. And as originally
3 envisioned, this property was supposed to be a 365-day use
4 facility really 24 hours a day.

5 None of the planned redevelopment has occurred
6 and the declining downtown value show that the area has
7 gotten worse since the opening of the stadium. The existence
8 of external obsolescence is apparent in both news coverage of
9 the stadium or a quick visit to the area. My office is less
10 than two blocks away from there. I'm very familiar with it.

11 In addition to the fatal shooting that happened
12 on the property itself, crime, drug use and a substantial
13 homeless population hundreds of feet within the front gate
14 refers to some of the pictures on SB-26 through 30.

15 Just to highlight some of the City Center
16 neighborhood metrics. Real estate vacancy of 30.6 percent,
17 which is higher than 94 percent of all of Reno. Residents
18 have per capita incomes lower than 95.8 of all neighborhoods.
19 79.9 percent of children in the area live below the poverty
20 line.

21 If the other values of other downtown special
22 properties have declined drastically in years since 2010-11,
23 when they -- the last time this board heard this case, the
24 Aces stadium was no different. There appears to be
25 unequalization as to downtown casinos being reduced based on

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1 the income-producing ability, while the same analysis has not
2 been allowed for the Aces stadium.

3 To determine external obsolescence determined to
4 be applied to the replacement cost of this property, the
5 owners believe that an analysis of income is required. You
6 can refer to SB-22. That shows that '12 and '13 stabilized
7 EBITDA. In 2012 --

8 (The court reporter interrupts)

9 MR. BOSMA: 986,000. And in 2013 a
10 million-thirty-three-thousand. 2013 is important. That's
11 the year that they won the championship for AAA. And so even
12 in that year, which is the best year a AAA team could have,
13 stabilized EBITDA was a million bucks. '14 was down from
14 that back to about 900 grand.

15 Then operating income is not enough to pay for
16 cost of improvements, let alone service the debt on the
17 stadium. Provided in your evidence packet are the 2012-2011
18 audited financial statements, which is at SBE-181, and the
19 2013 interim financial statements, which is SBE-168.

20 And the last time this case was heard, this
21 board, Committee Member Johnson referred to an appraisal that
22 was done. The transcript of this hearing there was a request
23 for the financial statements and the request was if we had
24 financials we would really be able to better understand this
25 property. The taxpayer in this case has provided those

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1 financials and we believe they should be looked at and
2 considered. And the owners believe that it is a direct
3 correlation to what the value is on this property.

4 This appraisal of real estate states the
5 following paragraph regarding the income approach, that they
6 should apply all approaches that are applicable for which
7 there was data and the principal of substitution is
8 fundamental to all three approaches of value and why we pay
9 no more than the property cost of buying on property of equal
10 utility there are a property with little or no utility will
11 not be created and the value of the property would be low.

12 There's no statutory reason to limit the
13 valuation of this property to the cost approach and we think
14 an income approach is the right indicator. And the owners
15 believe stringently that based on what they see is the
16 potential from this property that's going down every year
17 that the income approach is the right approach.

18 Furthermore, the settlement of instructions is in
19 your packet at SBE-31 transfers ownership of the stadium from
20 the redevelopment agency to the City of Reno and transfers
21 the ownership and limits the use by the Aces to this property
22 to 50 percent of the year. The other 50 percent of the year,
23 the City of Reno has the ability to use and operate the
24 stadium. I'd like to reserve the rest of my time for further
25 comments.

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1 CHAIRMAN WREN: Is this settlement and
2 restructuring agreement, is that a consummated contract?

3 MR. BOSMA: It is not signed. What we were
4 trying to do --

5 CHAIRMAN WREN: That would be a no then?

6 MR. BOSMA: That would be a no.

7 CHAIRMAN WREN: Okay.

8 MR. BOSMA: But if I may, the concern is that the
9 Aces are giving the stadium to the City of Reno and the
10 agreement was or has always been that at least half of the
11 value of the stadium would then be exempt from taxation. And
12 we've been trying to get a meeting together with all of the
13 parties to say if they sign this agreement, you know, would
14 that happen. They don't want to give the stadium away and
15 not get the tax relief that they seek.

16 CHAIRMAN WREN: So it's kind of in fact exempt
17 anyway? They have never paid taxes, have they?

18 MR. BOSMA: Not the matter before me right now.
19 They're currently in discussions or I guess negotiations to
20 settle the prior taxes. When this original deal was inked,
21 and there's the chronology is in your package, when this
22 original deal was inked, the idea was the special assessment
23 district would get the increase in property taxes. That
24 would relieve dollar for dollar the amount of tax on this
25 stadium. So the intention was always that this would be a

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1 tax exempt stadium. The operation of the math on that
2 because the downtown assessment district or the special
3 improvement district has been decimated, there's no relief on
4 the tax. So that is the bone of contention. The owners
5 believe that there was a bait and switch. They promise one
6 thing and then the City of Reno didn't deliver.

7 CHAIRMAN WREN: Any other questions? Keith.

8 MEMBER HARPER: And it's just because I'm not all
9 that familiar with it. Is the city using it at all this
10 other 50 percent, the other events besides the Reno Aces?

11 MR. BOSMA: They are. Even though the contract
12 is not executed, they're operating under that and now the
13 City of Reno is using it and doing events there.

14 MEMBER JOHNSON: Give us some idea throughout the
15 year of when the Aces are using it versus when the City of
16 Reno can use it. And what I'm curious of is it's clearly an
17 outdoor stadium and how is that used during the winter
18 months? How much use does it get during that time period?

19 MR. BOSMA: Well, up until this year it didn't
20 get any use because the Aces had the right to use it a
21 hundred percent of the time. The AAA season just concluded
22 at the end of August and so now the City of Reno is using it
23 for special events. There's also, I guess, there's other
24 parts of this venue. For example, in the winter, yeah,
25 you're not going to be out there 6:00 o'clock in the morning,
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1 it's a little chilly in Reno at 6:00 o'clock in the morning
2 in the middle of winter. But there are other uses that they
3 can use it for, the seating and the venue, you know, during
4 the day. I think that's the intention. They want to use
5 this more often. It helps the food and beverage part of it.
6 That's also ancillary to this district. They want more
7 attraction down there. That's why they made that decision.
8 Will it be used every day? I don't know. But it's
9 definitely available to be used every day.

10 CHAIRMAN WREN: Okay. Let's go to the county.

11 MS. BURKE: Cori Burke for the Washoe County
12 Assessor's Office, B-u-r-k-e. In response to the
13 restructuring agreement, if you'll refer to page 33 of your
14 file. While the stadium does have the stadium for six months
15 of the year for baseball season, if you look at the last
16 sentence on page 33, lessor shall also enter in to a
17 management contract with a developer for the stadium covering
18 the six months of each year not subject to the stadium lease
19 pursuant to which the developer will manage and operate the
20 stadium, pay all expenses related to and receive all revenue
21 therefrom for one dollar.

22 So we believe the developer still has the use of
23 the stadium for the entire year. They are -- They have some
24 special events there right now. They did Blues and Brews in
25 the summer. They did Slaughter House 2014 that they're doing

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1 this whole month. And then the downtown ice rink will be
2 November through I think the month of January or February.
3 We believe those are Aces events. They're advertised on Aces
4 website, not the City of Reno website. So we believe they
5 are doing some off-season events now in the contract. It's
6 still not signed, which we didn't realize it wasn't signed.
7 But that would give them the right to get revenue from those
8 off-season events.

9 CHAIRMAN WREN: They have that right already?

10 MS. BURKE: Yes, they do.

11 CHAIRMAN WREN: All right.

12 MS. BURKE: And we believe they continue to have
13 that right for this year.

14 We've used the cost approach. We believe this is
15 a special use property. I did a lot of research after
16 meeting with Mr. Bosma and we talked a lot about the income
17 approach. And the appraisal methodology I can find, this
18 property should be costed using replacement or reproduction
19 costs.

20 He brings up downtown properties. Those are
21 casinos which are sold on an income basis. Baseball stadiums
22 or not sold on an income basis.

23 I put a presentation on your packets on pages 224
24 through 231 where Tim Walmouth, MAI, did a presentation on
25 how to value stadiums. And he concludes that the cost

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1 approach is the most appropriate method.

2 To address some of the other issues on the
3 petitioner's brief, on page 267, the brief claims factors
4 contributing to the loss and value include crime in the
5 immediate vicinity of the ballpark. Pictures of homeless
6 people and alleged drug use were submitted but no statistics
7 were presented.

8 In response to the claims made, I received crime
9 statistics from Steve Bigham, a certified crime analyst from
10 Reno Police Department. The areas requested were beats 53
11 and 54, which includes both sides of the river between
12 Virginia Street and Wells Avenue. A comparison was done
13 between 2008, which is the year just before the stadium
14 opened, and 2013, which was the last year of the carefully
15 compiled statistics.

16 In 2008, Reno PD responded 3,356 times in the
17 specified area. There were eight percent fewer calls in 2013
18 for a total of 3,076. Projections based on the first quarter
19 of 2014 indicate numbers similar to 2013. Alcohol-related
20 crimes decreased by 29 percent during the two years.
21 Aggravated assaults decreased by 14 percent. There was no
22 change in the number of commercial or residential burglaries.
23 But vehicle burglaries decreased by 38 percent. While there
24 was an increase in drug possession charges, there was a
25 decrease in drug sales crimes and DUI dropped by half.

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1 Additionally, trespassing crimes were down by 15 percent and
2 robberies were down by nearly 30 percent.

3 In response to them saying that further external
4 obsolescence is found in the lack of development in the area,
5 recent development in downtown Reno was examined. What our
6 office found was that Whitney Peak Hotel opened May 17th
7 along with a new restaurant and live music venue. The
8 Virginian was purchased in December 2013 with plans to turn
9 the casino and residences to retail uses on the bottom floor.
10 The parcel land behind Park City Tower, which is less than
11 half a block away from the subject property, is in contract
12 with a local land valuer. The Depot next to Louis Basque
13 Corner was purchased in October 2013. The land across from
14 the Siena between State and Center Streets was assembled and
15 purchased in late 2012 and early 2013 with plans to demo the
16 single multi-family and redevelop the land.

17 The downtown post office rehabilitation is
18 currently underway and retail tenants are being selected to
19 occupy it.

20 Blake Smith purchased the US Bank building
21 downtown for 5,980,000 in April of 2013. The building is
22 currently undergoing a remodel.

23 Siri's Casino opened on Virginia Street last
24 spring next to Whitney Peak. This property was the prior
25 closed-down Prima Donna Club.

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1 The parcel land directly across Second Street
2 from the subject property was recently purchased with plans
3 to construct a small boutique, hotel. And groundbreaking is
4 anticipated this year.

5 And finally, one of the owners of Reno Aces
6 baseball purchased a lone vacant parcel on Lake Street for
7 1.95 million in May of this year.

8 Additionally, the appellant mentions a downturn
9 in attendance since opening the stadium, yet on the
10 appellant's own website advertising, the Aces Ballpark is AAA
11 baseball's most popular venue with more tickets sold per
12 capita than any other host city. According to minor league
13 baseball's attendance numbers, 349,364 fans were in
14 attendance in 2013. The Reno Aces' recent press release
15 claimed the franchise recently concluded six seasons of
16 pacific host league play and welcomed over 400,000 fans to
17 Aces ballpark in 2014. That would indicate a 15 plus percent
18 increase in attendance over last year, not to mention the new
19 off-season events including Blues and Brews, Slaughter House
20 and the downtown ice rink.

21 Lastly, the valuation of casinos in comparison to
22 the baseball stadium is irrelevant. They are bought and sold
23 based on their earnings. Therefore, the income approach is
24 the most applicable approach to value those properties. The
25 cost approach is the most appropriate method for valuing a

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1 special use property such as the subject.

2 As page 230 states in New York Yankees versus the
3 Tax Commission of the City of New York, income of a business
4 operated on the premises is no evidence of the value of real
5 estate. The proper method of evaluating a stadium is by the
6 reproduction cost less depreciation.

7 In summary, the land for the subject property was
8 valued in accordance with NRS 361.227. The improvement value
9 was set by this board in 2012 and has been maintained since
10 that time at a total taxable value of 25.6 million dollars,
11 which is less than one-third the actual cost of constructing
12 the stadium five years ago. It is recommended the taxable
13 value be upheld. Are there any questions?

14 CHAIRMAN WREN: A couple quick ones there. Walk
15 me through your depreciation schedule, please, your
16 depreciation schedule.

17 MS. BURKE: It would be depreciated one and a
18 half percent per year. We did apply obsolescence to get the
19 improvement value down to what this board had recommended in
20 2012. So we used Marshall & Swift. The replacement cost for
21 the stadium came in at \$29,163,779. And then obsolescence
22 was applied to maintain the value two years ago.

23 MEMBER MESERVY: That was going to be my
24 question, Mr. Chairman, was what was that obsolescence
25 amount. What was the percentage that you're using on that?

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1 MS. BURKE: I did not use a percentage. We
2 targeted the dollar amount that this board had set. We've
3 been maintaining the value since 2012.

4 MEMBER MESERVY: So just kept it at 25 million?

5 MS. BURKE: I believe this board actually set it
6 at 25,660,000. I rounded down to 25,600,000. We converted
7 to a new system, so somehow there ended up being an extra
8 four dollars on the end.

9 MEMBER MESERVY: They made the argument -- If I
10 may, Mr. Chairman.

11 CHAIRMAN WREN: Right.

12 MEMBER MESERVY: They made the argument that
13 downtown took a, you know, was depreciating, the value was
14 quite a bit less. Is that part of that obsolescence? I
15 mean, how do we reflect that? Is that true?

16 MS. BURKE: The downturn he's speaking of was the
17 values in the casinos and that was based on their income. As
18 you know, Reno gaming has taken a really hard hit since the
19 downturn in the economy and Indian gaming. When this board
20 reduced the value though, they did take the downturn in the
21 economy in to effect. The actual reproduction cost, what
22 they spent to build this stadium including the purchase of
23 the land and the Freight House District, which that
24 entertainment district is also valued on this parcel, it was
25 in excess of 87 million dollars. And our current taxable

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1 value is 25,600,000. So we're at about two-thirds of their
2 actual costs from 2009. So in a sense, I would think that
3 would take that downturn.

4 MEMBER MESERVY: If you had done the cost method
5 on the casinos, would it be similar, different? I mean, what
6 would you -- I'm just trying to get a feel if we did or
7 didn't use the income approach.

8 MS. BURKE: I believe the cost would be
9 significant because they do use the income approach there.
10 They're seeing a lot of obsolescence on casinos.

11 MEMBER MESERVY: So it would be significantly
12 more with the cost method?

13 MS. BURKE: The replacement cost would be
14 significantly higher on the casinos using the cost approach
15 than the income approach.

16 MEMBER MESERVY: Okay. Thank you.

17 CHAIRMAN WREN: So I think I understood your
18 answer to be you did value it to the 25 million dollars
19 predicated on the value this board had put on it several
20 years ago now; correct?

21 MS. BURKE: Correct.

22 CHAIRMAN WREN: And that your obsolescence is
23 predicated on that number. What independent research have
24 you done in following the laws, if you will, for attacking
25 depreciation from the assessor's standpoint?

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1 MS. BURKE: Obviously we applied the one and a
2 half percent.

3 CHAIRMAN WREN: Well, I'm talking strictly the
4 economic obsolescence.

5 MS. BURKE: The economic obsolescence. We
6 actually looked at the income approach. We couldn't really
7 make heads or tails of it. You can't separate out the team
8 from the stadium to value the real estate. So then in the
9 other research I did going to sources such as --

10 (The court reporter interrupts)

11 MS. BURKE: IAAO.

12 CHAIRMAN WREN: And that stands for?

13 MS. BURKE: International Association of
14 Assessing Officers.

15 CHAIRMAN WREN: Thank you. It's an acronym.

16 MS. BURKE: We concluded that the cost approach
17 is the most appropriate approach. Because we're required by
18 law to use Marshall & Swift, we don't get anywhere near the
19 cost approach of this stadium. So as I said, our values came
20 in at 29 million.

21 CHAIRMAN WREN: Let me ask the question this way
22 if I can. And I'm not badgering. I'm just trying to make
23 sure that I get on the record what I need to get on the
24 record in respect to this matter is that you value the cost
25 approach. And I remember my comments last time this was

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1 here, I agreed that special use purpose like the stadium cost
2 approach is the best approach. However, it has to be weighed
3 by the income approach or justified by looking at what's
4 actually happening in the market.

5 Your synopsis of what's happening in downtown
6 Reno makes it sound like a really great place. But only an
7 assessor could paint it that pretty because it's not that
8 good, okay. I think things are changing. I think we're
9 seeing some positive changes. But they're minimal, at best.
10 So you absolutely do have some economic obsolescence that
11 needs to be attributed to your cost approach. And what my
12 concern is from your testimony is that your cost approach
13 that you're utilizing is strictly just based on the number
14 this board came up with, which isn't a good answer, okay. So
15 the assessor really has to go in to the market and determine
16 not that we were right because we just threw a number out
17 there from this board. At that time, if I remember right,
18 there was only one appraiser on this board and I wouldn't go
19 on that recommendation myself personally.

20 So the assessor needs, you need to explain to us
21 really how you got to your obsolescence short of us giving
22 you a number and then that's what I need you to tell us how
23 you get to that number.

24 MEMBER MESERVY: They can't hear you on this
25 side. Is there a way that we can figure out how to get the
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1 volume up more?

2 CHAIRMAN WREN: Sorry. We'll call. It's very
3 important what I said too. Would you like her to read it off
4 the transcript?

5 MEMBER HARPER: No. But can you speak in to your
6 microphone maybe?

7 CHAIRMAN WREN: I'll try. I apologize. It's
8 usually not one of my problems. Is that better?

9 MEMBER HARPER: Yes.

10 CHAIRMAN WREN: Okay. Do you understand my
11 question?

12 MS. BURKE: I do. And we did maintain the value
13 and yes, it does paint a rosy picture of downtown Reno.
14 There are improvements to downtown Reno. They are trying to
15 make it a better place. We have maintained the land values
16 in downtown Reno. We've stabilized. It appears to be
17 stabilizing and that's why we kept this value consistent
18 since 2012. We're not seeing a continued downturn. We
19 didn't go back up to what replacement cost says it did
20 because it's not necessarily on an upturn yet. We hope some
21 day that it is. So we did take that in to consideration, the
22 overall market in downtown Reno. We are not lowering land
23 values there.

24 On the income-producing properties, yes, there
25 are some special cases where we're making adjustments. The

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1 casinos are always an issue in downtown Reno. So we are
2 making adjustments there. But for the most part, values are
3 staying low on downtown Reno and have for the last two years.
4 And so that's why we maintained your value and not our true
5 replacement cost value. We don't think it's necessarily
6 increased much, although according to what I told you, the
7 attendance is up and they are now doing off-season events
8 that they weren't doing in the past. So I think they're
9 going to see an improvement too going forward.

10 CHAIRMAN WREN: Okay. And I think -- I really
11 don't like the correlation between downtown, the casinos and
12 the ballpark, because they're different animals. The casinos
13 are a strictly different animal from the ballpark. The
14 ballpark is on the outskirts of the casino core, if you will.
15 You've only had one land sale which you refer to that a
16 partner in the Aces ownership purchased, which is the only
17 land sale in downtown at ten dollars a square foot. And that
18 was a foreclosure sale; right?

19 MS. BURKE: Uh-huh.

20 CHAIRMAN WREN: So, you know, ten dollar sale in
21 downtown Reno doesn't indicate that we're having an economic
22 boom when five years ago you had a hundred dollars a square
23 foot on downtown property.

24 But what I want to get back to is forget about
25 the casinos, forget about everything else except economic
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1 depreciation. Your economic obsolescence is based strictly
2 on the number this board placed on the overall value a few
3 years ago; is that correct?

4 MS. BURKE: Correct. And the stabilization of
5 the commercial market.

6 CHAIRMAN WREN: Okay. Ben.

7 MEMBER JOHNSON: I want to get some idea on the
8 original cost. You mentioned 85 million dollars to build
9 this. Where did you come up with that figure?

10 MS. BURKE: We came up with that figure from
11 several different sources. The appellant approached Washoe
12 County commissioners, which it's a matter of public record,
13 and they asked for 500,000 a year for support. So I'm
14 actually using their numbers, which I think are a little
15 conservative compared to the Kaiser Marzden study and the
16 other things that have been presented to the city counsel and
17 to the public when they were building this stadium.

18 The actual cost that they submitted to the Washoe
19 County commissioners, not including the team purchase, the
20 land purchase was nine million dollars, construction cost of
21 the stadium was 58 million, architectural, legal, stop and
22 carrying costs were 10,500,000. And then the Freight House
23 District, which is also included on this parcel, was another
24 ten million, for a total of 87,500,000. And that was
25 throughout 2009 and 2010 when they constructed.

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1 MEMBER JOHNSON: Okay. And then on SBE-213,
2 which is I think your summary of cost approach, you guys then
3 go in and use Marshall & Swift which comes in with a total
4 amount of 31 million replacement cost. And that's just due
5 to Marshall & Swift differences there with trying to
6 calculate it out using that approach versus actual. Is that
7 a fair indication?

8 MS. BURKE: That's correct. And initially when
9 we used Marshall & Swift, our cost came in quite a bit
10 higher. And then in 2009, if you look at page 233, in 2009
11 we had a stipulation on how to use Marshall & Swift to cost
12 this property, which was a combination of minor league and
13 major league stadium costs and the appellant was in agreement
14 to using that method at that time. So they agreed to the
15 value in 2009. I believe it was also stipulated for 2010.

16 And then in 2011, Marshall & Swift cost went up
17 significantly and this stadium, maybe part of the reason
18 their costs went up, they have built some very high dollar
19 stadiums recently. So the cost went up significantly and
20 then that's what started the appeal process.

21 MEMBER JOHNSON: Thank you.

22 CHAIRMAN WREN: Keith.

23 MEMBER HARPER: You said that the Freight House
24 District, the restaurants, are included in this obviously.
25 On SBE-212, I assume that those three, the two restaurants
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1 and the cocktail lounge, that's that component when you walk
2 in to the stadium over there to the left, I think.

3 MS. BURKE: That's correct.

4 MEMBER HARPER: Okay. Did you in the income
5 approach that you attempted, did you do a separate
6 allocation? I guess I'm just trying to get some idea of what
7 you think that maybe that component is valued at from an
8 income approach.

9 MS. BURKE: We did not. This -- This parcel is
10 very convoluted. And partway through the year -- The
11 accountant can probably answer this better. But partway
12 through the year there was a problem with management so then
13 the Aces took over the contract and managed, so everything
14 was kind of lumped together but it was only part of the year.
15 So it was very hard to separate out which was concessions and
16 which was the restaurants and which part of the year it was
17 run by different people. So it wasn't a real clear year to
18 look at those different things. We could have done -- Our
19 approach I believe last year they didn't have these
20 restaurants open during the off season and I believe this
21 year they do. So that was also a factor.

22 CHAIRMAN WREN: I'm going to ask the other side
23 this too. Do you remember Reese Perkins with Johnson
24 Perkins, who is the one who appraised it for the appellant,
25 do you remember what that appraisal was, the number?

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1 MS. BURKE: It was approximately 12 and a half
2 millions dollars.

3 CHAIRMAN WREN: That's what I was thinking. Most
4 of his -- his cost approach was not that far from yours, but
5 his economic depreciation was considerably more; is that
6 correct?

7 MS. BURKE: Yes. He did an income approach based
8 on a hypothetical grant.

9 CHAIRMAN WREN: That's right. Okay. All right.
10 Any other questions?

11 MEMBER MESERVY: On SBE-213, just because I'm not
12 the appraiser, when you have RCN versus DRC, what would
13 that -- I just need to understand these acronyms.

14 MS. BURKE: RCN is replacement cost new. DRC is
15 depreciated replacement cost.

16 MEMBER MESERVY: That helps me out very much.
17 Thanks.

18 CHAIRMAN WREN: I knew that.

19 Okay. Go ahead. But let me ask you a question
20 first. Why don't you have your appraiser here defending that
21 value again?

22 MR. BOSMA: Great question because that would be
23 new evidence. We thought that based on a prior, I guess,
24 hearing that if we provided to the assessor the income
25 numbers that they would take those numbers and use the market
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1 approach. So by the -- You know, when that didn't happen,
2 there was not sufficient time to get a full appraisal done
3 between the time that that happened and when the county board
4 of equalization heard the case. I mean, candidly, I was
5 floored that, you know, because I represent about half the
6 rooms in Reno on the casino side and we're very close to the
7 assessor on all of these that they just did not take that in
8 to account. So to answer you, we didn't have that in time
9 for the county so we couldn't submit it here.

10 CHAIRMAN WREN: Okay. So let me ask you this
11 question because I kind of want to get down to the nuts of
12 this thing. It's all about depreciation now. That's what
13 both sides are arguing. And you put your pictures in here,
14 which are fine. But what is your economic proof of the
15 economic depreciation that should be attributed to this
16 building, short of pictures?

17 MR. BOSMA: So we showed the decline in the
18 overall special purpose properties, which are the business
19 properties in downtown Reno that are the same venue. Now,
20 Chairman Wren, you had mentioned that they are different than
21 casinos. The owners believe that from a hospitality
22 perspective they actually go hand in hand. When this
23 development was initially staged that the thriving downtown
24 the casino community creates a thriving Aces community and
25 they really do work hand in hand. It's literally right

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1 across the street or a block away from Harrah's. And that
2 that -- building more infrastructure in that it's really all
3 hospitality-based and it's just another venue to spend a
4 hospitality dollar.

5 So in working with the Aces they were like, hey,
6 and we've got on record in SBE-25, that shows this is the
7 overall decline in the hotel casino hospitality market in
8 this core broken down by property and it's the 65 percent
9 decline in value since this property went up.

10 We think that -- And that is to answer your
11 question what we're submitting as the overall economic
12 obsolescence, that they mirror each other.

13 CHAIRMAN WREN: And who prepared this total
14 taxable values? Is this just off the assessor's?

15 MR. BOSMA: Correct, that's off the assessor's
16 website.

17 CHAIRMAN WREN: Okay. Go ahead.

18 MR. BOSMA: I guess first just for clarity, the
19 last time that this case was heard, it was settled and I'm
20 going to pull this over here because I want to read it
21 because I think there's a disconnect on what the appellant
22 actually settled on back in 11 -- 2010-2011. And this is on
23 SBE-233 that says, and I quote, "Washoe County assessor has
24 reviewed the cost associated with the improvement valuation
25 for the above-referenced properties --

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(The court reporter interrupts)

MR. BOSMA: I apologize. "The Washoe County assessor has reviewed the cost associated with the improvement valuation for the above-referenced property and has determined that a combination of the Marshall & Swift categories for minor league and major league stadiums is a more appropriate cost basis for the valuation of the property. As a result, the Washoe County assessor proposes the revised valuation shown below for a proposed assessed valuation total of eight-million-135. And it comes to, you know, divide by 35 percent and you're at that 25 million dollar number, roughly.

So the appellant, Nevada Land, agreed that under the cost approach for Marshall & Swift, this is 25 million. They never stipulated to that's what the value was. They believed it was roughly half of that. But they said under the cost approach, if you costed this correctly, that it should be 25 million, not 87 million. It should be 25 million.

So I think it's just an important baseline to say they agreed that the cost approach should be 25 and the assessor signed off on that. Everybody was in agreement.

Unfortunately, since that point in time, attendance has gone down every year. You know, there seems to be a disconnect between reality and the public relations

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1 professionals who are out trying to sell more tickets. So
2 this year tickets are down a little. Not up. They're
3 slightly flat. So maybe somebody got a little carried in
4 rounding to get up to 400,000. But I think that's where you
5 kind of have to go on the facts in the case. And the facts
6 in this case, there's a lot of anticipated activity in
7 downtown Reno, but nobody has spent any money yet. And as a
8 result, because I've been on the other side of this, when
9 that happens, then this property will benefit from all of
10 that redevelopment hopefully and the value should be
11 ratcheted then.

12 But for right now, as is, they've been trying to
13 get this Marriott across the street to break ground for over
14 a year now. It still hasn't broken ground. They're just
15 hopes and promises and dreams. The reality is the
16 Katzoff-Simon Group bought the parking lot across the street
17 because everybody that is connected to Aces has a very proud
18 opinion of what their land is worth and they can't afford to
19 park over there. So they say if we can lock this up at a
20 realistic value, then that's going to take a lot of pressure
21 off of these leases that we're being gouged on.

22 It's a tough environment down there. And until
23 those dollars go in, you know, I think it remains to be seen
24 whether or not that's going to positively impact the park or
25 not.

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1 These special venues, the whole concept of -- for
2 example, the ice rink that Ms. Burke referenced, was that
3 they took in partnership with the City of Reno, which is the
4 right way to approach this, we're going to take this off of
5 you is currently costing the City of Reno and we're going to
6 put that ice rink on the front lawn to get more traffic there
7 so that way they get more food and beverage revenue. If, you
8 know, the Aces believe that's going to be a loss for them,
9 they're going to lose money on that and they're taking that
10 away from the City of Reno. But it's part and parcel to that
11 partnership of the City of Reno. These other events, they
12 don't make money.

13 So the agreement that they have with the City of
14 Reno is the City of Reno doesn't want to be out of pocket but
15 they want to partner and use these for public events. So
16 that makes sense to me as a business guy. If the City of
17 Reno can hit their bets, you can use the stadium and they are
18 using the stadium. There's no profit.

19 MS. MOORE: One minute.

20 MR. BOSMA: Thank you. I'll speak quicker.

21 CHAIRMAN WREN: Please don't.

22 MR. BOSMA: So in conclusion, we think that the
23 owners believe that the income approach is the right approach
24 and that if you disregard the income approach and the income
25 approach the owners believe the value is 12 million, that

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1 which is a ten cap rate on the million dollars of stabilized
2 cash flow.

3 Alternative to that, they believe the overall
4 economic obsolescence using the cost approach gets them to
5 the same number pretty close. So the owners believe the
6 value of this entire complex is 12 million dollars. And we
7 believe that we've presented the evidence to show that
8 current taxable value exceeds full cash value by that.

9 CHAIRMAN WREN: Okay. Thank you. And I didn't
10 get a chance to ask the assessors. I want to ask both of you
11 at the same time. One of her comments was that they got the
12 income approach from you, you couldn't make heads or tails of
13 it. Did they contact you for clarification --

14 MR. BOSMA: No, they didn't.

15 CHAIRMAN WREN: -- explanation?

16 MR. BOSMA: Sorry. No, they did not. And that's
17 where these financial statements are audited. It's not like
18 some people I have to deal with that have a backwards
19 bookkeeper doing it. These are audited financial statements
20 and they're very transparent. There is a couple different
21 entities that he put together because the food and beverages
22 run different than the Aces. But we did that and would be
23 more than happy to share any complete transparency on any or
24 all of the operations.

25 There was a little change in the management on
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1 the food and beverage. But that's because they weren't
2 producing the profits that they thought they needed to so
3 they brought that in-house. But that remains to be seen too.
4 The profits are flat this year.

5 CHAIRMAN WREN: Are they year round now, food and
6 beverage?

7 MR. BOSMA: There is Arroyo on the first floor is
8 year round.

9 CHAIRMAN WREN: Okay. So the upstairs is all
10 closed?

11 MR. BOSMA: Correct. It's on a special as needed
12 as available.

13 CHAIRMAN WREN: Okay. All right. Questions?
14 Keith.

15 MEMBER HARPER: I'm having a hard time -- I'm
16 looking at SBE-198. I think it's the next to last page of
17 the financials and it's for year end 2012. The different
18 groups, SK Baseball, Nevada Land, et cetera, I'm having a
19 hard time coming up -- where is this million dollars net
20 operating income coming from? Because when I look at all
21 those numbers, net income before depreciation, amortization
22 interest and other, I net all of that out, I come out with
23 like a million-five or so, a million-six. And I realize this
24 is 2012, but --

25 MR. BOSMA: I can get that if you give me a
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1 second.

2 MEMBER HARPER: And I guess my question is, was
3 there that much of a drop between 2012 and 2013 from a
4 million-six roughly to a million?

5 MR. BOSMA: We had 2012 EBITDA at 986,000, so
6 that's where I'm trying to find out where the million-five is
7 coming from. On which --

8 (The court reporter interrupts)

9 MR. BOSMA: EBITDA, earnings before interest,
10 taxes, depreciation and amortization. SBE-22 is the EBITDA
11 calculations that pull those numbers over.

12 MEMBER HARPER: So those numbers are off the
13 audited financials?

14 MR. BOSMA: Financials, correct.

15 MEMBER HARPER: Okay.

16 CHAIRMAN WREN: So have you been -- have you been
17 getting the funding from the city and the county?

18 MR. BOSMA: The county, yes. They renegotiated
19 the city funding and that is now starting to happen.

20 CHAIRMAN WREN: Okay.

21 MEMBER HARPER: I'm sorry. I have one other
22 question. I saw somewhere in the record that I think you or
23 the owner claimed that the construction cost was around 67,
24 68 million. I assume that was just the hard cost before the
25 other soft cost and things?

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1 MR. BOSMA: Correct. And that's where I'm not
2 sure, I wasn't privy to the conversation that was at the
3 county commission. I went off of the audited financial
4 statements to arrive at that number.

5 I will tell you having been very connected with
6 it, what it cost to build things in 2008 versus what they
7 cost to build now, you know, that those are just different
8 and people had different opinions on what things were worth
9 in 2008 and what they were worth to build and construct and
10 costs are significantly less now. I mean, that's based on my
11 own experience.

12 MEMBER JOHNSON: On your financials on page 22,
13 there's interest expenses for both years, 2013 it's two
14 million, 2012 it's 2.9 million. And I'm curious what that
15 interest expense is for.

16 MR. BOSMA: They have a significant amount of
17 debt that they pulled down to build the stadium. The
18 financing agreement that were supposed to happen with the
19 city, the county performed on their part of it. The city
20 defaulted on theirs. You know, they still have to debt
21 service the loan.

22 And that's -- Just to be clear, originally the
23 City of Reno promised to pay a million dollars for debt
24 service on this thing. And then they did not have the
25 wherewithal to do that special assessment. It was estimated
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1 so there wasn't any money to pay. So they ended up
2 negotiating a lower amount for the City of Reno part of this
3 equation because of a hardship. And that's where they're
4 kind of getting pushed on both sides. City of Reno pays half
5 but they're still being taxed at full.

6 MEMBER MARTIN: Wasn't that renegotiated? The
7 debt with the city, wasn't that renegotiated? The original
8 terms, if I read this correctly, was 08-09. This is '14.
9 Isn't that renegotiated?

10 MR. BOSMA: It was renegotiated. But originally
11 the City of Reno guaranteed a million dollars a year.

12 MEMBER MARTIN: I know. But that was
13 renegotiated along with an additional funding for this park
14 from the City of Reno, if I've read this correctly. Then you
15 ask or whomever asks for additional monies.

16 MR. BOSMA: That's not my understanding. My
17 understanding is they stepped away from what they were
18 entitled and negotiated a lower amount. But I can pull that
19 up.

20 MEMBER MARTIN: 232. I could have read that
21 wrong.

22 MR. BOSMA: Yeah. Originally they were expecting
23 two and a half million dollars a year with a one million
24 dollar minimum and they kept the stadium. Yeah, so I don't
25 believe that this was in addition. It was that replaced the
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1 original guarantee.

2 CHAIRMAN WREN: Any other questions? Does that
3 answer your question? Ben.

4 MEMBER JOHNSON: I am curious, you mentioned
5 construction cost down significantly since 2008 and I'm
6 curious what your basis is for that. Because I've seen cost
7 for raw materials are up over the last six years, margins for
8 contractors are down, the overall construction costs may be
9 down a little bit, may up a little bit depending on the
10 project. I want you to comment on that for your basis for
11 thinking it's less today.

12 MR. BOSMA: So as you're very familiar with that,
13 this project kind of had some stops and starts and change
14 orders. And so as projects go, if they would have had, you
15 know, a clear path to what this thing was going to look like
16 when it was done, they would have been able to complete it
17 significantly less rather than go through the change order
18 process that they went through.

19 Also, the feedback that I've gotten from the Aces
20 is that they were new to the area and didn't get, you know,
21 some of the more favorable pricing that other projects have
22 received. You know, when they're looking at expanding now,
23 if things turn around, they're looking at it costing less per
24 square foot, significantly less per square foot than it cost
25 to build the original stadium.

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1 MEMBER JOHNSON: That answers my question. Thank
2 you.

3 CHAIRMAN WREN: Okay. I want to give you the
4 last word but I want to ask another question. When you
5 indicated that you couldn't make heads or tails of their
6 financial statements, did you go back to them for
7 clarification?

8 MS. BURKE: Yes, I did. I spoke with Jack Bice
9 from their office on numerous occasions and we went over the
10 information, which is how I found out about the management
11 contracts with the concessions and that kind of thing. And
12 that's when I did some review to see if an income approach
13 would be applicable for this property. I still don't believe
14 it is. And the biggest problem I think with an income
15 approach on this property is what would be the cap. Because
16 operating stadiums don't sell. So you can't look to the
17 market to try and cap the income on a property like this.
18 And that was the biggest hurdle I came across, so looking at
19 generally accepted appraisal methods. We just kept coming
20 back to the cost approach, so that's where we put our
21 reliance.

22 CHAIRMAN WREN: Okay. So from the assessor's
23 point of view, when you do that, if you've got a special use
24 property like the stadium that the cost approach is typically
25 the best indicator to value, but that improvement is located
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1 in an area that has seen economic decline, how do you measure
2 that economic decline?

3 MS. BURKE: That's a tough one. So we looked at
4 things that the appellant brought up like the crime
5 statistics and found that, well, it's still a crime-ridden
6 area. They actually are doing a better job fighting crime in
7 that area and trying to clean it up.

8 CHAIRMAN WREN: Not as many people killing, in
9 other words.

10 MS. BURKE: Correct. Not as many drug-related or
11 I went through several different examples of the crimes that
12 have decreased in the area. We looked at the development and
13 that kind of thing. We did look at the land sales. There
14 was, as you said, the one land sale. I believe it was 13.40
15 a square foot is what the foreclosure sale ended up coming in
16 at. And the money some of these developers are putting in,
17 while downtown is separate, it's along that corridor and it's
18 bringing people down.

19 I agree with you the casinos and the stadium
20 cannot be compared, so we couldn't look to that for economic
21 obsolescence.

22 So going back to the replacement cost, we used
23 Marshall & Swift, which is in no way representative of the
24 actual replacement cost to this stadium, which would be the
25 true market value if they were building it today. We would

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1 look at the actual replacement cost. Because it was coming
2 in at a third of the cost. Then we looked at obsolescence.
3 I don't believe Marshall & Swift necessarily overstates the
4 cost of these in comparison to market if you're going to
5 build a brand new stadium. However, because of the downturn,
6 we recognize that the value probably hadn't increased so we
7 kept the value level with the sports decision. We didn't
8 feel more economic obsolescence. We had no proof that it
9 should have been any lower than what it was.

10 CHAIRMAN WREN: Okay. All right. Thank you.
11 Last minute.

12 MR. BOSMA: Thank you, Mr. Chairman. As we've
13 stated that back in 2010-2011 we agreed to the costs under
14 Marshall & Swift, that's when at the beginning of the season
15 everybody is very optimistic. Under -- Things have gotten
16 progressively worse, particularly attendance. And cash flow,
17 you know, managing very diligently and we believe well. And
18 that the owners believe that they should be relied on, the
19 cash flow numbers are presented, should be looked at to
20 determine the value on this.

21 And the reality is from in my dealings with the
22 assessor, once they decided they're not going to use the
23 income approach, they stopped trying to understand it. And
24 it's pretty clear, at least to me, that I'm an accountant.

25 So I'm fully open to have complete transparencies to walk
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1 them through any numbers they want.

2 Also, right now it's not economically feasible,
3 nobody in their right mind would build that stadium in Reno
4 right now. It's the smallest AAA market in all of AAA
5 baseball. Somebody could try and spin that to highest per
6 capita attendance. The reality is, the City of Reno given
7 it's current economic status doesn't support a AAA stadium
8 and the owners believe that the value reduction is warranted
9 to the 12 million dollar numbers that they're requesting.

10 Thank you.

11 CHAIRMAN WREN: Thank you. Okay. I'm going to
12 close the case.

13 MEMBER JOHNSON: Can I ask a question really
14 quick, because I think it might help us?

15 CHAIRMAN WREN: Oh, sure.

16 MEMBER JOHNSON: On page 22 you present your
17 EBITDA calculations and I'm having a hard time understanding
18 them. So if you could walk me through them quickly, maybe go
19 line item by line item there and explain where you're getting
20 the number.

21 MR. BOSMA: Sure. So SBE-22 started, let's go
22 through '13, the most recent and again indicative of pretty
23 close to '14 for the way it finished. So if you look at the
24 audited financial statements, they show a loss of 5.5 million
25 dollars. There's other entities that are not part of SK

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1 Baseball that are also included in cash flow. So you've got
2 a couple layers to it. One of those is the Freight House
3 District. And so that \$225,000 of loss is what the Freight
4 House District, the food and beverage part of that loss for
5 the year that the same ownership, SK Baseball, so you would
6 add that to the overall activity. Same with Arroyo. It's
7 just a separate entity. So that way if you were to look at
8 what this entity lost for the year, just bottom line lost,
9 5.5 million, plus 225, plus 106. Okay.

10 And then you add back the add-backs, which is two
11 million dollars of interest, three million dollars of
12 depreciation, a million for amortization, which some of the
13 disconnect is how much they paid for the stadium. Not -- How
14 much they paid for the team itself and they're amortizing
15 that over 15 years, so that's an amortization expense.

16 Then you've got \$400,000 of non-operating expense
17 that's an add-back. And then a subtract. And then interest
18 income of 50,000 back off comes to the EBITDA of a
19 million-033.

20 MEMBER JOHNSON: So typically what we see is
21 that -- I'm just making sure I'm looking at it right. You're
22 taking the very bottom line number and working your way up.
23 Rather than starting at the top less expenses to get to
24 EBITDA, you're starting down here with the number and backing
25 out the numbers you need to in order to get to an EBITDA?

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1 MR. BOSMA: Correct. So that's where if I
2 present the audited financial statement is at \$5,585,000
3 loss, there's an audited financial statement in the exhibit
4 that says that's exactly what that is. Revenue expense, it's
5 all in there. Same with Freight House District and same with
6 Arroyo.

7 MEMBER JOHNSON: And what is Arroyo?

8 MR. BOSMA: That's the Mexican restaurant on the
9 first floor. They're just owned in separate entities. And
10 in separate entities they have separate profit and loss and
11 balance sheets. You've got three entities, you put them
12 together and you've got the picture for what this property is
13 earning or losing.

14 MEMBER HARPER: So the Arroyo and the Freight
15 House District, they're not leases to Bill Jones restaurant
16 operator out there?

17 MR. BOSMA: Correct.

18 MEMBER HARPER: Some entity involved in the
19 ownership of the stadium operates those?

20 MR. BOSMA: That's correct.

21 CHAIRMAN WREN: So out of curiosity, on your
22 total expenses on your losses, your five million dollars,
23 does that include the expenses of the taxes on this property?

24 MR. BOSMA: I'm not sure. I can look real quick.

25 CHAIRMAN WREN: Let's go off the record and look
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1 real quick. Let's go off the record for a minute.

2 (Discussion was held off the record)

3 MR. BOSMA: I'm not a hundred percent certain, so
4 I'm going to say under generally-accepted accounting
5 principles that that accrual would be in -- it would be
6 accrued and it's not disclosed in the footnotes that it's a
7 contingent or contested liability. So I'm going to say I'm
8 fairly certain that property taxes are included as a
9 deduction to come up with this EBITDA.

10 CHAIRMAN WREN: Okay. Which I would assume they
11 would, which goes to the rest of my question. You're showing
12 that as expenses that have been paid that in fact haven't
13 been paid. So what other expenses are in there are they
14 showing as expenses that weren't actually paid?

15 MR. BOSMA: As of right -- Well, as of the date
16 of the financial statements and now, there's -- you look at
17 the accounts payable and the accrued expenses, you know, this
18 is the only thing that they're having, they're not late or
19 not paying other vendors or other things. They're current on
20 everything. They're contesting their property taxes but
21 everything else is current and paid.

22 CHAIRMAN WREN: Okay. All right. I'm going to
23 close the case then. We'll take it under advisement and have
24 a decision. Let me start off by this comment. One of my
25 concerns -- Well, my biggest concern here having heard this
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1 case a couple times now is that the 25 million dollars that
2 we're at now, that number is predicated on what this board
3 came up with a value a few years ago. And as I mentioned
4 earlier when we came up with that number, it was, if you
5 will, a dart board predicated on the information that we had
6 at the time. We had an appraisal from Reese Perkins, but I
7 don't remember the appraisal exactly but I do remember my
8 disagreement with Reese's appraisal is how he came up with
9 his income because it was hypothetical. He indicated and I
10 remember that. But I didn't totally disagree with his
11 economic obsolescence, but I couldn't put the two together.
12 But that was part of our thought process at the time is that
13 the county was too high but Reese's appraisal at 12 million
14 was way too low. So we didn't necessarily go in the middle.
15 At that time, we know the numbers as best we could and I
16 don't remember exactly what those were.

17 But my concern today is that the assessor's
18 office is still using that obsolescence number instead of
19 actually researching the market, which the law requires them
20 to do, to do new cost new less depreciation plus economic
21 obsolescence and that economic obsolescence should be
22 predicated on something other than the number that this board
23 came up with.

24 As far as whether or not they should use the cost
25 approach or income approach, it's a special use property.

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1 They should use the cost approach but it should be checked
2 with the income approach. It doesn't take a rocket
3 scientist. Even an accountant can understand that the
4 downtown -- I have to pick on Dennis -- that the downtown
5 area is not an economic boom. I believe the conversations
6 were would they build the stadium today. Well, the question
7 is should they have built the stadium when they built it.
8 But it's there and it needs to be taxed. It needs to be
9 taxed appropriately. And I'm not happy -- I'm personally not
10 happy with the answers from either side as to what that
11 number is. It's not that hard to come up with a cost. 87
12 million or whatever it is to build the stadium could be the
13 right number. I don't know. As far as I'm concerned what we
14 don't have is a good handle on what the true depreciation
15 should be. So that's my two bits worth so far.

16 Keith.

17 MEMBER HARPER: Well, I totally agree with that.
18 But the problem I'm having, and I spent some time in these
19 financials, I just can't recreate this million dollars that
20 the property owner is using as their basis for their opinion
21 of value of 12 million dollars roughly. And I know you've
22 got these four or five different entities and I can
23 appreciate it and I realize accountants live in a different
24 world than appraisers, but just trying to keep it in my
25 simple world of revenue less expenses, I just -- I couldn't

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1 get there.

2 And the other thing that I think somewhat gives
3 me some issues is, I mean, on their own financial statements
4 they're carrying the property at roughly 30 million dollars.
5 And I realize again it's for accounting purposes and -- But
6 that being said, if it did cost 67 million, 85 million, down
7 to 25 million is, yeah, 70 percent economic obsolescence. I
8 just don't know how much more there could be.

9 So that's my two cents worth.

10 MEMBER MESERVY: What page again is the 30
11 million? We need to know the balance sheet page. Was it
12 two-something?

13 MR. BOSMA: SBE-185.

14 MEMBER HARPER: Actually I got it off 190,
15 SBE-190, land buildings.

16 MR. BOSMA: That one works too. That's 13.

17 MEMBER HARPER: Oh, I'm sorry.

18 CHAIRMAN WREN: Okay. Thank you, Keith.

19 Anything else?

20 Mr. Johnson.

21 MEMBER JOHNSON: I'm with you guys here. What I
22 keep thinking back to is this is not all that dissimilar than
23 a couple of months ago when we were in Las Vegas dealing with
24 Las Vegas Motor Speedway. And I'm thinking back to the way
25 in which we got evidence. They went out and hired a
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1 competent appraiser and he tested for economic obsolescence,
2 did the standard test for it. And I felt comfortable. I
3 felt like they were proving up on what would the income
4 approach be, what would a cap rate be, what would the
5 economic obsolescence be. And here I don't feel like we have
6 that. The income number is right, but what should the cap
7 rate be? Should it be ten? Should it be eight? Should be
8 it three? Should it be 20? I don't know. And that bothers
9 me. I just don't feel like we have the information in front
10 of us that we need to come up with any number, any other
11 number.

12 I think that the burden should be on the taxpayer
13 to disprove the assessor. And I don't have enough or I don't
14 feel I have a solid understanding of the income or what the
15 appropriate cap rate would be to get to a value otherwise.
16 So that's where I'm at.

17 CHAIRMAN WREN: Anything else, Ben?

18 MEMBER JOHNSON: No.

19 CHAIRMAN WREN: Thank you.

20 Ms. Martin.

21 MEMBER MARTIN: I have a question that may or may
22 not be relevant. It's relevant in my thinking.

23 CHAIRMAN WREN: Are you asking us?

24 MEMBER MARTIN: The owners of --

25 CHAIRMAN WREN: Are you asking us questions?
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1 Don't ask them questions, please.

2 MEMBER MARTIN: Who are the -- I didn't see it in
3 the record. Let me ask you. I'm sorry. Who are the owners
4 besides the taxpayers of Washoe County, City of Reno?

5 CHAIRMAN WREN: Who are the owners?

6 MEMBER MARTIN: Uh-huh.

7 CHAIRMAN WREN: Of the stadium?

8 MEMBER MARTIN: Uh-huh.

9 CHAIRMAN WREN: Oh, you mean the actual people's
10 names. I don't know, but I'll allow that question.

11 MEMBER MARTIN: And what other cities do they
12 operate? That was the other. It was a two-prong.

13 MR. BOSMA: Okay. The primary drivers -- driver
14 behind SK Baseball is Herb Simon. And he also owns Meadowood
15 Mall here. One of his entities does. The other person is
16 Jerry Katzoff. Their other holdings I'm not familiar with.
17 I note that they're mostly what I know is on the east coast.
18 I know Jerry is from New Jersey.

19 CHAIRMAN WREN: Okay. Any other comments?

20 Ms. Martin?

21 MEMBER MARTIN: No. Thank you. Sorry.

22 CHAIRMAN WREN: Dennis.

23 MEMBER MESERVY: My biggest concern here is I
24 think it's -- and I think you already mentioned the
25 obsolescence, economic obsolescence. And, you know, right
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1 now if they use what we determined years ago, it's like 14.3
2 percent is what they added. When I'm seeing what happened
3 with the casinos is 60 but we're saying don't use them, but
4 I'm thinking somewhere between like 25 and 50 based on just
5 what I've heard and seen or I've understood here. And then
6 when you take in to consideration, which I understand these
7 numbers a little more, but I think that we should look at
8 those indicators on the income approach. I'm not sure I'd go
9 with the income approach, but I also think that that helps me
10 understand that there definitely is some economic
11 obsolescence that we should be encountering. I'm thinking it
12 could be 50 percent. If it was 50 percent then it would be
13 14-million-581, 89 or something like that.

14 When I see what's going on in those areas, I
15 can't imagine that it's only 14.3 percent economic
16 obsolescence. So that's where I'm going. There's something
17 wrong with that. So it's got to be a lower number in my
18 opinion. I'm not an appraiser though.

19 MEMBER JOHNSON: My only response to that would
20 be I'm worried that the county when they came up with the 30
21 million dollar replacement cost knew that they were already
22 trying to give the benefit of the doubt to the property owner
23 there and that they may not have classified stuff to the
24 level it was at. It may have gone to lower classification
25 levels because we have the original construction cost at

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1 87,500,000. And that's a real number. We've got testimony
2 that that number could have been artificially high a little
3 bit because the developers were new to the area, they got
4 taken advantage of. But it's not 30 million. It's something
5 probably a lot closer to that 87-five. And when you take
6 87-five, you take 87-five to 25 million, that's already 70
7 percent and that's a true reflection of the economic
8 obsolescence and that's very similar to what the casinos have
9 then brought down in the area. I think the average was 65 or
10 66 percent on the table that was presented by the petitioner.

11 CHAIRMAN WREN: You know, Ben, I got to tell you,
12 I got a whole lot more gray hair than you do. I actually
13 have more hair than you do.

14 MEMBER JOHNSON: Yeah, I don't have any hair. I
15 was asking my wife last night if I should cut my hair and she
16 said, you don't have any hair left.

17 CHAIRMAN WREN: Exactly. Don't cut it.

18 I'm familiar with some of these entities, with
19 these developers as many of the developers around the country
20 of this magnitude and nobody took advantage of them. It
21 didn't happen. It still gets to the point that, you know, I
22 don't know which numbers are right. You know, the fact that
23 the assessors are relying on what we said just wasn't a good
24 answer. It is not a good answer. But I'm not sure that
25 there's a better answer. I think if there's a better answer

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1 then I think Keith hit it on the head that if they're
2 carrying these on their books at 30 million dollars, then 30
3 million dollars is the right number. Not 12.

4 MEMBER MESERVY: I can tell you from an
5 accountant's standpoint, that's historical cost, a method --
6 it's a method that has nothing to do with fair market value.
7 I can tell you right now. I've done a lot of this and it has
8 nothing to do with those values. So taking that number off
9 the balance sheet would be a wrong decision in my opinion.

10 MEMBER JOHNSON: Isn't there an impairment test
11 though that you're supposed to take in to account so if you
12 know the assets were significantly less you're supposed to
13 take an impairment charge?

14 MEMBER MESERVY: You don't do that on -- It
15 depends on what you're trying to value. But generally
16 speaking, that's not the case.

17 MEMBER JOHNSON: That's not? Okay.

18 CHAIRMAN WREN: You know, we always have a
19 situation or we have the ability to order in additional
20 information to help us make a decision, which I've been
21 talking to counsel about a little bit. And I'm not sure
22 exactly -- I'm not sure the information is out there. I
23 guess in a perfect world if we had the ability to do this I
24 would say both sides go out and hire an appraiser expert in
25 valuing ballparks nationally with a national reputation,
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1 stipulate to that individual and that appraisal and live with
2 that number. That would be probably the best way to handle
3 this. I'm not sure we have the ability to do that.

4 But along those lines of thinking what
5 information can we order in if in your minds that would give
6 us the right number. You know, I don't think -- At the end
7 of the day if you read all the transcripts and all the
8 information as far as what the cost of this is, Marshall &
9 Swift is the number you've got to start with. That's what
10 the assessor has to start with. The one and a half percent
11 depreciation is by law what the assessor has to deal with by
12 statute, and I don't have any problem with any of that.

13 The question is what is the -- how do we get to
14 the true depreciated amount? What is that depreciation and
15 what can we order in to give us instead of us just coming up
16 with a number again to give us an answer that really we can
17 hang our hat on.

18 MEMBER MESERVY: That goes back again to this
19 DRC, depreciated replacement cost. Tell me again, isn't that
20 what the Marshall & Swift depreciation is off the original?
21 I need to understand.

22 CHAIRMAN WREN: What page are you on?

23 MEMBER MESERVY: Oh, what was it? 233 or
24 something like that. 212.

25 MEMBER HARPER: 213.
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1 MEMBER MESERVY: 213. Where it says 29,163,779
2 and then they took this obsolescence of
3 seven-million-nine-something to come to this 25 million. And
4 what I'm saying is I thought that was the Marshall & Swift is
5 the 29,163,779; is that correct? That's my understanding.

6 MEMBER JOHNSON: My understanding is the 31
7 million dollars is Marshall & Swift and then statutory
8 depreciation of a percent and a half gets to the DRC number
9 of 29-163.

10 MEMBER MESERVY: Exactly. And that's what I'm
11 trying to say. So that doesn't -- the 29 million doesn't
12 count. I think we can all say that's a number that we should
13 be able to agree on, but as far as before the economic
14 obsolescence. And if so, to me it still goes back to what is
15 the economic obsolescence. And that's a wide area. And I'm
16 seeing things like on 22, was it, where they're showing what
17 was going on downtown with other -- again, it's casinos but
18 it's still to me means that when they're all in the sixties
19 and seventies and eighties and we're saying this is an
20 increase of six percent or whatever it showed, to me it shows
21 that we're not even close to reality when it comes to the
22 economic obsolescence. So anyhow, that's all I'm saying.
23 This doesn't make sense.

24 CHAIRMAN WREN: Well, our decision still has to
25 be predicated on the testimony that's been given. Did the
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1 taxpayer prove their burden for their value? Did they prove
2 their value of 12 million? And did the assessor prove their
3 value of the 25 million?

4 MEMBER MESERVY: And what I'm saying is it's a
5 lot closer to the 12 based on what I'm saying. But I'm
6 coming off 14-five, but that's just, you know, what I'm
7 thinking. Nobody here seems to agree. I don't see the
8 numbers even close to the 25 is the reason. But that's just
9 what I'm seeing.

10 CHAIRMAN WREN: Okay. Well, we have one of two
11 choices. I'd entertain a motion. If there's not a motion,
12 then everything will die of lack of a motion and stay as is.

13 MEMBER HARPER: I'll make a motion. I move to
14 uphold the assessor's taxable value in Case Number 14-139 of
15 25,600,000 based on the information provided on SBE-211 to
16 218. And I guess my comment would be is I really, I
17 attempted and I just cannot recreate this million dollars NOI
18 or EBITDA that the taxpayer has presented and I feel like the
19 assessor's office is reflecting economic obsolescence
20 significantly enough off of the original total construction
21 cost. So that would be my motion.

22 MEMBER JOHNSON: I will second that.

23 CHAIRMAN WREN: Discussion?

24 MEMBER JOHNSON: The one thing I want to add is I
25 do feel like the burden is on the petitioner to disprove the
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1 assessor. I don't necessarily agree with some of the things
2 the assessor did. As I sit here, I have no clear
3 justification for a value other than what the assessor did.
4 There's so many different things moving around here and
5 nothing clearly was proved up and there's so many loose ends
6 that I don't feel the petitioner carried their burden.

7 CHAIRMAN WREN: So basically what you're saying
8 is if the petitioner comes before us again they might want to
9 bring a professional valuation?

10 MEMBER JOHNSON: Yes.

11 CHAIRMAN WREN: Okay. Further discussion?
12 Seeing none, all of in favor say aye.

13 MEMBER MARTIN: Aye.

14 MEMBER JOHNSON: Aye.

15 MEMBER HARPER: Aye.

16 CHAIRMAN WREN: Aye. Opposed?

17 MEMBER MESERVY: Nay.

18 CHAIRMAN WREN: Motion carries. Thank you very
19 much. Thank you for your time. Let's take a ten minute
20 break.

21 (Recess was taken)

22 CHAIRMAN WREN; Terry, if you could call the next
23 case, please.

24 MS. RUBALD: Yes, Mr. Chairman. What I'd like to
25 do is the Department of Taxation has two cases that are, both
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1 stipulations and the first one I would like to call is
2 14-119, it's mining property and it has to do with the
3 property of US Geothermal Incorporated. And if I could
4 direct your attention to page 573 of the record for that
5 particular case, you will see there that the stipulated
6 revised taxable value is, after exemption is \$29,986,859.
7 And the parties have stipulated to that amount and would
8 request your approval of that stipulation.

9 CHAIRMAN WREN: Okay. Any questions? Or I would
10 entertain a motion to accept the stipulation as interpreted.

11 MEMBER MESERVY: On 14-119, so moved.

12 MEMBER MARTIN: Second.

13 CHAIRMAN WREN: Discussion?

14 MEMBER JOHNSON: My only comment is thank you for
15 getting together with the parties and being willing to work
16 with them. I really appreciate that. And thank you to the
17 party as well, even though they're not here.

18 CHAIRMAN WREN: Further discussion? Seeing none,
19 all in favor say aye.

20 (The vote was unanimously in favor of the motion)

21 CHAIRMAN WREN: Opposed? The motion carries
22 unanimously.

23 MS. RUBALD: Mr. Chairman, I'd like to call the
24 next one out of order. It comes from section J, direct
25 appeals of net proceeds of minerals certification pursuant to
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1 NRS 362.135 for the 2013-13 unsecured roll. The case number
2 is 14-386. The company is Veris Gold USA, Incorporated. And
3 the department is the respondent.

4 In that case also we have come to a stipulated
5 agreement which you can see at page eight of the record. And
6 the net proceeds original certification was 7,311,052. And
7 we are stipulating to a zero certification.

8 CHAIRMAN WREN: Do you have any comments?

9 MS. RIGBY: Yes. My name is Sharon Rigby,
10 R-i-g-b-y. I'm the taxpayer's representative for Veris Gold.
11 And I just wanted to thank the department for looking at our
12 evidence and considering it and agreeing to the stipulation.

13 CHAIRMAN WREN: Okay. Thank you very much.

14 MS. RUBALD: Mr. Chairman, I should note for the
15 record that this stipulated agreement will still be subject
16 to audit later on down the road.

17 CHAIRMAN WREN: Okay. Motion.

18 MEMBER JOHNSON: On Case 14-386, I make a motion
19 that we accept the stipulated agreement.

20 MEMBER MARTIN: Second.

21 CHAIRMAN WREN: Discussion?

22 MEMBER MESERVY: Is that going to be subject to
23 the audit still? Is that what we're saying?

24 MEMBER MARTIN: Yes.

25 CHAIRMAN WREN: All those in favor say aye.
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1 (The vote was unanimously in favor of the motion)

2 CHAIRMAN WREN: Opposed? Motion carries
3 unanimously.

4 Next case, please.

5 MS. RUBALD: Mr. Chairman, going back to the
6 regular order of the agenda, going back to Section E,
7 hearings on cases remanded from the court. And the first one
8 there is a remand from the district court, Department Number
9 31, Case Number A633811, Clark County Nevada and the Clark
10 County Assessor versus the State Board of Equalization, Sun
11 City Summerlin Community Association, Richard Post and Masako
12 Post, setting aside the state board's previous decision and
13 remanding for further proceedings consistent with the Nevada
14 Supreme Court's order of reversal and remand, Case Number
15 60776 dated March 25th 2014.

16 CHAIRMAN WREN: Okay. Thank you. First of all,
17 Dawn.

18 MS. BUONCRISTIANI: As Terry stated, these are on
19 remand from the district court and the Supreme Court. The
20 district court stipulation and order states, whereas the
21 Supreme Court on March 25th 2014 filed its order of reversal
22 and remand reversing the district court's order denying
23 petition for judicial review and remanding for further
24 proceedings and whereas the parties agree the proper course
25 of action is to grant the petition for judicial review by

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1 setting aside the previous decision of the State Board of
2 Equalization and remanding to the SBE for further proceedings
3 consistent with the Nevada Supreme Court's order of reversal
4 and remand.

5 Now therefore it's stipulated and agreed the
6 district court hereby entered its order granting the petition
7 for judicial review in that the SBE's previous decision on
8 review and is hereby set aside and the matter is remanded for
9 further proceedings consistent with the attached Supreme
10 Court order and the order -- It is further stipulated and
11 agreed the order the status check set for the 29th was
12 vacated.

13 And the Supreme Court order states that in
14 determining the full cash value, the state board focused on
15 the marketable value of the improvements given the
16 restrictions on the land and did not discuss the other
17 approaches to valuation. Finding there was no marketable
18 value, it is assigned a nominal value without considering
19 whether the replacement cost given depreciation and
20 obsolescence of the improvement still had value.

21 In doing so, it failed to recognize that the
22 improvements may still have significant taxable value, even
23 if the land does not. And also failed to give due
24 consideration to the statutes and regulations, methods of
25 finding taxable value.

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1 The state board clearly erred by ignoring the
2 other workable valuation methods and instead simply assigning
3 a nominal value to the improvement based on the presence of
4 restrictions on the land. While the improvements may or may
5 not be worth the 19.5 million dollars the assessor assigned
6 under the statute and regulations, neither are they reduced
7 to a nominal value solely by the presence of restrictions on
8 the land.

9 Therefore, we order the judgment of the district
10 court reversed and remand this matter to the district court
11 for further proceedings, which the district court has done.

12 CHAIRMAN WREN: In other words, the Supreme Court
13 agreed with Chairman Wren in that case, I might point out.

14 Okay. So identify yourselves please.

15 MR. SUSAS: Jim Susa representing Sun City
16 Summerlin and Mr. and Mrs. Post.

17 CHAIRMAN WREN: Hold on one second. Did you
18 actually call 10 377 or just the remand?

19 MS. RUBALD: I just called the remand. Would you
20 like me to call the group one?

21 CHAIRMAN WREN: Yeah. Because we really don't
22 need to do anything with the remand until we get in to the
23 cases. And do we need to -- I'm sorry. Do we need to
24 consolidate some of these cases?

25 MS. RUBALD: Well, we have different
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1 representatives for the different groups.

2 CHAIRMAN WREN: Is it all the same question? So
3 if we make a decision on the first one, we're going to carry
4 it through different years?

5 MR. JOHNSON: Mr. Chairman, it's different years.

6 (The court reporter interrupts)

7 MR. JOHNSON: Paul Johnson representing the
8 assessor's office. The difference is in the evidence. In
9 the first year there was evidence given and in the subsequent
10 years they brought in the appraisal. There was no appraisal
11 in the first year. And also in the first year, of course,
12 you've had a full year and made a decision. And in the
13 second year, you admitted all the evidence but didn't make a
14 decision. And then in the third year, there was no evidence
15 presented. You just were holding everything even before you
16 got to the evidence. So the question is -- I think that it
17 really ought to be handled separately.

18 CHAIRMAN WREN: I agree. So go ahead and call
19 Case 10-377, please.

20 MEMBER JOHNSON: Mr. Chairman, if we can, I would
21 just hate to make a decision in the first one if we learn
22 something subsequently that changed our opinion. So would we
23 have the ability to go back if we felt it was appropriate and
24 revise an earlier decision we learned something from a
25 subsequent petitioner that alters our opinion?

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1 MS. BUONCRISTIANI: Each year in tax is taken on
2 its own and so you heard each of these years independently.
3 My legal advice is to take them individually and see what
4 happens year by year and see where you are and then listen to
5 the parties to see what their opinion is. But you have in
6 front of you just the information for the year '10, which is
7 the remand itself and it was remanded. So I would hear that
8 because that's what the Supreme Court order is addressing.

9 MEMBER JOHNSON: Thank you.

10 MR. SUSA: Mr. Chairman, the case that's been
11 called is 10-377.

12 CHAIRMAN WREN: Hasn't --

13 MR. SUSA: Is 10-379, they're going to be called
14 together? They're both the same.

15 MS. RUBALD: Yes.

16 MR. SUSA: Okay.

17 CHAIRMAN WREN: Terry, call the cases.

18 MS. RUBALD: Mr. Chairman, from Section F, Group
19 1, Case 10-377, Richard and Masako Post. It's residential
20 property. The Clark County assessor is the respondent.
21 Along with that is Case Number 10-379, Sun City Summerlin.
22 It's residential property. Again, the Clark County assessor
23 is the respondent.

24 CHAIRMAN WREN: Okay. Let's go off the record
25 for just a second.

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1 (Discussion was held off the record)

2 CHAIRMAN WREN: Okay. Thank you. We're back on
3 the record. We have previously heard this case and we
4 re-reviewed it, so we don't need to hear the entire case
5 again. It basically boils down to the assessor had a value
6 on those improvements, the petitioner said it had no value.

7 So what I'd like you to do if you could is kind
8 of recap your arguments and your positions without hearing
9 the whole case if that's fair. Okay. So go ahead and
10 identify the properties, please.

11 And when you briefly give us the information,
12 refer to the record where information is to support either of
13 your sides if you would, just for the record. Jeff.

14 MR. PAYSON: Yes, Mr. Chair. Jeff Payson for the
15 Clark County Assessor's Office. What we have --

16 CHAIRMAN WREN: This one should work.

17 MR. PAYSON: What we have here in this particular
18 case is five community common element parcels in Sun City
19 Summerlin. They're identified as Parcel Number 13817311001,
20 Mountain Shadows, with a taxable value of 4,906,000. That's
21 the assessor's taxable value.

22 Pinnacle Community Center, Parcel Number
23 13723510001, with a taxable value of 6,071,836.

24 Desert Vista Community Center, Parcel Number
25 13713613003 with a total taxable value of 6,131,898.

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1 Sun Shadows Community Center, Parcel Number
2 1381716 -- I'm sorry -- 616001 with a taxable value of
3 2,179,097.

4 And finally, Highland Falls Community Center,
5 13818110064 with a total taxable value of 265,107.

6 And these are all community centers or utility
7 buildings in the Sun City Summerlin all owned by the Sun City
8 Summerlin Community Association.

9 I don't know if you want or it would be
10 appropriate for me to tell you at this point how we value
11 them or just an introduction.

12 CHAIRMAN WREN: No. But that's what I want you
13 to do. I need to give the petitioner, James, his first but
14 that's exactly what I want for the record.

15 Mr. Susa.

16 MR. SUSAS: Thank you, Mr. Chairman. Jim Susa for
17 the record, attorney and accountant. So the Supreme Court's
18 decision, and I'm going to focus on page six. First I would
19 be remiss if I didn't congratulate Mr. Johnson for the 7-0
20 shellacking he gave me at the Supreme Court last year.

21 But page six of the analysis states that finding
22 there was no marketable value, it, referring to the state
23 board, assigned a nominal value without considering whether
24 the replacement cost given depreciation and obsolescence of
25 the improvements still had value.

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1 To me this is essentially why we're here today
2 which is to follow the Supreme Court's order to use
3 replacement cost and consider depreciation and obsolescence
4 on the property to determine if it has value. That is
5 consistent with the NRS 361.227, paragraph 2-B, which as I
6 think was read in the case before ours, any improvements made
7 on the land by subtracting from the cost of replacement of
8 the improvements all applicable depreciation and
9 obsolescence.

10 The assessor has taken the Marshall & Swift
11 replacement cost for the four clubhouses and the maintenance
12 facility which comprised the five parcels and has used the
13 1.5 percent per year as depreciation. Now, that number may
14 or may not reflect the actual depreciation on the property
15 itself. We don't know. But we do know that the assessor
16 took no obsolescence adjustment to those values. So these
17 are the full values. On the case we just heard where I
18 believe there was a depreciated value of the one number and
19 then the assessor moved it down to another number in
20 recognition of obsolescence and the board affirmed that
21 number. There's been no recognition of any obsolescence
22 here.

23 So to me, what the Court is telling us is that we
24 can start with the cost methodology but consistent with
25 Nevada law and with appraisal techniques and terminology, we
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1 have to look at whether there's any economic obsolescence on
2 the property, in addition to if there's any additional
3 depreciation.

4 So in that regard, obsolescence often is
5 calculated by using different methodologies. But the end
6 result is to try to find what the value of the property is.
7 It's no surprise. This is a unique property. This is not a
8 residential property or office complex. This is a clubhouse
9 in a planned community. So as you would suspect using a
10 normal appraisal technique may not work very, very well. We
11 don't have comparable sales and we don't have any income from
12 the property to provide to you, nor did I obtain an appraisal
13 on this property as I did on the next two cases that will
14 come before you.

15 So what we have then is the effect of the legal
16 restrictions as to the use of the property. The Court noted
17 and the assessor agrees that the legal restrictions on the
18 use of the property produce an almost nominal or zero value
19 on the property land itself.

20 The problem here is that they then take the full
21 value of improvements. So there's a bit of an inconsistency.
22 There is no obsolescence to land. There's only market value
23 for land. But there's obsolescence to improvements. And the
24 legal restrictions here create a situation where the
25 property's use may only be for certain purposes. And those

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1 certain purposes do not have a lot of economic value to
2 anybody.

3 And as a result, if those legal restrictions are
4 sufficient enough in scope to in the assessor's mind drive
5 the land value market to almost zero, then they also, and
6 it's our argument, have some impact on the improvements once
7 they're constructed. Obviously the improvements are
8 constructed consistent with all legal restrictions on the use
9 of the property, whether those are imposed by the developer
10 under the CC&Rs or they're imposed by governmental entities
11 such as the county or the city council in doing different
12 things. So all of those as enacted upon the property valued
13 its use and the actual use is consistent with all of those
14 restrictions.

15 So our argument here today is that the legal
16 restrictions do have an effect on the obsolescence of the
17 property itself. And because these properties were built
18 consistent with all of those legal restrictions they have
19 very low value. The Court was very distressed, as you can
20 tell from the decision, that the discussion going at length
21 on a number of things.

22 But I would like to point out for this board's
23 benefit that in footnote number three on page seven where the
24 Court commented that it seemed to -- the board has an
25 erroneous belief that the values of the improvements is

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1 absorbed by property taxes on individual homes. Actually the
2 board got that right and the Court got that wrong. Since the
3 Sun City Summerlin case was decided back in the day, Nevada
4 has enacted a statute, NRS 361.233, which does shift the
5 taxes that will be due on the value of these clubhouses to
6 the individual home owners.

7 So -- But again, this is an example of there were
8 a lot of comments that were made in the discussion process
9 and the Court didn't quite think that there was unanimity in
10 the thought process as to how this value was arrived and it
11 was very difficult for them to affirm that value on appeal.

12 So what I would ask to you do is to take some
13 time to talk about the impact of the legal restrictions and
14 how those impacted the proposed use and then the actual use
15 of the property, and as the property is actually used on the
16 valuation date, determine that economic obsolescence on the
17 improvements for the property, render a fairly minimal value
18 because they are pervasive, just as they were pervasive
19 enough to drive the land value down to a dollar or zero or
20 whatever number the assessor put on. And at that point to
21 arrive at a full cash value for each one of those parcels
22 consistent with the economic obsolescence and depreciation
23 determined under the cost methodology.

24 As a final note, also in NRS 361.227, even though
25 the assessor is supposed to take in to account depreciation

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1 and obsolescence, under paragraph five, any person
2 determining the value, if the taxable value exceeds full cash
3 value under paragraph B can look at the summation of the
4 estimated full cash value of the land, which the parties
5 agree is zero, and the contributory value improvements. It
6 would be our argument that the contributory value
7 improvements here is minimal due to the various restrictions
8 as to their use. And even if the obsolescence doesn't get
9 you there, under 5B you have the ability to look at the
10 contributory value and still place a rather minimal value on
11 the actual improvements, in addition to the low value already
12 established on the land. And that's all that I had.

13 CHAIRMAN WREN: Okay. Thank you. So I make sure
14 I don't miss anything here. What is your evidence to dispute
15 the assessor's assumptions that they have exceeded full cash
16 value?

17 MR. SUSAN: The evidence that the assessor's
18 original valuation takes no obsolescence adjustment to the
19 property. Their valuation of the land on the parcels does
20 take a significant reduction to the land value for market
21 conditions caused by those same legal restrictions. So we
22 believe the assessor erred in being inconsistent on
23 determining a value for the improvements as having
24 obsolescence, due to those restrictions when they saw that
25 the land had a significant reduction in value. So it's the

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1 inconsistency of the assessor in their original actions.

2 And then the other evidence is the legal
3 restrictions from the CC&Rs created the easement on these
4 properties. I would also point out that as part of the
5 record the assessor produced an aerial photograph of each one
6 of these properties and that it noted that the zoning on each
7 one of those aerial photographs was PC, which was planned
8 community. And I would ask you to take notice that planning
9 community usage designation has significantly limited
10 possibilities. And the clubhouse fits in those
11 possibilities. But only the other public type use facilities
12 which fit within that zoning as well.

13 CHAIRMAN WREN: Okay. Thank you. Questions.
14 Okay. Let's go to the assessor.

15 MR. JOHNSON: I would like to just read a couple
16 of statements from the Court's opinion for emphasis. This is
17 on page two of the Court's opinion at the top. The state
18 board refuted the valuation methods set forth by the statute
19 and therefore erred in reducing the taxable value to a
20 nominal value. So the Court wants the state board to follow
21 the valuation methods in the statute, which we all know are
22 the income approach, the cost approach and the market
23 approach. In this case the income approach and the market
24 approach don't make any sense because there is no market for
25 this kind of a property and there is no income because it's

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1 an offer of profit.

2 And then on page five of the Court's opinion,
3 although the assessor must consider legal restrictions in
4 appraising approved land, those restrictions might render
5 land valueless for tax purposes. Improvements on that land
6 may still have substantial value even if neither the land nor
7 the improvements would have value on the open market. So the
8 Court distinguishes between valuing the land and valuing the
9 improvements. With restrictions on the land, sure, that's
10 going to affect the value of the land. You can't use this to
11 build a casino. You can't use this land to build anything
12 other than pretty much what's on there. So the land itself
13 is restricted in its value. But restrictions on the land do
14 not in any way impact the value of the improvements.

15 Improvements are being used exactly for what they
16 were built to be used for. They're a recreation center.
17 There's nothing wrong with these improvements. There's no
18 evidence that this place is dilapidated and it's not being
19 maintained properly. In fact, the CC&Rs require it to be
20 maintained properly. And so this idea that somehow
21 restrictions on the land affect the value of the improvements
22 has been repudiated in the Supreme Court's opinion.

23 Continuing on, in the recreation center case
24 which we cited favorably in Sun City Summerlin, the Arizona
25 Supreme Court recognized the inherent problem in relying only

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1 on market price to determine taxable value, as taxes are
2 based on full cash value and market price does not
3 necessarily equate to that full cash value. And that's where
4 the board went wrong on its previous decision. All they were
5 worried about is nobody would buy this because you can't make
6 any money on it.

7 But that's not how you're supposed to get to the
8 value. This is a special purpose property. And the
9 legislature recognized that sometimes that market what people
10 would be willing to buy it for has nothing to do with what
11 it's worth for people who actually own it and is using it.

12 And then the Court says that our value similar to
13 Nevada, Arizona statute lists options for determining value
14 including the cost approach. This inclusion of several
15 methods of valuations suggests that our legislature
16 contemplated a scenario where property may not be valuable on
17 the open market yet would still be valuable to the owner and
18 have significant taxable value.

19 The owners out there, I'm sure they think that
20 their property is worth a lot more than \$500 a parcel. I
21 mean, they probably pay more than that in their dues every
22 year, each one of them.

23 And then NAC 361.631 I think is particularly
24 important because that, actually it's not a Nevada Tax
25 Commission regulation. It's a State Board of Equalization
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1 regulation. The state board interpreting the statutes passed
2 a regulation to all the county boards, here are the things
3 you can look at to determine whether the taxable value is --
4 exceeds the full cash value. And in that statute, one of the
5 things they said was you look at the value of the land and
6 the depreciated replacement cost of the improvements. And
7 that's exactly what the assessor has done in this case. They
8 looked at the value of the land and set that at a zero value.
9 And then they looked at the depreciated replacement cost of
10 improvements and set that at the appropriate value.

11 And there's no evidence in this record. There's
12 no income test. There's no comparable sales test. There's
13 no test. They don't even have pictures of derelicts hanging
14 around the buildings like the last case. And so Summerlin is
15 surely not an area that's in decline. Summerlin is one of
16 the highest rent areas in the whole county, if not the whole
17 state, maybe, excluding Incline Village.

18 And then the Court goes on and says that the NAC
19 allows full cash value plus depreciated replacement cost to
20 constitute market value. Importantly, neither statute nor
21 regulation limits the full cash value to the market price.
22 And then they go on and say on page six that the board failed
23 to recognize that the improvements may still have significant
24 taxable value even if the land does not. And also failed to
25 give due consideration to the statutes and regulations and

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1 methods of finding taxable value.

2 And then while they don't express an opinion as
3 to what taxes are worth, they say they may be worth the 19
4 and a half million the assessors said.

5 They go on to say, it's clear that the land
6 improvements are not reduced for nominal value solely by the
7 presence of restrictions on the land. So there's this
8 separation. Restrictions on the land affect the land value
9 but they don't affect the improvement value. Improvements
10 are still being used exactly for what they were intended to
11 be used for, being maintained and operated and they're
12 probably worth every bit of that value that the assessors put
13 on it. And there's no evidence of any kind in this record
14 that points to any kind of obsolescence out there of any
15 nature that I'm aware of.

16 Also, the reference to the transferring of the
17 value, that was in reference to a former board member saying
18 that he believed that in fact all of the value in these -- in
19 the common areas is reflected in the value of the homes. The
20 homes are worth more, therefore we're not really losing any
21 tax because of whatever the failure to put any tax on the
22 improvements.

23 But the Supreme Court has held in the previous
24 Sun City cases and again in this case that that is an
25 erroneous conclusion and it is not the law, that in fact the

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1 value of the homes and the value of the common areas is
2 totally separate. They basically have nothing to do with
3 each other and whatever the value of the homes is doesn't
4 make any difference as to how you value the common areas.
5 You can't say, well, all that value, the 20 million dollars
6 it cost to build these things is somehow reflected in the
7 value of the homes. That's not the case and you can't assess
8 it that way. You have to look at what this is in value
9 separately from those homes.

10 And I think that the -- Did you want to say
11 something? So that's the bottom line. I mean, the only real
12 evidence following the statutory methods in this record is
13 the assessor's cost approach. At the last hearing there was
14 no discussion by the other side as to any evidence that, oh,
15 yeah, there's obsolescence here. All they were worried about
16 was the market. All they ever talked about is you can't sell
17 it, you can't sell it, you can't sell it. It has no value on
18 the market. And the Supreme Court has repudiated that and
19 said it doesn't matter whether it has any value on the market
20 or not. It still has value to the people that own it and use
21 it. Just because I can't sell something doesn't mean it
22 doesn't have any value to me. And that's the value that's to
23 be taxed here.

24 CHAIRMAN WREN: Let's go off the record for just
25 one second.

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(Discussion was held off the record)

CHAIRMAN WREN: Jeff.

MR. PAYSON: Thank you, Mr. Chair. I just wanted to say that as you were happy that the Supreme Court supported you in this decision, we were also happy that the Supreme Court leaned our way in this. It's always nice to have the highest court look favorably upon the way you were doing things.

So with that said, what I wanted to do maybe is for the whole morning on the common elements tell you how we go about valuing those and how they're allocated and how that devastation that Mr. Susa talked about affected the way we change that and allocated these. It might become important when you go to make a decision on these as we move forward.

CHAIRMAN WREN: And if you would, would you reference the case law that you're following also, the statute.

MR. PAYSON: On?

CHAIRMAN WREN: On why you value them this way.

MR. PAYSON: 361.233 I believe is the statute. I know the law. I don't know the citations. In any event, what happens with common element properties, we are to appraise those as we would any other property, but what that legislation has said that we must do is then not apply any tax value to the common element parcel itself. So those

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1 parcels that I read off at the beginning introducing this,
2 those clubhouses, those parcels actually don't have a taxable
3 value on that. You look up, it says zero.

4 What happens is you take that value and you
5 allocate it to all the community units within that
6 development, if you can establish who those community units
7 are. In this case there's 77 -- 7800 community units that
8 that value from these five parcels and they each get one
9 portion of that, straight line portion of that from each of
10 these different values.

11 And that's why -- We didn't talk about it, but
12 the other case that was called is the Masako Post, Masako.
13 And that is one of the parcels that received one of those
14 allocations and that's why it's included in this.

15 Theoretically, and I don't know how it would work
16 legally, I'll let everyone else work that out, but if you
17 were to make a reduction on those, on the improvements on the
18 common elements that we have allocated, you would have to
19 remove that allocation or reduce it or increase it or
20 whatever you want to do to each of those 7800 community units
21 within that community. And that's the way all the common
22 element parcels are handled in the state, based on that law.

23 In addition, I think it might be important, and I
24 don't know why I think it might be important, but you
25 probably should know that the case that you decided that

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1 reduced that to the 500 per unit was actually, the decision
2 was stayed. So that reduction was never made based on a
3 court stay. And so that should have never been done. It's
4 still sitting out there at the value that we had it on at.
5 So you might need to consider that when you start making any
6 decisions you might want to make.

7 CHAIRMAN WREN: Okay. And go ahead and correct
8 me if I'm wrong, but from memory that the whole argument was
9 whether or not you had to or were supposed to tax these
10 properties. And what the law says is that you assess -- Not
11 tax, I apologize. That you assess all improvements; correct?

12 MR. PAYSON: It actually -- I don't believe it
13 differentiates land and improvements. It just says we can't
14 assess the property to the common element.

15 CHAIRMAN WREN: Right. And a lot of the
16 discussion back and forth last time was whether or not if
17 they had value whether or not you assessed it and whether or
18 not it was attributed some place else. I don't remember any
19 discussion about obsolescence depreciation or anything in the
20 last hearing. But it was just a matter of whether or not you
21 assessed them, they had that value you assessed or they had
22 no value at all.

23 MR. PAYSON: You know, that was a long time ago.
24 I don't -- Maryann has reviewed these documents in more
25 detail than I. I don't know if obsolescence was used. I

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1 think that the way the board was kicking around their
2 discussion, it was kind of implied, if not discussed
3 specifically. But as Mr. Johnson has said, no evidence was
4 ever supplied from these years on any obsolescence.

5 CHAIRMAN WREN: Correct.

6 MR. PAYSON: And Mr. Susa's statement that we
7 have to apply obsolescence is not really true. We have to
8 look at and see it and try to calculate an obsolescence. But
9 if it's not there, it's not there. If it can't be
10 calculated, we can't calculate it. But it doesn't mean that
11 every parcel out there gets obsolescence just because they
12 want us to look at it.

13 CHAIRMAN WREN: And it's the burden of the
14 taxpayer to prove that you're wrong, which is why I'm
15 bringing this up again. Because it was talked about before.
16 I just want to make sure I recollect that correctly.

17 MR. JOHNSON: It was mentioned briefly, but there
18 really was no extensive discussion. In my reply brief I cite
19 to the transcript from the previous case at page 212, lines
20 four through 14. I believe it was Richard Stewart testified
21 that he had considered obsolescence and didn't find any.

22 CHAIRMAN WREN: Mary. Go ahead, Jeff.

23 MR. PAYSON: That's all I had.

24 MS. WEIDNER: I just want to add that --

25 (The court reporter interrupts)
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1 MS. WEIDNER: It's Maryann Weidner,
2 W-e-i-d-n-e-r. Beyond the statutory depreciation that was
3 applied based on the age of the property, so there was some
4 depreciation, which is without any additional obsolescence
5 being on that.

6 CHAIRMAN WREN: Okay. Questions?

7 Okay. Mr. Susa.

8 MR. SUSAS: Thank you. Well, a couple things.
9 First, there wasn't a lot of discussion of obsolescence at
10 the first hearing because we didn't have a Supreme Court
11 ruling which said by the way if you're going to use the cost
12 approach you should look at obsolescence and depreciation.
13 So because we're here on remand, we're now talking about
14 obsolescence. And the only proof of obsolescence in the
15 record is the decline in the value of the property due to its
16 limited uses. I think the term special purpose or special
17 use property, special purpose property, I wrote it down, was
18 used and that was also used in the first hearing today. I
19 don't know that that would apply to these particular
20 properties because the fact that they are other uses that
21 could be used in their legal restrictions were changed.
22 These were built essentially as mini health clubs and could
23 be converted to such use. My understanding, a special
24 purpose property, and I'm not an appraiser and I'm not
25 certainly going get in trouble for trying to testify as one.

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1 CHAIRMAN WREN: Good idea.

2 MR. SUSA: Excellent. Is that they have a one
3 and only as much as a baseball stadium, it would be like the
4 one and only. And so that may not be true in this case.
5 I'll leave that to your sound wisdom. But even if you do
6 have a special purpose property that placed that general
7 direction to use the cost methodology and the cost
8 methodology again from the appraisal standpoint needs to look
9 at both depreciation and it needs to look at any functional
10 or economic obsolescence.

11 And I think the Supreme Court decision said you
12 should have done that back in the day, 2010. You didn't.
13 And we're certainly ordering you to do it now. And so as a
14 result, any decision of this board should be using the cost
15 methodology. But when doing so looking at depreciation and
16 obsolescence.

17 I just wanted to clarify my comment earlier. It
18 was on footnote number three where we talked about the taxes.
19 And that's actually consistent with Mr. Payson's testimony.
20 Once the 19.5 million dollar value was assigned to the five
21 parcels, about \$2600 was divvied up to each one of the 7800
22 home owners, including Mr. and Mrs. Post. And so when they
23 got their tax bills, they got their land, their improvements
24 and their share of the common area, the 2500 bucks worth, and
25 they paid their taxes on that.

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1 When we went to district court, both parties had
2 asked the judge to hold off on issuing the many refunds that
3 would have been due based on the state board's decision
4 because it was a tremendous burden on the county to refund
5 7800 different homeowners. We wanted to see what the courts
6 had to say. So as an accommodation, the taxpayers agreed to
7 stay that ruling, so it wasn't a ruling on any merits.

8 So where we are today is that the Court has said
9 please use the cost methodology or some other recognized
10 methodology and reasonable cost methodology. And
11 depreciation and obsolescence are a factor. And if I had an
12 appraisal, it would probably go down that road, but I don't
13 have an appraisal in this case. Thank you.

14 CHAIRMAN WREN: Okay. So I asked you this
15 earlier and I'm going to ask again. I agree with what the
16 Court said that the cost needed to be used and the cost
17 needed to be adjusted for depreciation and obsolescence,
18 which is the testimony of the assessor's office that that's
19 been done. So what is your evidence to show us that they
20 have exceeded full cash value predicated on the analysis?

21 MR. SUSA: Okay. And our evidence as found in
22 the brief, we have SBE pages 13, which is citing to cases
23 that are decided in other states, that recognize that
24 obsolescence exists on these type of properties in addition
25 to what Arizona, this Court recognized.

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1 By the way of clarification, as the only Arizonan
2 in the room. I'm sorry, Mr. Kelly, he's here today too.
3 Arizona's Supreme Court remanded the recreation center case
4 back down to the trial court. We don't know what the trial
5 court did after the Supreme Court remanded it back down. But
6 there was obviously some ruling. There was never a second
7 recreation center case, so apparently they dealt with it
8 below.

9 But shortly thereafter, the Arizona legislature
10 simply ended this discussion by placing a \$1,000 value on all
11 common areas within planned communities in Arizona. As I sit
12 here today as an Arizona licensed attorney, I can tell you
13 it's worked pretty well. There is not any disputes anymore
14 as to what these values there are. So that's a legislative
15 process. I understand we're not in the process of
16 legislative hearings, so that doesn't matter.

17 But in other states we have rulings where they
18 have looked at the same issue and decided that there should
19 be little or no value to these because of their unique
20 position as easements burdening the properties for the
21 benefit of all the homeowners. And easements is not a brand
22 new concept. It goes back centuries. And you can have
23 benefitted and burdened easements and this is a property
24 which has a burdening easement on it because it's required to
25 do certain things by a legal document and only the people who

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1 are benefitted by that can change that.

2 And so our argument is the evidence is the legal
3 restriction in the record and the CC&Rs creates those little
4 easements and the easement reduces the value of the property
5 and it doesn't really matter if it's the land or the
6 improvement because the easement covers both. So that's what
7 I have.

8 CHAIRMAN WREN: Okay. Questions? Okay. I will
9 close the case then. Take it under advisement. I might as
10 well remind you guys that I disagreed with the decision last
11 time. And the big question was -- Keith, I guess you weren't
12 here. The big question at the time was whether or not by law
13 the assessor was supposed to value these properties. And
14 that's really what the whole argument came down to is whether
15 or not they should even value them. And what the law says is
16 that the assessor in every county will assess every parcel
17 and every improvements on the parcel. There wasn't any
18 discussion about obsolescence or depreciation or anything
19 that I remember from those hearings.

20 So with the Court remanding it back to us, we had
21 that testimony. And I've asked twice now for any evidence to
22 show that the assessor has exceeded full cash value.

23 (Recording came on over teleconference)

24 CHAIRMAN WREN: So leave it up to where you guys
25 want to go. But I don't see any evidence that shows that the
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1 assessor has exceeded full cash value.

2 MEMBER JOHNSON: I tend to agree with you,
3 Mr. Chairman. And what I was looking at here is this is
4 almost -- this is essentially in preference to each
5 individual property, you have the right and obligations that
6 come with the recreational facilities. And end of the day is
7 you don't test for economic obsolescence on an individual
8 building component. It's not like --

9 CHAIRMAN WREN: Hold that thought. Do we need
10 who ever just went away? Is it germane to anybody besides
11 us? It's on the record.

12 MS. RUBALD: I think that was just a telephone
13 connection in case anybody needed to call in.

14 CHAIRMAN WREN: Okay. Sorry. Go ahead.

15 MEMBER JOHNSON: My understanding of the economic
16 obsolescence after replacement cost less depreciation plus
17 land is you go and you look at the overall property value and
18 test against market to make sure it's not too high. You
19 can't go test video on a component. Say I put in a swimming
20 pool, I can't go say well, that swimming pool is only worth
21 half and they take half the value even though the lumber in
22 my house actually went up. You can't start piecing it out
23 like that and that's what worries me here with one small
24 aspect that we're piecing something out where clearly they
25 spent in this case 19 million or more building this, the

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1 builders are looking for a profit, that value just can't
2 evaporated rate. And if we are charged with assessing and
3 not making sure that there's a taxable value on there, I
4 think that we have to go down that route. And I intend to
5 agree with what you're saying that if we believe we're
6 supposed to make sure it's on the rolls, then it should be on
7 the rolls and we have no evidence of economic obsolescence.

8 CHAIRMAN WREN: Okay. Dennis.

9 MEMBER MESERVY: Didn't we have some nominal
10 value on that? Again, we were saying, you know, on the last
11 one zero and then somehow I was arguing that there's going to
12 be some value to that.

13 CHAIRMAN WREN: Well, we put \$500 or something
14 like that and the Supreme Court said wrong.

15 Keith.

16 MEMBER HARPER: Being new to this, I guess the
17 only thing I can add after reviewing all the documents and
18 cases and things is I guess I'm having a little bit of an
19 issue with taxable value because of that adage cost doesn't
20 necessarily equal value. And yes, I recognize that there was
21 obviously cost involved in building these recreational
22 centers, but I don't see how that necessarily creates value
23 per se.

24 Again, in my world as a real estate appraiser,
25 yeah, I mean, I know we have value and use and different
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1 things and I know that these facilities provide amenities to
2 the property owners and the residents in Sun City Summerlin,
3 but I'm just having a hard time understanding or getting my
4 mind wrapped around why is it just the cost, why is that
5 equal taxable value, because in my opinion I think there is
6 some obsolescence, not necessarily economic but just
7 functional. I mean, they serve, these centers serve a
8 function of providing meeting places and amenities, but I
9 don't know how that equals full cash value of just hundred
10 percent construction cost less the depreciation of 1.5
11 percent per month.

12 CHAIRMAN WREN: And I don't necessarily disagree
13 with everything that you said. But first of all, you have to
14 kind of take off your appraiser hat sometimes and look at
15 what the law says. And what the law says is that the
16 assessors are to assess each parcel in the State of Nevada
17 that depreciated cost predicated Marshall & Swift plus the
18 marked value of the land, which from an appraisal's
19 standpoint has nothing to do with value from our appraisal
20 standpoint.

21 So in this case what the assessor has done is
22 said okay, I have these improvements on this parcel and here
23 is what Marshall & Swift says they're worth and here is what
24 the depreciation by law that they have to apply to it. And I
25 don't disagree, but maybe there's some other, some other

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1 obsolescences that need to be attributed to that. But it's
2 the taxpayer's burden to bring that information to us to show
3 where the assessor went wrong, not necessarily for us to do
4 it.

5 If the taxpayer came up and said, here's my
6 appraisal, here's my proof of obsolescence, here's why it
7 can't be worth that full cash value, we would look at that.
8 But they haven't done that. So in the case before us right
9 now on all of these is we need proof that the assessor has
10 exceeded full cash value predicated on, by law, how they have
11 to assess these properties.

12 MEMBER JOHNSON: And I agree with what you guys
13 are saying. But aren't we -- the way it's being done at the
14 end of the day, the assessor still goes out and tests their
15 total value against the market. So we're going to capture if
16 there is economic obsolescence. We're going to capture that
17 or other types of obsolescence by the comparable sales. And
18 we don't go on an individual building component. I can't go
19 put a swimming pool in my house and go get an appraisal as if
20 it didn't have a swimming pool and as if it does have a
21 swimming pool, come in and say I just want economic
22 obsolescence on the swimming pool in my house. It's tested
23 on the aggregate overall basis and that's what we're getting
24 to here.

25 And my opinion is, is that recreation center
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1 worth the cost to build it? Is that its value? I have no
2 clue. But we're going to find out overall for each
3 individual house how much depreciation should -- or how much
4 economic obsolescence exists with the comparable sales. It's
5 a test. And that's why we have that test. I haven't seen it
6 applied to individual building components or individual
7 appurtenance to the property.

8 CHAIRMAN WREN: Aileen? Dennis?

9 MEMBER MESERVY: I think I need to hear more from
10 you all because I can tell you I can come to reasoning under
11 accounting terms. But this appraisal part. I thought we
12 made the right decision, but it sounds like we didn't. So
13 I'm still having a hard time understanding how to come up
14 with the right way to show that functional obsolescence.

15 MEMBER HARPER: You can't hear from me. I'm not
16 wearing my appraiser's hat.

17 MEMBER MESERVY: Good to hear that. By the way,
18 I heard Ben's got a lot of accounting so he's got some
19 classes in there so he can come up in those ranks.

20 CHAIRMAN WREN: Okay. Let me read this in to the
21 record, And while actually talking about this. I'm reading
22 from 361.2275, that says the computed taxable value of any
23 property must not exceed its full cash value. Each person
24 determined the taxable value of property shall reduce it if
25 necessary to comply with this requirement. A person

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1 determining whether taxable value exceeds that full cash
2 value or whether obsolescence is a factor in valuation may
3 consider, A, comparative sales based on prices actually paid
4 between market transactions, which can't be the case here, or
5 B, which is I think was the testimony, a summation of the
6 estimated full cash value of the land and contributory value
7 of improvements.

8 It says the county assessor under CA -- Okay.
9 That's not germane. So it still gets down to the point by
10 law regardless of an appraisal standpoint what another value
11 might be, okay. The assessor has to value these properties.
12 And that was the big debate last time, whether or not they
13 were supposed to be assessed or not. And the Supreme Court
14 says yes they have to be assessed. The assessor has
15 testified that they've assessed them and they have
16 depreciated according to law and have found no evidence of
17 economic depreciation. And the taxpayer has not brought us
18 any evidence or proof of obsolescence. So that's where you
19 are today.

20 MEMBER HARPER: And not trying to be
21 argumentative, but what you just read and what I keep falling
22 back on is contributory value. I mean, taxable value has to
23 be based on some sort of contributory value. And is it, you
24 know, these buildings just because they cost X amount to
25 build, is that the measure of, quote, contributory value?

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1 And I have a difficult time with that.

2 CHAIRMAN WREN: Yes.

3 MEMBER MARTIN: Mr. Johnson, I forget --

4 Nevermind.

5 CHAIRMAN WREN: Ask me the question.

6 MEMBER MARTIN: No, no, no.

7 CHAIRMAN WREN: Ask me the question. I closed
8 the case.

9 MEMBER MARTIN: I know you have. But I just
10 wanted --

11 CHAIRMAN WREN: Ask me the question.

12 MEMBER MARTIN: The question was that I just
13 wanted him to repeat his opening statement. I don't -- I
14 believe once if I heard Mr. Johnson correctly, and maybe I
15 didn't, if I heard Jeff correctly, maybe I didn't, if I
16 didn't hear Mr. Susa correctly, it was just that opening
17 statement said that we are charged by court order to do A, B,
18 C and D. So I don't know where all of the ebb and flow of
19 assessments and non-assessments and anything else comes in to
20 that. Because we've been mandated by the Court in a certain
21 way to do a certain thing, period, if I've heard that
22 correctly. And I may not have heard it correctly. So please
23 correct me if I'm wrong.

24 CHAIRMAN WREN: I think you're correct and I
25 think we are in a deliberation right now as to either uphold
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1 the assessor's recommended value or uphold the taxpayer's
2 predicated on the evidence the taxpayer has presented that
3 the assessor has exceeded full cash value.

4 I'm telling you my opinion that regardless if I
5 agree that there should be additional depreciation, that has
6 to be predicated on the testimony and evidence provided by
7 both sides. And I'm not seeing it. So it's, again, my
8 recommendation in this case to uphold the assessor's
9 recommendation of taxable value.

10 MEMBER MARTIN: Thank you.

11 CHAIRMAN WREN: You're welcome. Okay. We'll go
12 off the record for just a minute.

13 (Discussion was held off the record)

14 CHAIRMAN WREN: So again, I'll just remind you
15 guys what happens when we make decisions or don't make
16 decisions. Our original decision has been set aside, which
17 means that it's gone, okay. So this was a -- an appeal from
18 the county board and we made a decision that's been set
19 aside, so it all goes back to what the county board's
20 decision was. So if we don't have a motion today, then
21 basically from my understanding what happens is we go back to
22 the county board's decision, which was to uphold the
23 assessor, okay.

24 So having said that, I will entertain a motion.

25 MEMBER JOHNSON: I will make a motion in Case
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1 10-377 that we uphold the County Board of Equalization's
2 decision, as we haven't been presented with any evidence
3 today of economic obsolescence in this case.

4 CHAIRMAN WREN: Do we have a second? Okay.
5 Hearing no second, I close this case and we'll take a short
6 recess. Thank you very much.

7 (Discussion held off the record)

8 CHAIRMAN WREN: I'm going to reopen the last case
9 that I closed to make sure that there's no additional motions
10 that would like to be made in Case Number 10-377. There was
11 a motion to uphold the county. There was not a second. That
12 motion dies for lack of a second. Would anybody else like to
13 make a motion? Seeing no other motions, I close the Case
14 10-377, okay. Thank you.

15 (Recess was taken)

16 CHAIRMAN WREN: Let the record reflect that
17 Mr. Harper is not present with us, however, we still have a
18 quorum so we will proceed with business.

19 Call the next case, please.

20 MS. RUBALD: Mr. Chairman, this also comes from
21 group one in Section F. I'll call the two cases from 2011.
22 They are 11-446, Richard and Masako Post, and 11-454, Sun
23 City Summerlin Community Association. And Clark County
24 assessor is the respondent.

25 Perhaps before we go on, I just wanted to clarify
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1 that I had called 10-377 and 10-379 and so the -- there was
2 no motion and it applied to both of those cases; is that
3 correct?

4 CHAIRMAN WREN: That is correct.

5 MS. RUBALD: Okay.

6 CHAIRMAN WREN: Okay. So you've called 11-446
7 and 11-454?

8 MS. RUBALD: Yes.

9 CHAIRMAN WREN: And are those both common area
10 cases?

11 MS. RUBALD: Yes.

12 CHAIRMAN WREN: Okay. Identify the property,
13 please.

14 MR. PAYSON: Mr. Chair, Jeff Payson for the Clark
15 County Assessor's Office. I don't know if you want me to
16 read the same parcel numbers again, but what we have is the
17 same parcels and the same community unit parcel and it's
18 basically the same information. It's the next year.

19 CHAIRMAN WREN: So we'll transfer all that
20 testimony in to this testimony?

21 MR. PAYSON: For the most part, yes. We might
22 have some additional things, but I believe the petitioner has
23 some more information that we might need to talk about also.

24 MS. BUONCRISTIANI: So the information from the
25 prior hearings, the case numbers --

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1 MS. RUBALD: Case Numbers 10-377 and 10-379.

2 MS. BUONCRISTIANI: Will be incorporated in to
3 this record. Is that acceptable to both parties?

4 MR. JOHNSON: Yes.

5 MR. SUSA: Yes.

6 MR. PAYSON: The only thing that I would say,
7 Mr. Chair, is that the actual values that I stated might have
8 changed a little bit based on the replacement cost and the
9 depreciation.

10 CHAIRMAN WREN: That's fine. You can supplement
11 anything you want without having to repeat everything you
12 said. We would will incorporate in to this record also.
13 Okay. So was this case argued last time?

14 MR. JOHNSON: Last time there was a discussion as
15 to whether you wanted to hear it or not because of the
16 pending court case on the first one. And what you did, you
17 took the testimony and evidence but you didn't make a
18 decision.

19 CHAIRMAN WREN: Correct.

20 MR. JOHNSON: And actually consolidated these two
21 cases with all of the others, where they jumped in in the
22 second year. There's a bunch of others.

23 CHAIRMAN WREN: That was kind of my question.
24 I'm trying to figure out how to consolidate this because I
25 guess when we make a decision on this one it would more than
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1 likely be the same decision on the other ones?

2 MR. JOHNSON: I don't know. I mean, the
3 situation, the only thing that's different in the 11 year is
4 that you have an appraisal from Mr. Morse, but he only
5 actually appraised one community center in one community, but
6 they all wanted to get the benefit of that somehow. So I
7 don't know how you apply that to every other community.

8 CHAIRMAN WREN: Okay. I'm not sure we are. So
9 to keep this simplistic, let's work on, let's just go with
10 the two cases that have been called. We incorporated all the
11 prior testimony from the previous cases in to these cases.
12 And if you can identify these properties, please.

13 MR. SUSAN: He's done that.

14 CHAIRMAN WREN: He did? Okay. You're on.

15 MR. SUSAN: All right. So let's go slow here.
16 I'm only representing the first two folks and so I'm not
17 representing the other folks, okay.

18 And secondly, we had a hearing back in 2011 and
19 there was a transcript that was sent to me on Tuesday about
20 the hearing that we had in 2011. And I reviewed the
21 transcript. And frankly, it was more eloquent than anything
22 I'm going to say here today. So as a result, I know that
23 there's some new board members and they may have questions.
24 I brought my witness and the county brought their witnesses
25 as well.

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1 And so what I was hoping to do in the interest of
2 not having a really long hearing and missing my 4:00 o'clock
3 flight was to just build on this and simply address the
4 Supreme Court decision as it maybe pertains to this and then
5 let the board members ask questions. But I'm not going to
6 redo everything that I did in this transcript because it's
7 already there. Is that acceptable, Mr. Wren?

8 CHAIRMAN WREN: I think so. So hopefully what
9 you're saying is you would like to have Mr. Morse recap his
10 testimony as to the valuation and his determination of
11 depreciation.

12 MR. SUSA: Sure. I think that's doable. If
13 people have some questions about that, but he can give a
14 short summary of that. We don't need to go through the
15 question answer, question answer because that was all done
16 earlier. And I hope you had a chance to read it because it
17 actually went pretty well.

18 But I would like to then again with just the
19 Supreme Court's decision and how this case is different than
20 the one you just heard. Even though the same properties are
21 involved, there's some differences. And the differences are
22 that we have a Supreme Court decision that came out in the
23 interim and that decision talks about what it is that needs
24 to be proved to get a reduction in value from the taxable
25 value established by the assessor to a full cash value.

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1 And in the earlier hearing there was some
2 discussion of exactly what we're trying to do here. And
3 Mr. Johnson made a comment that I found intriguing and a
4 thought a little bit about it during the break. These
5 parcels, all the ones that are being appealed, the parcels
6 have land and improvement values on them. What we're not
7 trying to do is find a value for the improvement. We're
8 trying to find a value for the parcels as a whole. And as a
9 result, the assessors put 19.5 million dollars on the parcels
10 as a whole and we're asking you to reduce the 19.5 million
11 dollars. There's no real room to move down on land because a
12 thousand dollars is zero. And so that's why we focused on
13 the improvements only in that process.

14 Secondly, the assessor has done their statutory
15 valuation methodology. And in that methodology they are to
16 determine whether any depreciation or obsolescence exists in
17 the improvement. And our argument in the appraisal and what
18 was testified to earlier is that economic obsolescence
19 exists.

20 One of the reasons that there's a faint glimmer
21 of hope for me in this case is that on page five of the
22 Supreme Court decision, the last sentence begins, "Thus where
23 there is no usable evidence of the price a property would
24 fetch on the open market, the board should consider the other
25 methods listed including cost and depreciation to determine

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1 the market value and full cash value of the property."

2 Well, in the first case that led to this
3 decision, there was no appraisal by an appraiser providing
4 evidence of the price that a property would fetch on the open
5 market. So the Court said then you've got a problem. That
6 problem should be remedied in both this case and the next one
7 where we have an appraisal of what the property would fetch.

8 Mr. Johnson has alluded to it that this is an
9 appraisal of one clubhouse. But what you're going to see is
10 the basis for the appraised value is the descriptions as to
11 use of the property and the economic obsolescence of the
12 parcels themselves, the improvements on the parcels
13 themselves. And that same restriction as to use is also
14 present in all the other four parcels that were not appraised
15 by Mr. Morse. And so we're going to make that argument that
16 whatever value determined based on the appraisal for equity
17 and conformity purposes should also be placed on the other
18 four parcels because they have the same factors determining
19 what the value is. So that's all I wanted to say about the
20 Supreme Court case.

21 And Mr. Morse, because we've already got your
22 testimony in here, which the board has had access to and
23 you've discussed in here, both the statutory and the cost
24 approach to value, can you just give a summary of your
25 appraisal which begins on page 139 of the SBE record in Case
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1 11-454 where you arrive at a value of \$1,000 for the Desert
2 Vista Clubhouse.

3 MR. MORSE: Yes. Good morning, Mr. Chairman,
4 Members of the Board. My name is Timothy Morse, M-o-r-s-e.
5 I'm a certified general appraiser in the State of Nevada,
6 license number 0005. I'm also a designated member of the
7 Appraisal Institute with an MAI designation. I've been
8 active as a real estate appraiser in the Las Vegas area for
9 over 40 years.

10 I would like to start with basically walking
11 through some of the points of the appraisal report which I
12 did at the first hearing, and that was the first portion of
13 the analysis was of the highest and best use and I began with
14 what was legally permissible. And on page 32 of the
15 appraisal --

16 CHAIRMAN WREN: SBE number, please.

17 MR. SUSAN: We're going to have to roll down here
18 quickly, but just give us a second. We'll get down here.
19 174 per Ms. Weidner who is very good at these things. I'm
20 reaching across him so he can't see.

21 CHAIRMAN WREN: Are you in 11-445?

22 MR. SUSAN: 454. And it is SBE-174, as
23 Ms. Weidner said.

24 MR. MORSE: And so what I discussed was that the
25 Desert Vista Community Center, that's the only property that
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1 I appraised within the Sun City Summerlin cases here. It's
2 subject to the CC&Rs for the Sun City area as well as the set
3 of development standards that were approved by the City of
4 Las Vegas. And I cite to certain sections in there, and you
5 can read those, within the CC&Rs that every owner or licensee
6 or other members of the association has a non-exclusive right
7 and easement of enjoyment in and through the common areas
8 subject to certain provisions. And Article 4, Section 1
9 addresses the land use classifications, which include single
10 family, cluster residential, apartment, development,
11 commercial use, general office, association use, common
12 areas, religious use, utilities, general public use as well
13 as golf course use.

14 Section 2 addresses the age restriction that's
15 placed upon these properties in that the residents within Sun
16 City shall be, at least one person has to be at least 55
17 years of age and no person under 18 years of age is able to
18 reside within this residential community.

19 The non-exclusive easement includes the clubhouse
20 and requires the association to maintain the common areas for
21 that use. There are other restrictions on the common area to
22 serve the benefit of the residential owners must be
23 maintained for that purpose, as discussed previously.

24 MR. SUSA: Mr. Morse, let me kind of jump in here
25 because I know that the board has had an opportunity to
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1 review this and has the transcript from the prior hearing.
2 So let me just ask you a few more focused questions to move
3 this along.

4 What method did you use to value the clubhouse
5 and why did you choose that method?

6 MR. MORSE: Well, there's typically three
7 approaches to value, the cost approach, income and sales
8 comparison approach. And the clubhouse is a rather unique
9 property that doesn't really fall within typical appraisal
10 methodology to be valued. I base that upon my experience as
11 an appraiser, as well as being on the board of equalization,
12 the Clark County Board of Equalization and when we always
13 analyze property tax bills that are brought before us to
14 address the taxable assessed valuation that the assessors
15 place on the property, does that exceed full cash value or
16 market value. And it's my opinion that full cash value is
17 the same as market value.

18 CHAIRMAN WREN: Let me interrupt you for just a
19 second. I need to take care of something, so we're going to
20 take a short break.

21 (Recess was taken)

22 CHAIRMAN WREN: I apologize for the interruption.
23 Continue.

24 MR. SUSA: Thank you, sir. Mr. Morse, we were
25 going through your methodology for valuing the clubhouse and
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1 you were talking about the specific methodologies that were
2 possible. But what methodologies did you choose and why did
3 you not choose other methodologies?

4 MR. MORSE: Well, I primarily relied upon my
5 professional judgment in determining that this property that
6 is no economic utility because of all of the restrictions
7 placed upon it deed wise with the CC&Rs as well as with the
8 restrictions from the community standards that are in place
9 from Summerlin, that the property has very limited or no
10 marketability and there are no potential buyers for this
11 property in the market and therefore then I concluded that it
12 had no economic utility and nominal value.

13 MR. SUSA: Would this be the same methodology
14 that you would use if you were to appraise a park or a
15 swimming pool?

16 MR. MORSE: Yes, I have reappraised several
17 public facility properties in Clark County and placed a
18 nominal value on some of the similar properties that the
19 airport has deed restrictions on. They have very little or
20 only nominal value and that's the same analysis that was
21 utilized in this appraisal.

22 MR. SUSA: And were those appraisals in the other
23 cases, were those type of properties utilized for certain
24 purposes?

25 MR. MORSE: Yes.
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1 MR. SUSA: What were those purposes?

2 MR. MORSE: Well, the airport appraisals were
3 used to transfer ownership from the view-restricted
4 properties to private enterprises or to take them out of
5 private ownership and put them in to the airport's ownership
6 so that there would be no residential development constructed
7 on them, because of the change in the flight, the way the
8 airplanes took off. So there was a change in the noise
9 decibel areas and then those properties couldn't -- weren't
10 suitable for that use any further.

11 MR. SUSA: Mr. Morse, in this case on this
12 particular parcel, the assessors determined that the market
13 value for the land is zero. Do you agree with that figure?

14 MR. MORSE: Yes. In essence the nominal is next
15 to zero, one dollar would also be a nominal figure. So yes,
16 I agree with that.

17 MR. SUSA: And why would the land be valued so
18 little?

19 MR. MORSE: Because what I have indicated about
20 the deed restrictions and the limited use and the limited
21 marketability of the property and that there are potentially
22 no buyers for this property if it were available on the open
23 market because of the deed restrictions.

24 MR. SUSA: The appraisal says 48,673 square feet
25 and the assessor has placed a value in excess of six million
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1 dollars on the improvement. Do you agree with that figure?

2 MR. MORSE: No.

3 MR. SUSA: Why?

4 MR. MORSE: I don't think that it takes in to
5 consideration the obsolescence that this property has and
6 because of the deed restrictions.

7 MR. SUSA: Okay. NRS 361.2275(B) states that one
8 methodology for a person determining a taxable value exceeds
9 full cash value is to look at the summation of the estimation
10 of full cash value of the land and contributory value of
11 improvements the assessor has determined, that the full cash
12 value of the land is a dollar, to which you agreed. What do
13 you believe to be the contributory value of the improvements?

14 MR. MORSE: Well, it would be the difference
15 between what I placed on the value, the nominal value of a
16 thousand dollars total. You can allocate it any way you like
17 for land at a dollar and \$999 for the improvements or just a
18 total of a thousand dollars nominal overall.

19 MR. SUSA: All right. You mentioned that in
20 determining your economic obsolescence that you looked at the
21 three legal restrictions or the sources for those
22 restrictions. Did those same legal restrictions apply to the
23 other three clubhouses and the maintenance facility that are
24 owned by the Sun City Summerlin Association that are also the
25 subject of this appeal?

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1 MR. MORSE: That's my general understanding. I
2 did not do an appraisal of those particular properties and I
3 haven't reviewed those documents in that context.

4 MR. SUSAN: If you were asked to do an appraisal
5 of those properties, would those be relevant to determining
6 value?

7 MR. MORSE: I think that would be something that
8 would weigh substantially in the analysis, yes.

9 MR. SUSAN: Okay. I don't really have anything
10 else for Mr. Morse. He testified extensively in 2011. I did
11 want to make him available to the board members who were not
12 there. I hope Mr. Harper is going to be okay. But if others
13 had questions for him now.

14 CHAIRMAN WREN: Any questions? I have a couple
15 but I want to hear from the assessor first, so let's go ahead
16 and go to the other side.

17 MR. JOHNSON: I guess I'll go first and then the
18 deputy assessor. I just go back to the Supreme Court's
19 opinion that the reason that the state board erred in the
20 previous case was that it recomputed the valuation methods
21 set forth in the statute and reduced the taxable value to
22 nominal value. The Supreme Court said that nominal value was
23 clearly erroneous and that you should be following the
24 statutory methods.

25 We just heard Mr. Morse say that he equates
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1 market value with the full cash value. And the Supreme Court
2 said several times that market value and full cash value are
3 not equivalent, that you need to look at all of the tests in
4 the statutes and the regulations and come up with a value.
5 And the value in use to this homeowner might have nothing to
6 do with the market value, which is the only test that
7 Mr. Morse applied.

8 At SBE-185 in his summary in conclusion, he says,
9 there are three approaches which may be used to develop an
10 opinion of value for a property, the cost approach, the
11 income approach and the sales comparison approach. And then
12 he proceeds to not use any of them. He uses his professional
13 judgement and just says, well, I don't think it has any value
14 because parks and things like that don't have any value, so
15 therefore this privately-owned and controlled property should
16 not have any value.

17 The statutes and the regulations are pretty
18 clear. Your regulation which you pass which tells the county
19 board how to apply that statute when they're looking at what
20 is the market value says in subparagraph two, this is NRS --
21 NAC 361.631. One of those methods is you look at the full
22 cash value of the land plus the depreciated replacement cost
23 of any improvements. And the idea that these improvements
24 have somehow just because they happened to be used for
25 recreation centers they've got 99.9 percent obsolescence or
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1 depreciation, that doesn't even make any sense.

2 And I would also point out in the briefs that
3 were filed in this case --

4 CHAIRMAN WREN: I'm sorry. While you're there,
5 what number was that?

6 MR. JOHNSON: That's -- Which one? NAC?

7 CHAIRMAN WREN: Yeah.

8 MR. JOHNSON: NAC 361.631.

9 CHAIRMAN WREN: Okay. Go ahead.

10 MR. JOHNSON: The briefs that were filed in this
11 matter previously, Mr. Susa makes the following argument on
12 his introductory brief, at page eight of the brief, he says,
13 given the limited potential uses and financial feasibility
14 analysis was conducted that concluded that has no economic
15 utility. This was because it -- operations must goes on a
16 non-profit basis for the benefit of the residents and
17 therefore there is no potential for a positive return. So
18 basically he's saying because they're not going to make any
19 money on this it has no value.

20 The Supreme Court and the Court's -- the
21 recreation center case repudiated that and said it's false,
22 that's not the way we value property for taxes. And then in
23 his reply brief, he again says the Morse appraisal approaches
24 the valuation problem from a market price and competitive
25 sale approach, which our Supreme Court has said in its order

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1 is not the way you're supposed to do it. You're supposed to
2 look at all of the methods in the statutes and regulations
3 and you're supposed to come up with a value and that value
4 cannot be nominal. Basically they said that's error, that'
5 clear error.

6 And even though you might, some of you might
7 think you got it right the first time, the Supreme Court
8 doesn't think so. They think you got it wrong the first time
9 and that you should be putting a real value on these things
10 to what they're really worth to the owners.

11 The appraisal that you have in front of you is so
12 ridiculously low that I'm sure they pay a lot more than that
13 for their insurance on these properties. And he's telling
14 you that they're not worth what they're paying for the
15 insurance. That would be a surprise to the owners out there.
16 Why are we paying for insurance on this property that has no
17 value? It's just totally wrong.

18 He's followed the method that was used in the
19 first Sun City case that you heard in 2010, which was
20 basically because it can't be sold it doesn't have any value.
21 And that is error. That is clear error according to the
22 Nevada Supreme Court.

23 Also in the previous Sun City case, this is found
24 at SBE-347, this is the material that was presented to the
25 County Board of Equalization. Back in the original Sun City
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1 case in the 1990s, that was remanded back for further
2 valuation based on the Supreme Court's order. And the
3 testimony there on page SBE-347, this is Case Number 454, is
4 the next to the last paragraph. On May 14th 1999, the state
5 board heard the remanded cases and lowered the land value by
6 25 percent to recognize the restrictions on use and left the
7 improvements at full taxable value less depreciation.

8 So these arguments that we're hearing about these
9 improvements are not worth anything, that they're 99.9
10 percent reduced in value because they happen to be used for
11 recreation is bogus. The Supreme Court rejected that in its
12 order. And if you make a holding along those lines, they're
13 going to reject it again. Now I'll let the assessor talk.

14 MR. PAYSON: Thank you, Mr. Chair. Jeff Payson
15 for the Clark County Assessor's Office. I just wanted to
16 make a few statements about how we value these properties.
17 We valued them the same this current year that we're talking
18 about as we had in the prior year.

19 I wanted to talk a little bit more about the
20 obsolescence piece of this. As most of you know up there,
21 there's really three bits of depreciation in obsolescence.
22 There's physical depreciation, which is covered off
23 presumably by the one and a half percent as it was in the
24 ballpark case this morning. And I was so hoping someone
25 would say in the ballpark, but they never did.

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1 hear me say that very often. In this case he did and when he
2 talked about the property as a whole combining the land and
3 the improvement value, if you're going to look at applying
4 obsolescence, you need to look at the total value of that
5 property. And they made a big issue about the land being at
6 zero. Well, the land is at zero because the restrictions and
7 easements, and I know land doesn't necessarily depreciate.
8 But as in the ballpark case, taking that land down to zero
9 has certainly incorporated some of the obsolescence to the
10 overall part of that property. You just can't say this
11 obsolescence and we're just going to take it all off the
12 improvements.

13 Mr. -- Member Johnson also stole a little bit of
14 my thunder earlier, because I was going to talk about a
15 swimming pool on my house. You can't carve out something and
16 say, well, I can't sell this swimming pool in my backyard,
17 I'm not going to use it so it's got obsolescence. You have
18 to look at that property as a whole. You can't parse that
19 out and say this particular little piece has obsolescence.

20 Let's talk a little bit about the zoning. There
21 was some discussion about this PC zoning. Well, PC zoning is
22 applied to this whole master planned community. It's a
23 planned community zoning. There is a couple of little mini
24 malls right across the street from these. Guess what?

25 They're zoned to PC zoning. It doesn't prohibit you from
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1 putting what you want on there. You might have to go back to
2 the zoning board or commissioners or whatever, wherever you
3 have to go, but PC zoning itself does not mean it has to be a
4 public facility. There's hospitals. There are religious
5 facilities. There's all kinds of things that are all zoned
6 PC. So that really not really relevant.

7 CHAIRMAN WREN: Can I interject a question there?

8 MR. PAYSON: Sure.

9 CHAIRMAN WREN: Because this has come up often.
10 Zoning is not relevant at all because you have to appraise it
11 to its existing use regardless; isn't that correct?

12 MR. PAYSON: The highest legal use, correct.

13 CHAIRMAN WREN: Okay. Go ahead.

14 MR. PAYSON: And that was my point is the highest
15 legal use isn't as a public facility.

16 CHAIRMAN WREN: Okay.

17 MR. PAYSON: Because PC zoning does not mean
18 that. I'll let -- I think that's all I had on this, unless
19 you have some questions. But I'll let Ms. Weidner make a few
20 comments also.

21 CHAIRMAN WREN: Okay.

22 MS. WEIDNER: I just want to make a few comments
23 on Mr. Morse's appraisal. On page SBE-180, he talks about
24 functional utility. And I know we've already talked about we
25 didn't include any functional obsolescence, these properties

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1 have been maintained, they're not in decline, the homeowners
2 continue to pay their homeowner's association fees and the
3 properties are maintained in a very good use. And he even
4 commented and said the subject --

5 (The court reporter interrupts)

6 MS. WEIDNER: The subject improvements appear
7 functional for their intended use as a community center that
8 has been designed for residential use within the Sun City
9 master plan community. So, you know, it is a concern when we
10 look at an appraisal because we do look at appraisals that
11 are brought to our office and try to put weight on them, if
12 we agree with the final conclusion. But in this instance
13 there was not anything even to analyze.

14 He even states on page SBE-185, there are three
15 approaches which may be used to develop an opinion of value
16 for a property. Mr. Johnson already alluded to it. He says
17 here the cost approach, the income approach and the sales
18 comparison approach. The final opinion of value is the
19 result of reconciling value indicators placing the greatest
20 emphasis on both of those found to be most relevant in the
21 valuation process.

22 I haven't heard Mr. Morse testify nor have I seen
23 anything in this appraisal that says what methodology he did
24 use to come to the conclusion beyond his expert opinion. And
25 though I respect his expert opinio, I don't think that the
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1 assessor's office if we were valuing properties and we just
2 said, well, this is just based on our expert opinion and we
3 had no evidence on the record that that would fly with the
4 community or with this board.

5 I would like to also reference the LCB because I
6 think one of the hang-ups with this I think the board has is
7 that they think that there's double taxation. And
8 Mr. Johnson has already talked about the fact that there was
9 a case back in 1997 that went to the Supreme Court that they
10 specifically said that common elements valued in a separate
11 value, there was not double taxation that existed. And then
12 we had NRS statutes that were written and then we had
13 regulations that were written. And in between that back in
14 2006, and I'm going to read directly from an opinion by
15 Brenda Aerdose that says --

16 MR. SUSA: Is this part of the record from the
17 case below?

18 CHAIRMAN WREN: Is it?

19 MS. WEIDNER: It might have been alluded to.

20 MR. PAYSON: I believe Mr. Morse was testifying
21 earlier about some obsolescence to airport parcels that I
22 don't believe were in the record either.

23 MR. SUSA: Well, I think Mr. Morse testified that
24 the county and state boards before and he can testify as to
25 anything that's an appraisal. I'm a little nervous about

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1 documents being pulled out of a folder for the first time and
2 presented without me ever seeing them when we're sitting here
3 at the state board.

4 CHAIRMAN WREN: Let's go off the record for a
5 second.

6 (Discussion was held off the record)

7 MR. SUSAN: The conclusion reached in this
8 paragraph is what we had testified to earlier about
9 allocating the value of the clubhouses to the individual
10 residences, so I don't know if that's what she was trying to
11 get at, but we had already testified to that.

12 CHAIRMAN WREN: So you have no opposition to --
13 or objection to her reading this in to the record?

14 MR. SUSAN: No.

15 CHAIRMAN WREN: Okay. Go ahead.

16 MS. WEIDNER: So this is an opinion by Steve
17 Coburn, principal deputy, legislative counsel. In
18 conclusion, based upon the applications, it was after they
19 had done a lot of dialogue on the regs and the NRS, he says,
20 based upon the application of the common rules of statutory
21 construction to the provisions of paragraph A, subsection one
22 of NRS 361.233, it is the opinion of this office that NRS
23 361.233 does not provide an unconstitutional exemption from
24 ad valorem taxation for the common element of a common
25 interest community, but rather requires that the amount of

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1 those taxes attributable to the value of those common
2 elements must be allocated to and assessed upon the
3 individual community units in that community.

4 And though Mr. Susa here is saying, well, he
5 doesn't disagree with that, they want to reduce the property
6 to a value that reflects some kind of excessive exemption,
7 that's the way I would actually put it because I think the
8 obsolescence that -- what they're trying to call obsolescence
9 looks more to me like an exemption. Because when you lay it
10 all out and you distribute that among 4,000, 7,000 some odd
11 parcels, we're talking about a very minimal value per parcel,
12 I think it's like a dollar or something or one cent. So I'm
13 saying that.

14 And then I also want to reference 361.233 that
15 also states, and I'm quoting from Section 1A. Well, 1.
16 "Notwithstanding any other provision of law, any ad valorem
17 taxes or special assessments assessed upon any real property
18 within a common interest property must be assessed upon the
19 community units and not upon the common interest community as
20 a whole."

21 And then it further states that the taxable value
22 of that community unit and a percentage of the taxable value
23 of all the common elements of that common interest community
24 which is equal to one divided by the total number of the
25 community units.

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1 So I'm saying all of this to say if the
2 legislature and the LCB and the Supreme Court had felt that
3 we needed to put a minimal value or no value on these
4 parcels, why would we have all of this legislation written
5 for us to distribute it? Why would we write legislation to
6 distribute a thousand dollars in value? That doesn't make
7 sense to me.

8 I understand the argument about obsolescence and
9 we've done our best to establish that through our
10 depreciation. And we have no other better method to go by.
11 And so I understand the concern of the board with regard to
12 that.

13 But I just wanted to restate that based on what
14 the statutes are trying to do, what the LCB is interpreting
15 them in doing and the way the regulations were written, it
16 just seems like a lot of extra work and administrative cost
17 to distribute something that they had intended there to be a
18 valuation there to begin with, not something that was going
19 to be almost completely exempt and then distribute something
20 much less than that.

21 CHAIRMAN WREN: That's the right question, the
22 right building, the wrong day.

23 So I'm trying to -- I've been racking my brain,
24 which is hard these days, to remember exactly the NRS that we
25 were referring to in the original case that basically says
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1 that the assessor has to assess every parcel to be approved.

2 MR. SUSA: Well, the assessor, it's in 260.

3 Yeah, they have the obligation to provide a value each year
4 for every parcel of property. And they've done their duty in
5 placing the value on all the parcels, including the five that
6 have we have contested here.

7 CHAIRMAN WREN: Wait a minute. They're still on.
8 I was just kind of asking --

9 MR. SUSA: Oh, all right.

10 CHAIRMAN WREN: But I appreciate that.

11 Mr. Johnson, that was kind of the answer.

12 MR. JOHNSON: I can't tell you the statute
13 number, but there is a statute that says all property that is
14 not otherwise exempt must be assessed and taxed. And the
15 constitution requires that you assess and tax uniformly.

16 So yeah, they have to appraise and tax every
17 property unless there's a specific exemption. And I think we
18 just heard that 361.233 is not an exemption. So this
19 property doesn't get an exemption. It has to be appraised
20 like every other property.

21 CHAIRMAN WREN: Right. And what I'm trying to
22 make sure I have a good understanding of is that by law you
23 have to assess these improvements via the cost approach,
24 straight line depreciation, and then if there's marked
25 evidence, relating to some other section, if there's marked

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1 evidence that there's further depreciation that needs to be
2 considered, which we've talked about previously, then you
3 need to consider that.

4 And when we were talking about being able to
5 verify and solidify that type of depreciation, you need to do
6 it with one of the three approaches, the cost approach, the
7 income approach and so on. If you don't have those
8 approaches to rely on, it's impossible to attribute any other
9 depreciation, isn't it?

10 MR. JOHNSON: That's our opinion. I think 227 is
11 the one that really lays it out. 2271 says that we have to
12 do an initial value based on the -- and the regulations also
13 go along with that. I believe it's 128 in the regs. That
14 you look at Marshall & Swift and take a depreciation.

15 And NRS 227, Subsection 5 says that if someone
16 brings to you facts showing that it's exceeding full cash
17 value, then you have to make an adjustment. And then that
18 statute says and here's three things you can look at. And
19 all of them are objective, verifiable, testable methods. And
20 none of them are, oh, I don't think it's worth anything so
21 let's not tax it.

22 And I think that's where the Supreme Court came
23 down and said you cannot ignore those objective methods and
24 just say it's not worth anything because you can't sell it
25 because there's no market for it. It's still worth

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1 something. The people that pay for it and the people that
2 are paying to maintain it and to use it think it's worth
3 something. And it's not a dollar a person. They're paying a
4 lot more than that just for the privilege.

5 So yeah, I think you're right, Mr. Chair, and I
6 think that that's the problem that we have with all of these
7 arguments that are being made that let's ignore the statutory
8 methods and just say it's not worth anything. And I don't
9 think you can do that. I think the Supreme Court has been
10 pretty clear that you have to have some kind of verifiable
11 substantive evidence. And I don't think this coming in and
12 saying, hey, I'm an expert and I don't think it's worth
13 anything is verifiable, substantive evidence.

14 There was reference made to the motor speedway
15 case where there was testimony as to what the depreciation
16 was. But that was all backed up by evidence. There was
17 evidence, marked proof as to what was going on with other
18 speedways in other places. And even though it was clear
19 across the country, at least it was something. It wasn't
20 just, yeah, here are the three approaches that you can use,
21 but I'm not going to use any of them because I don't really
22 think any of them apply and I just don't think it's worth
23 anything.

24 CHAIRMAN WREN: Okay. Anything else from your
25 side?

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1 Any questions for the assessors? Ben.

2 MEMBER JOHNSON: I think I understand it, but I
3 just want to make sure. I'll ask the assessor's office,
4 whoever can respond. This test for economic obsolescence,
5 when you're testing the full cash value, you guys are doing
6 that in aggregate, you're going to find other sales within
7 the subdivision and you're going to make sure that they're
8 not selling for a price that's lower than whatever your
9 primary indication of value is or primary replacement of cost
10 is new plus land.

11 And what I see here is, the way I view it is
12 we're going to look at an individual component that goes in
13 to the Marshall & Swift and find the economic obsolescence is
14 just an individual component, which is 1/700th or whatever it
15 is, 1/7,000th of this structure. So it's one of the many
16 line items in the Marshall & Swift calculation. Am I --

17 MR. PAYSON: It's a little bit bigger of a
18 question than you probably think, the way we determine that
19 obsolescence. So the essence of what you're saying is
20 correct. We do our statutory valuation with a one and a half
21 percent. Then we have different ways we look for
22 obsolescence. If it's an income property, if there's a model
23 that we apply based on market data to see if we're exceeding
24 properties under that -- under the income approach. If it's
25 residential properties, we also have a model that we apply

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1 for custom homes to look for obsolescence for those
2 properties.

3 In the case of an area like Sun City or a
4 subdivision, we do, as you indicated, a more broad mass
5 approach where we analyze these sales in that area to see if
6 that neighborhood should get an override for an obsolescence,
7 which would be economic obsolescence based on the -- not the
8 economics of that property but the economics of the time or
9 area.

10 And that's why I pointed out earlier that in this
11 case I know there was an issue on the ballpark one where the
12 economics of the downtown Reno evidently aren't very good.
13 Well, in this case, the economics of those surrounding
14 neighborhoods in Sun City didn't even in these years when we
15 were putting overrides on a lot of things in Sun City, we
16 didn't see that economic up and down as much as we did other
17 places and these didn't even get an additional obsolescence.

18 CHAIRMAN WREN: Ben, let me ask a quick question
19 to make sure that we've got apples to oranges. So if I'm
20 understanding what you're saying is if you have in the houses
21 in these neighborhoods you can attribute obsolescence, you
22 do. And if you had obsolescence in those houses, you would
23 also attribute it to the common area?

24 MR. PAYSON: No.

25 CHAIRMAN WREN: Okay. So let me ask this
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1 question then. In your valuation in Clark County of
2 similarly-situated properties such as clubhouses, have you
3 attributed any other obsolescence other than the straight
4 line depreciation?

5 MR. PAYSON: To the clubhouses or to the common
6 elements?

7 CHAIRMAN WREN: Well --

8 MR. PAYSON: Or to the community units?

9 CHAIRMAN WREN: Yeah.

10 MR. PAYSON: To the common elements?

11 CHAIRMAN WREN: Yes.

12 MR. PAYSON: We have not attributed additional
13 obsolescence other than our land value going down to zero,
14 which would include in our theory some of the obsolescence
15 from --

16 CHAIRMAN WREN: Yeah. I'm talking just
17 improvements.

18 MR. PAYSON: No, we have not.

19 CHAIRMAN WREN: All right.

20 MEMBER JOHNSON: End of the day though you are
21 looking at sales of properties to test for economic
22 obsolescence and you're -- if, say, properties are selling in
23 a specific area for less than the aggregate of replacement
24 cost less depreciation plus land, you're going to bring that
25 down and that includes a common area element?

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1 CHAIRMAN WREN: I don't think so. That's what
2 I'm trying to say is that he can't combine these two. They
3 have to assess the houses as houses. They have to assess the
4 common elements as common elements, okay. And if those
5 common elements are going to have any type of depreciation
6 other than straight line, then they've got to go out and find
7 by using the three other approaches to value that they're in
8 excess of full cash value and there's no way to do that.
9 That's the reason Mr. Morse didn't do it.

10 MEMBER JOHNSON: And I agree entirely. I was
11 trying to get back and see at the end of the day the big
12 picture are we taking in to account the potential for
13 economic obsolescence or not, and that's what I was wondering
14 there. And comparing it to sale prices of other properties,
15 everything is loaded in at that point as a total sum and if
16 the aggregate is greater than the property is going to sell
17 for then you clearly have an issue.

18 CHAIRMAN WREN: Any other questions for the
19 county?

20 Okay. Mr. Susa.

21 MR. SUSAS: Thank you. I'll try to address in the
22 order that they gave them, so go with Mr. Johnson's approach
23 first. The Supreme Court was concerned about the lack of any
24 evidence in the record as to value for these properties. And
25 if you read this in its totality, they can cite to the state

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1 board's discussion of that as well. And at the end of the
2 day they didn't overrule this and rule in favor of the
3 county. You may notice that this is an order of remand.
4 It's not a reversal only and the county's numbers win. In
5 fact, the decision says that the properties may or may not be
6 worth 19.5 million dollars. But the board has got to make a
7 decision based on the evidence that's sitting in front of it.
8 And that was the 2010 case and obviously there was no
9 appraisal of that property there.

10 In the 2011 case, there are additional elements
11 improving value. We talked a little bit about the appraisal.
12 But in addition to that we brought you the Summerlin
13 development standards, which limit the use of these parcels
14 to these common type clubhouses and things like that. Those
15 are governmental restrictions placed on the properties use
16 itself.

17 Sure, you can get the government to maybe change
18 those at some point in the future. It's difficult if they're
19 already improved to change those because you have an
20 additional facility to them. But we don't do valuation based
21 on what may happen if somebody goes and gets things changed.
22 We do it based on what it looks like on the lien date, the
23 valuation date. And on the lien date here, we had a
24 clubhouse in a planned community doing exactly what the
25 Summerlin development standards said it could do.

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1 We also have a great explanation of the zoning,
2 Mr. Payson touched on this. PC is planned community. And
3 there are certain things that can happen within a planned
4 community and Mr. Morse read a list of those. But the CC&Rs
5 that are adopted for the Summerlin community specify that
6 these in fact are common areas and they must be maintained as
7 common areas. And this is a developer's promise to the
8 people he's hoping to sell homes to that he's going to build,
9 that if you buy a home in my subdivision you will have an
10 8,000 square foot clubhouse with the following amenities. It
11 creates something that you're not going to be able to get --
12 I don't think the developers get much of a choice after the
13 homes start selling to start changing those CC&Rs, that
14 there's restrictions in those CC&Rs that would stop that from
15 happening. And if they did happen, it would probably be sued
16 back to the stone age.

17 So what we have here that we didn't have in the
18 first case is exactly what the Court said was missing.
19 Mr. Johnson's comment about the Supreme Court rejected out of
20 hand your \$500 value is accurate only because there was no
21 evidence in the record as to value and there was no evidence
22 as to one of the three methodologies possibly being followed.
23 And the Court remanded it back down and said if you can
24 follow one of those methodologies, we would be a lot happier.

25 But I would have to point out that those three
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1 methodologies are not the sole source of valuation. I'm
2 reminded of cases in Clark County at least where
3 Mr. Homeowner simply walks up and he's asked by the board
4 chairman, what do you think the value of your house is and he
5 said it, no comparable sales, no income, nothing else, just I
6 think it's this amount. And that sometimes carries the debt.
7 Now, you notice it doesn't follow one of the three
8 methodologies and the county certainly can put up their
9 evidence, but sometimes that's good enough.

10 So I reject and the Court should reject and you
11 should reject the notion that if you don't follow one of
12 these three methodologies you can't have competent evidence
13 of value. It's simply a homeowner opining this is the value
14 of their home, something very well known to them and only
15 thing sometimes carries the day and doesn't meet these.

16 So I as I said in the first transcript that I
17 read what the county's argument is is simple. There's no
18 evidence in the world that can be presented that would show a
19 value different than that presented by the county. Again, I
20 could bring the best appraisers from the north and the south,
21 they could use their decades of experience both as appraisers
22 and as members of county or state boards of equalization, we
23 can begin this appraisal assignment to determine a full cash
24 value, and using all that experience they may have to choose
25 a methodology that's a little different than one of the three
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1 that's provided. It doesn't make that decision and
2 determination invalid. That was the DA's point. It doesn't
3 make it invalid. Other methodologies can be used. And the
4 question is, is that methodology subject to discussion,
5 cross-examination, criticism? Absolutely. And the appraiser
6 has to defend that methodology.

7 But if they do so, then the Court did not say you
8 reject that methodology. That's not what this decision says.
9 This is not the case that was tried before the Supreme Court.
10 A different case was tried before the Supreme Court and that
11 case lacked this type of evidence. This case has that type
12 of evidence in it.

13 So the Court said it would be best to talk about
14 cost and the cost methodology includes depreciation and
15 obsolescence. And Mr. Morse has testified that in fact he
16 found obsolescence and the way he did so was to look at the
17 legal permissible uses of the property and determine that
18 based on that the value is X. And it doesn't matter what
19 value the assessor put on it, the obsolescence is the
20 difference between the assessor's value and X, because all
21 roads have to lead to Rome. All valuation methodologies have
22 to lead to the market value, and Mr. Morse determined that.

23 And the market value for this property is unusual
24 and it's complex and it's not run of the mill and we
25 acknowledge that. But we have evidence to support our

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1 determination and we follow the cost methodology in similar
2 manner to what was done in the appraisal and we also have
3 testimony about following the statutory methodology for
4 contributory value of the improvements.

5 So on all the bases of both the appraisal and the
6 cost and contributory value, we've met our burden of proof
7 showing that the value established by the assessor in 19.5
8 million dollars exceeds the full cash value of the property.

9 Mr. Payson's comments, and Mr. Johnson, I want to
10 make sure we're all clear on this because I've kind of gone
11 astray on us and I want to make sure that we come back to
12 ground zero. The Posts have a home in Sun City Summerlin and
13 they're not contesting the value of the home. The assessor
14 can determine that value, different methodologies. And the
15 assessor often times utilizes market approach to determine if
16 in fact the replacement cost plus land value is going to
17 exceed really what the market value is and if so then they'll
18 make an adjustment and that's fine. In Sun City it's a nice
19 area of town. It probably isn't so much of an economic
20 adjustment.

21 Move that all aside, it has nothing to do with
22 what we're doing here. The only thing we're doing here is
23 that for each one of these clubhouses the assessors
24 determined the value for the parcel and the values for land.
25 And how that number finally gets determined is then figured

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1 out and distributed among the homeowners. I'll take issue
2 with the comment of gosh, if there's 7800 homeowners and you
3 put a thousand dollar value on it, everybody gets 84 cents.
4 You know, the law doesn't turn on things like that. Because
5 it could be two homeowners and it could be a thousand dollar
6 value and each one gets 500 bucks. So that's not how it
7 works. It is true that the Sun City Summerlin is one of the
8 largest planned communities in Nevada and as a result the
9 numbers are going to look a little bit different. But at the
10 end of the day, the appraisal assignment is the same. What
11 is the value of this property taking in to account everything
12 we know, everything we can do? And Mr. Morse's opinion is
13 that the value is a thousand dollars for this particular
14 clubhouse. And my argument is if that's the right value then
15 the same restrictions causing that should also be applied to
16 the other parcels.

17 So don't take in to account, gee, everybody gets
18 47 cents. Take in to account what's the right result under
19 the law and how the numbers fall out they fall out. Does
20 that answer your question, Mr. Johnson? Because I really
21 want to make sure that we're on the same page.

22 MEMBER JOHNSON: No. We are. And where I was
23 looking at was not so much -- I didn't care all about the
24 dollar amounts. What I was saying is the value is obviously
25 being captured in for each individual homeowner and I was
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1 wondering if the aggregate of the common element plus the
2 taxable value of the improvements, if that -- because you get
3 to a total value there and I'm wondering if that's what
4 they're testing for economic obsolescence. There's obviously
5 some value here and is it in the homes, how is it paid for.
6 That's what I was trying to understand. What you're saying
7 is for all of that and all that we're dealing with here is a
8 value of the actual physical structure.

9 MR. SUSAN: Before I tell you to go on that, I
10 want to make sure that the one point I was making is clear.
11 The only reason why these have very little value is because
12 these are amenities within a planned community. And so
13 people buy homes within a planned community that can either
14 choose to have amenities or not and they make that choice.
15 And so Mr. Johnson has asked at one point, my goodness, why
16 would somebody spend six million dollars for property worth
17 very little money. And the answer is to sell the homes in
18 the neighborhood, that's why you would spend six million
19 dollars, to build a clubhouse. You would have very little
20 value after that to sell the homes in the neighborhood, which
21 you're going to build. Del Webb knew how to do business, so
22 they did okay. So I just wanted to make sure that, you know,
23 we're on the same page there.

24 Mr. Morse, I kind of went through my little deal
25 and I know that you had something on insurable value versus
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1 market value. That's a point that Mr. Johnson I thought made
2 that was interesting. If these burned to the ground, they
3 would have to be rebuilt. And so obviously as a prudent
4 manner, the board of directors of every community association
5 has to purchase insurance to make sure that they have
6 sufficient funds to rebuild these. Insurable value doesn't
7 necessarily permeate the market value.

8 MS. MOORE: Time.

9 CHAIRMAN WREN: Go ahead and answer.

10 MR. SUSA: Mr. Morse, can you talk a little bit
11 about like how insurable value has any effect at all on what
12 marketable value for the property may be.

13 MR. MORSE: Insurable value is based on a hundred
14 percent replacement cost with no consideration for
15 depreciation. And that's what your insurance agent
16 calculated some figures out just like you insure your car.
17 You're going to insure your house for say a hundred thousand
18 dollars, but it might only be worth \$50,000, but if it burns
19 down, the insurance company is going to rebuild it. And so
20 there's a definite distinction between insurable value and
21 market value. And that's what I was getting at in my
22 analysis here is what really is the market value and what
23 would somebody ready, willing and able pay for this. I don't
24 think that they would pay 19 million dollars for this
25 clubhouse facility and be subject to the rules, regulations
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1 and restrictions that are placed on this property by the
2 CC&Rs as well as the development standards for Summerlin.
3 Yes, it is zoned PC and I started going through those when
4 Mr. Susa pointed out I was going too slow and too long and I
5 did state that those were some of the permissible uses during
6 that PC zoning. But when you look at the development
7 standards on this property subject to as well as the CC&Rs,
8 that is the only use that this property can be put through.
9 You can't make a profit. And only the people that live in
10 that community are allowed to use it. You can't have other
11 people from outside the community come in and use the indoor
12 swimming pools, the outdoor pools, the craft centers and any
13 of the other amenities that they have at this property, which
14 as Mr. Payson indicated is pretty nice. And I went through
15 it. It is a very nice building.

16 But what really is market value and what's the
17 test for market value. That's my point. But the insurable
18 value is completely different. We're not here to estimate
19 insurable value and that isn't what the people in Summerlin
20 think their property is worth based upon insurance.

21 MR. SUSAS: And one final statement, Mr. Wren, to
22 your comments, when we're looking at this, again, this isn't
23 an assessor review process. We're not here to determine if
24 they did their jobs. Their job is done, frankly. It's now
25 my job and my job is to come up with something to say that
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1 their value exceeds full cash value. We moved away in Nevada
2 from -- We? I don't live here. But Nevada moved away from
3 the idea that like other states you measure value by what it
4 would sell for in the market. They moved to a taxable value
5 system a long time ago. And so the only check on that is
6 does the taxable value exceed the full cash value. If it
7 does or you think it does, you have to come up with the
8 evidence and prove it up.

9 And so even if all of these fine people to my
10 left did their jobs a hundred percent well, and they often
11 do, that's irrelevant. The only relevant thing is does my
12 evidence prove that their number is higher than what the full
13 cash value is. And as the Supreme Court noted, the full cash
14 value is defining statute that is the most probable price
15 this property would sell for in a market transaction, which
16 looks a whole lot like what fair market value is defined by
17 the appraisal institute.

18 And so Mr. Morse did his appraisal based on that
19 standard, which is the only standard that's controlled in the
20 statute. And so if your job is to determine if we've proved
21 that evidence that meets that standard and the evidence shows
22 a lower number, then I think that we've met our burden of
23 proof and you should rule in that number.

24 One more point by Mr. Morse.

25 MR. MORSE: The appraisal institute textbooks
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1 state that the appraiser is to apply the approaches that are
2 applicable and where there is data available to do that
3 analysis. Mr. Johnson pointed out that in the Las Vegas
4 Motor Speedway case that I did have data, even though it was
5 from other states. I didn't go in and find that data. Well,
6 I don't have that data in this case. Mr. Payson indicated
7 that as well, that there is no data to really determine what
8 the dollar amount or what the methodology of the economic
9 obsolescence is because I don't have any sales of clubhouses
10 because you can't sell them because there is no market and
11 that's why I concluded it's nominal.

12 MR. SUSA: We have nothing else.

13 CHAIRMAN WREN: Okay. So you know, I want to
14 make a statement and ask a question at the same time because
15 we're a little bit off track here in mixing market value and
16 full cash value. They're two different things. They're two
17 different definitions. And the assessor's job is to
18 ascertain the assessed value and not exceed full cash value
19 regardless of what the market value may be. And your
20 argument, the way I'm understanding it, is because these
21 facilities -- Let's start from the premises. Somebody
22 decided to build a building and put it on a piece of land.
23 By law, the assessor has to assess that property. And what
24 your argument is, is because the builder decided or somebody
25 decided to build a building and put a restriction on it, then

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1 it loses all its value. I kind of like that argument because
2 I'm thinking about putting one on my house, some type of
3 restriction, and it won't be worth anything and I won't have
4 to pay taxes and it will be zero.

5 I like the argument, but it doesn't make sense to
6 me. You've got a structure, regardless if it's in Summerlin
7 or any place else in the State of Nevada. You have a
8 structure that has been built and the assessor has to assess
9 that and assess it to not exceed full cash value predicated
10 on law on the straight line depreciation. So they've done
11 that.

12 And then the test on that is does it exceed full
13 cash value predicated on the other approaches or the other
14 considerations that are ways to value property. But
15 according to Mr. Morse's testimony these aren't bought and
16 sold. They can't be bought and sold. But that doesn't mean
17 they have no value. They have to have value or somebody
18 wouldn't have built it to start off with to sell the other
19 properties around it.

20 MR. SUSA: No. There's several deficiencies in
21 what you just said. The first is it's the assessor's job to
22 calculate taxable value of the approved property, period.
23 And if the assessor wants to then determine if that exceeds
24 full cash value, they have the option to do that. Many times
25 the assessor will come to people saying last year you

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1 submitted income information to get economic obsolescence on
2 your property, we would ask to you submit it again. And some
3 people do that and the assessor takes that in to account.
4 But if people don't do that, their sole function is to
5 determine a taxable value.

6 Then the second step is to file a protest, bring
7 evidence forward that that value exceeds full cash value.
8 And I disagree with what you just said. The Supreme Court
9 citing 361.025 says that full cash value, the most probable
10 price the property would be in a competitive and open market
11 under all conditions requisite to a fair sale. That is the
12 definition of full cash value in the State of Nevada. It is
13 synonymous, synonymous with fair market value from the
14 appraisal institute. Mr. Morse testified to that. Well, now
15 he's whispering something in my ear, so --

16 CHAIRMAN WREN: And not to -- I don't want to be
17 arguing about it at all. But for it to be market value it
18 means to be bought and sold. If the property can't be bought
19 and sold it can't have market value is my whole point, so go
20 ahead.

21 MR. SUSAN: And the question is how do you
22 calculate full cash value and there are many methodologies
23 that are possible. And what you're saying is if there is no
24 likelihood at all, zero, that the property could be bought
25 and sold, then there is a problem. There is a likelihood

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1 that this property could be bought and sold. There are legal
2 restrictions as to use and the uses could be changed. It
3 could be a health club, easily converted to a health club, a
4 24-Hour Fitness.

5 So your predicate is if there is no market your
6 test doesn't apply. And that would maybe be true if there is
7 no market. The actuality is there's not any reason to sell
8 this. And if there was going to be a buyer, somebody would
9 have to do something to change the legal restrictions as to
10 use to make it have any value at all to a buyer, because
11 otherwise it has very little value to a buyer.

12 And I think that your final point about this has
13 to have value because why else would the developer have built
14 it, which I thought was your point. The answer is to sell
15 the homes in the subdivision that the developer is going to
16 build at a profit. This is just a sunk cost in a subdivision
17 development. You've got to make the profit on selling the
18 houses and that's why you turn these over to the association
19 when all the houses are sold.

20 So the full cash value of this property has to be
21 determined under some methodology. And even if you apply a
22 cost methodology, you have to determine if there's
23 depreciation and economic obsolescence. And Mr. Morse has
24 said that if I used a cost methodology there would be
25 economic obsolescence and the amount of obsolescence would be

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1 whatever was required to bring the value down to the number
2 I've determined of a thousand dollars.

3 CHAIRMAN WREN: So given that same argument, you
4 could have economic appreciation.

5 MR. SUSAN: Economic what?

6 CHAIRMAN WREN: Appreciation.

7 MR. SUSAN: You have lots of economic
8 appreciation. The assessor put a taxable value below what
9 that number is and so you don't protest it. I mean, that's
10 part of the system of taxable value. I've had a lot of
11 clients around who get the assessor's value and go, my God,
12 our property is worth four times that amount. Say nothing,
13 do nothing, get the tax bill and pay it.

14 CHAIRMAN WREN: Surprise surprise.

15 MR. SUSAN: Surprise surprise. So I think that
16 hopefully addresses that issue.

17 The last thing I want to talk about was there are
18 properties that have limited use and it's not special purpose
19 but they have limited use. And when they have limited use,
20 it's because they're built as limited use. The park has a
21 limited use, the swimming pool, recreation center all have
22 limited uses. It doesn't mean that they don't have a value.
23 It just means they don't have much of a value. And our
24 argument has been from day one these have a value, they have
25 to have a value, everything has a value. It's just not much

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1 of a value because of the way that it's being constructed and
2 what it is. I'm reminded of a cemetery mausoleum. It's an
3 improvement, it costs a lot of money to build. But you know,
4 frankly, what's its value? The answer is not a lot because
5 you don't do much with those.

6 So at the end of the day we have the proof that
7 we didn't have in the first case. We would ask you to
8 recognize the proof that we have here and the methodologies
9 used to arrive at a value and apply that value to the other
10 four parcels of this for equalization purposes.

11 CHAIRMAN WREN: Very good. Thank you.

12 Questions? Ben.

13 MEMBER JOHNSON: My question is does the
14 improvement generate income? Are you guys charging for
15 classes or are you charging to have a wedding? Should an
16 income approach be considered?

17 MR. SUSAN: All right. So there's a couple
18 things. And I'm glad you asked that question, because I was
19 remiss in not mentioning something. The CC&Rs say that the
20 common area is going to be used by the residents and invited
21 guests. So as a result, if your grandfather lived in
22 Summerlin and said, you know, gee, we really need a great
23 place to have a wedding reception, can we have it at one of
24 your clubhouses, your grandfather could invite you as a guest
25 to use the clubhouse. You would probably be charged a fee

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1 for using the clubhouse just to cover the cost of cleaning it
2 up afterwards. But the actual clubhouses themselves don't
3 charge for the residents coming in. That's what is supposed
4 to be covered in the annual dues. That includes the
5 maintenance and upkeep. So you get to use it on a daily
6 basis in that regard. But for special events you're going to
7 get charged if you are a resident or an invited guest for the
8 cost of cleaning it up after the event is over because that's
9 more wear and tear than normal.

10 As far as cash flow, they're huge money lifters.
11 There's no positive money being made. I spoke with the
12 executive director at Sun City Summerlin about that and said,
13 you know, can we make it \$500 on the weekends with somebody
14 using it, but it costs \$40,000 a month to run the thing. So
15 it's all just money going in to the maintenance and
16 everything else to keep the things going. No weight is
17 offset by any revenues centered around it.

18 CHAIRMAN WREN: Okay. Respond quickly.

19 MR. JOHNSON: We've now established that Mr. Susa
20 disagrees with you, Mr. Wren, and with the Nevada Supreme
21 Court that market value and the full cash value are not
22 equivalent. And the Nevada Supreme Court said improvements
23 on the land may still have substantial value even if neither
24 the land nor the improvements would have value on the open
25 market. Other quotes that I've already read to you and I
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1 won't read them to you again.

2 But I would also like to remind the board of what
3 Member Johnson said earlier that the value to build these
4 things, it doesn't evaporate. If it cost 20 million dollars
5 to build these things approximately and that value has to be
6 taxed and it hasn't gone in to the homes, we've established
7 again in the Nevada Supreme Court very clearly that there's
8 no transferring of that value to the home. It's still right
9 there in those buildings and nothing has happened in the
10 economy, nothing has happened anywhere to cause any of that
11 value to just dissipate. They're being maintained, they're
12 being operated, they're being used exactly the way they were
13 intended to be used. And restrictions on the land, the Court
14 said, is not a reason to reduce the improvements to nominal
15 value.

16 And whether Mr. Susa and his expert witnesses
17 agree with that under their appraisal theory, yeah, under
18 appraisal theory, market value is probably where you go. But
19 you don't go there under the Nevada statutes and the Supreme
20 Court has made that pretty clear. And if we have to go up
21 and have them say it again, that's what we'll do.

22 CHAIRMAN WREN: Okay.

23 MR. PAYSON: I'm sorry, Mr. Chair, but I do have
24 to clarify. I think maybe they were a little bit misleading
25 on the income or the use of these or the potential use of
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1 some of the improvements out there. They actually are -- The
2 board of directors according to Article 2 of their articles
3 of incorporation of Sun City, the Sun City Summerlin
4 Community Association state that they will purchase these,
5 own, improve, operate and hold real personal property of
6 every kind of description to sell, convey and lease such
7 property and to mortgage, assign, pledge or otherwise
8 encounter such property.

9 In fact, they have leases out there. As a matter
10 of fact, they were trying to get a gaming property out there
11 just within the last year. I don't know if it happened or
12 not, but it was on their minutes to approve a gaming property
13 in one of their common element areas.

14 They also -- There was a little bit of a to-do
15 out in the community where the executive board decided to
16 lease out one of their rooms for a congregation and some of
17 the homeowners were upset because they didn't think that
18 should be allowed because they wanted to use that room.

19 So I think they are allowed to lease out these
20 properties, and I don't know to what extent and I'm not
21 trying to say that these are commercial properties by any
22 means, but there certainly can be uses out there and they can
23 generate some sort of revenue and I'm sure it's not to make a
24 profit. It's probably to offset the dues that they have to
25 pay for the upkeep and things like that.

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1 MR. SUSAN: Mr. Chair, I can't leave that
2 unchallenged. The articles of incorporation always give
3 broad powers to the people who are the board of directors.
4 As far as a common area, a clubhouse that is going to be
5 approved for gaming, I think that would be a valuation of the
6 CC&R and that's the first I've ever heard of it was
7 Mr. Payson mentioning it.

8 CHAIRMAN WREN: It doesn't mean it's not possible
9 though.

10 MR. SUSAN: Probably legally impermissible, so
11 that would be not possible.

12 CHAIRMAN WREN: Could be.

13 MR. SUSAN: All right.

14 CHAIRMAN WREN: Okay. I'm going to close the
15 case. And I have probably pretty much the same thoughts that
16 I did last time we heard these cases, that it all boils down
17 to a -- And I try to take my appraiser's hat off on these for
18 several reasons. Number one is there is a difference between
19 market value, full cash value the way that the state looks at
20 it and the way the assessor looks at it. These properties
21 are built, any property in the State of Nevada is built for a
22 reason. And if you build a piece of property in the State of
23 Nevada, the assessor of that county is going to tax you on
24 it. And you're not exempt from those taxes unless you have
25 an exemption for some reason. You know, the --

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(The court reporter interrupts)

CHAIRMAN WREN: So my point is, is that when you have a piece of property it has to be assessed and if there isn't any way to determine that it has depreciation, it doesn't have depreciation. Just because you want depreciation, just because you want a property to be worth more or less, if you can't prove it, it's not. It's just what it is. And that's how I'm looking at it. I don't disagree with any of the arguments. But you got to show proof that it's either worth something or it's not worth something. And if you can't prove it, then the law says that it's assessed at cost less straight line depreciation.

Ben.

MEMBER JOHNSON: I largely agree with you, Mr. Chairman. I just, I really struggle on depreciation and what is -- I have no doubt that the appraisal we have it's good, but what we were charged with here is is full cash value the same as market value. I don't know the answer to that. And end of the day is we've got whatever, six million dollar asset here that it just evaporates. And that's still, that bothers me a little bit that it's been built in a way and now it's going to be worth a thousand dollars. I struggle with that without more support.

CHAIRMAN WREN: Aileen.

MEMBER MARTIN: Because I must make everyone
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1 smile this afternoon. It was my flippant comments in the
2 first place that got us here. I have nothing to say.

3 CHAIRMAN WREN: Did you get that on the record?
4 Dennis.

5 MEMBER MESERVY: I, just like before, I don't see
6 it being worth 19 million or whatever. I'm having a hard
7 time with this just because I am the one that would think
8 it's a di minimus amount but I would probably say it's more
9 than a thousand. But I still am having a hard time with
10 this. And this has been a problem from day one.

11 CHAIRMAN WREN: Ben.

12 MEMBER MESERVY: I see good arguments on both
13 sides.

14 MEMBER JOHNSON: I just want to make sure we're
15 not double taxing the property owner because clearly some of
16 this value is included when you buy the house, you're
17 motivated in part, some people are because I'm going to get
18 to use this facility, I'm going to have to pay dues, so we're
19 not coming back in and -- I heard the assessor's office say
20 we're not double taxing them and that's been established. I
21 just didn't understand what the basis was that lead to that
22 conclusion.

23 CHAIRMAN WREN: But you do now?

24 MEMBER JOHNSON: Not entirely, no. Do you?

25 CHAIRMAN WREN: I think so. I mean, they're two
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1 different entities. I don't see where there's any double
2 taxation at all, no. Building a building -- When a builder
3 goes out there and builds something and sells off part of it
4 and builds part of it to be given to the people they sold it
5 off to, maintaining that is part of the business. It's part
6 of doing business. And part of doing business and owning a
7 property in the State of Nevada has tax and you have to pay
8 taxes on it.

9 MEMBER MESERVY: My concern with all of this is,
10 you know, I have a mother-in-law and father-in-law that had a
11 house over there in Sun City, when they sold it there was no
12 consideration whatsoever on common area and it never was an
13 issue. It was always what's the value of the house being in
14 Sun City. So obviously there is a value that we have to
15 separate. But when we come to selling, the reality is it
16 never was an issue in selling that property and yet it was in
17 Sun City. And that's what gets me is that it just doesn't
18 make sense to give a full value without any depreciation or
19 obsolescence. To me that doesn't make sense at all.

20 MEMBER JOHNSON: On the other side, there's no
21 good way to do it and that's what I think you're struggling
22 with, Mr. Chairman, as well is is it worth six million, is it
23 worth something less. I don't know really know. But a
24 thousand dollars for something that costs six million dollars
25 to build, reasonably that doesn't seem fair either and it

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1 just doesn't pass the smell test to me. And that generally
2 means it's wrong when it doesn't appear right on the surface.
3 And how you get there, there's just no credible way to get
4 there. What is the depreciated value? I don't know.

5 CHAIRMAN WREN: And that's what I was talking
6 about earlier when I tried to take out of the equation to
7 some extent the amount of the appraisal. I don't disagree
8 with what is the cost approach and how he prepared it from an
9 appraiser's standpoint. But the assessor can't do that and
10 that's what we always have to go back on is by law the
11 statute, what does the assessor have to do and what is his
12 ability to do that. And I'm not sure I have any evidence
13 before me that the assessor has valued these incorrectly.

14 MEMBER JOHNSON: I concur.

15 CHAIRMAN WREN: Make a motion.

16 MEMBER JOHNSON: In Case 11-446 and 11-454, we
17 called them both together; right?

18 CHAIRMAN WREN: Yes.

19 MEMBER JOHNSON: I make a motion that we uphold
20 the County Board of Equalization's decision as there's no
21 evidence here -- not substantial evidence to disprove what
22 the assessor did.

23 CHAIRMAN WREN: Is there a second? I'll second
24 it.

25 Discussion? Seeing no discussion, all in favor
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1 say aye.

2 MEMBER JOHNSON: Aye.

3 MEMBER HARPER: Aye.

4 CHAIRMAN WREN: Aye. Opposed?

5 MEMBER MESERVY: Nay.

6 MEMBER MARTIN: Nay.

7 CHAIRMAN WREN: The motion fails.

8 Are there any other motions that would like to be
9 made? Dennis.

10 MEMBER MESERVY: I don't see where I have any
11 motion to make. I mean, I don't have a motion. I think it's
12 somewhere in between the two in value, but I don't know how
13 to do it through appraiser techniques to show that
14 obsolescence. But I definitely don't think either one would
15 be the perfect way.

16 CHAIRMAN WREN: Okay. Would anybody else like to
17 make a motion before I close the case? Going once, going
18 twice, the case is closed. Thank you very much. We're going
19 to break for lunch. It is ten til one. We will reconvene at
20 2:00 o'clock.

21 (Discussion was held off the record)

22 CHAIRMAN WREN: Call the next case.

23 MS. RUBALD: Mr. Chairman, I'm going to call the
24 next two cases, 12-423, Sun City Summerlin Community, and
25 12-424, Richard and Masako Post. Both the respondent is the
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1 Clark County assessor.

2 CHAIRMAN WREN: Identify the property, please.

3 MR. JOHNSON: I'm not the assessor, but it's the
4 same property, the same arguments and the same evidence. And
5 you can go ahead and call for a motion.

6 CHAIRMAN WREN: Okay. Before I do that, let the
7 record reflect that both sides have stipulated -- Jim, go
8 ahead.

9 MR. SUSA: Okay. So we would ask you to
10 incorporate the same arguments from the 2010-11 and 2011-12
11 cases that the board has heard this morning and then to make
12 a ruling or take action on the 2012-13 cases after our break.

13 CHAIRMAN WREN: Okay. And there's no opposition
14 to that?

15 MR. JOHNSON: No opposition.

16 CHAIRMAN WREN: Okay. Thank you. I'll close the
17 case and entertain a motion.

18 Seeing how there is no motion, I will close the
19 case and adjourn until 2:00 o'clock.

20 MR. SUSA: Thank you, Mr. Chairman.

21 CHAIRMAN WREN: Thank you, everybody.

22 (Lunch recess was taken)

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THURSDAY, OCTOBER 9, 2014, 2:01 P.M.

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CHAIRMAN WREN: Welcome back, Mr. Harper.

MEMBER HARPER: Thank you. Thank you.

CHAIRMAN WREN: Call the next case, please.

MS. RUBALD: Mr. Chairman, the next case comes from group two in Section F. It's Case Number 11-439, Rhodes Ranch Association, Incorporated. Clark County assessor is the respondent.

CHAIRMAN WREN: Go ahead and identify the property, please.

MR. PAYSON: Mr. Chair, Jeff Payson for the assessor's office. I think we might be able to get through this whole group pretty easily. We've been talking with Mr. Killion. If you want to consolidate all of these, I don't know if you want us to introduce all of those properties.

CHAIRMAN WREN: For the record, Mr. Killion, if you'd just identify yourself.

MR. KILLION: This is Michael Killion with Frazer, Ryan, Goldberg and Arnold, 3031, Phoenix, Arizona, North Central, Suite 1600.

CHAIRMAN WREN: Okay. Now, do you want to consolidate everything?

MR. PAYSON: I believe that all of group two.
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1 MR. KILLION: Yes, all of group two.

2 MR. PAYSON: And I can tell you that they're all
3 the same situation as we have already heard. They're all
4 common elements. I don't think we have addresses and all of
5 that on all of those. If you can go through there and do all
6 of that.

7 CHAIRMAN WREN: That's okay. Everything grouped
8 here, if you would like to incorporate all of the previous
9 testimony.

10 MR. PAYSON: Yes, from our side we would
11 incorporate all the testimony from the two prior common
12 element cases.

13 CHAIRMAN WREN: The two prior cases. And
14 Mr. Killion, any comment?

15 MR. KILLION: We would like to incorporate all
16 the testimony too. I know the appraisal was done on
17 Summerlin, but we believe it has the same restrictions, same
18 CC&Rs, it's the same issues and we believe that it's a
19 nominal value too.

20 MS. RUBALD: Do you wish me to call those cases?

21 CHAIRMAN WREN: Yeah. I want to make sure
22 everybody is on the same page first, so if you call all the
23 cases. You can just call it group two.

24 MS. RUBALD: Okay. I would be happy to do that.
25 Group two.

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1 CHAIRMAN WREN: Yeah, that's fine.

2 MS. BUONCRISTIANI: And let's ask the taxpayer,

3 does group two reflect all the properties you want included?

4 MR. KILLION: Yes, ma'am.

5 MS. BUONCRISTIANI: As on the agenda?

6 MR. KILLION: Yes, ma'am, it does.

7 CHAIRMAN WREN: Okay. So we have incorporated

8 all the testimony. Keith, you weren't here, so I'm going to

9 ask you to recuse yourself from what's about ready to happen

10 for your own well-being, your own protection. I'm going to

11 close the case on all of group two. And there's nothing else

12 you want to add, is there?

13 MR. PAYSON: No, sir.

14 MR. KILLION: No. We've been talking about it

15 for four hours. That's enough.

16 CHAIRMAN WREN: I agree. Okay. Group two cases

17 are closed. I'll entertain a motion. Going once, going

18 twice, going three times. Seeing no motion --

19 MEMBER JOHNSON: I'll make a motion in group two

20 that we uphold the County Board of Equalization's decision

21 due to the petitioner not overcoming their burden to disprove

22 the valuations and us not feeling that there's enough

23 evidence to adequately determine functional obsolescence and

24 economic obsolescence of these common area structures.

25 CHAIRMAN WREN: Okay. Is there a second?
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1 MEMBER MARTIN: I'll second it.

2 CHAIRMAN WREN: Discussion? All in favor say
3 aye.

4 MEMBER MARTIN: Aye.

5 MEMBER JOHNSON: Aye.

6 CHAIRMAN WREN: Opposed? Nay.

7 MEMBER MESERVY: No.

8 CHAIRMAN WREN: Motion carries. So basically
9 this gets it back to where we were earlier when we didn't
10 make a motion, which I believe is --

11 MS. BUONCRISTIANI: It was a two-two vote.

12 CHAIRMAN WREN: Yes. So it failed.

13 MS. BUONCRISTIANI: The record reflects there's a
14 two-two vote and it fails. So what is the taxpayer's denied
15 relief?

16 CHAIRMAN WREN: Any other motions? Seeing none,
17 I'll close all of those cases. Thank you very much.

18 MR. KILLION: Thank you.

19 CHAIRMAN WREN: Okay, Terry, moving on to group
20 three.

21 MS. RUBALD: Mr. Chairman, I'd like to call Case
22 Number 11-435, Toll Henderson, LLC. Clark County assessor is
23 the respondent. It's in the Section F, group three.

24 CHAIRMAN WREN: Okay. Identify the property,
25 please.

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1 MR. PAYSON: Mr. Chair, group three are
2 Mr. Bancroft's appeals. I think he's okay, minimally at
3 least, grouping them together and hearing them all together.

4 CHAIRMAN WREN: Okay. For the record identify
5 yourself please, sir.

6 MR. BANCROFT: Thank you, Mr. Chairman. Paul
7 Bancroft with Lionel, Sawyer and Collins, appearing on behalf
8 of the taxpayers in group three. And I do have no objection
9 to consolidating them. The lead case was the case that was
10 argued this morning by Jim Susa. And so I would anticipate
11 that the board's ruling in this case will be similar. So
12 there's no additional argument. I just incorporate the
13 arguments made this morning.

14 CHAIRMAN WREN: I was so forward to looking to
15 you and I yelling at each other again.

16 MR. BANCROFT: I'm sure we can still have that
17 opportunity.

18 CHAIRMAN WREN: Okay. So Terry, if you would
19 call all of group three, please.

20 MS. RUBALD: Yes, Mr. Chairman. I'm calling all
21 the cases in Section F, group three.

22 CHAIRMAN WREN: Keith, I'm going to ask you to
23 recuse yourself again on this one.

24 MEMBER HARPER: So moved.

25 CHAIRMAN WREN: Do both parties agree to
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1 incorporate all testimony from all prior cases of similar
2 nature?

3 MR. PAYSON: Yes, Mr. Chair. Jeff Payson from
4 the assessor's office. We're here to incorporate all of our
5 testimony from the prior case.

6 MR. BANCROFT: Paul Bancroft on behalf of the
7 properties.

8 CHAIRMAN WREN: See, you thought it was hard this
9 morning. What was the problem?

10 Is it all the same testimony, same issues?

11 MR. BANCROFT: Yes.

12 MR. JOHNSON: Same issues. Once again, the only
13 difference is that the appraisal was on the Summerlin
14 properties and his are similar properties.

15 CHAIRMAN WREN: So everybody feels comfortable --

16 MR. BANCROFT: Wait. It is Summerlin. The
17 Ridges is in Summerlin.

18 MR. JOHNSON: Okay. But it's not in the Sun City
19 development. Let me clarify.

20 CHAIRMAN WREN: Okay. I want to make sure -- I
21 like expediting things. I'm sure this will be appealed, so I
22 want to make sure that everything is in the record that you
23 need if either side decides to appeal our non-decision, okay.

24 All right. I'm going to close the case. I'll
25 entertain a motion or not. Seen as how there is no motion, I
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1 will close all of group three. There's no motion. That's
2 okay.

3 MEMBER JOHNSON: I will make a motion --

4 CHAIRMAN WREN: I'll open the case back up. You
5 know, it's probably good to have it on the record that a
6 motion was made, so make your motion.

7 MEMBER JOHNSON: In group three I make a motion
8 it's all the same comments from before in those cases. I
9 didn't feel that there was adequate proof to substantiate the
10 economic obsolescence adjustment, petitioner didn't overcome
11 their burden and therefore I make a motion to uphold the
12 County Board of Equalization's decision.

13 CHAIRMAN WREN: Is there a second?

14 MEMBER MARTIN: Second.

15 CHAIRMAN WREN: Discussion?

16 Seeing none, all in favor say aye.

17 MEMBER MARTIN: Aye.

18 MEMBER JOHNSON: Aye.

19 CHAIRMAN WREN: Opposed?

20 MEMBER MESERVY: Nay.

21 CHAIRMAN WREN: Aye -- or Nay. Two to two vote.

22 The motion fails.

23 Is there any other motion?

24 MEMBER MESERVY: I just want to know is it nay or
25 is it aye?

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1 CHAIRMAN WREN: It's one or the other.

2 Okay. There's no other motions. These cases are
3 now closed also. Thank you very much. We're going to go off
4 the record for a minute.

5 (Discussion was held off the record)

6 CHAIRMAN WREN: Okay. Let's call the next case,
7 please.

8 MS. RUBALD: Mr. Chairman, the next case is from
9 Section G. It is a remand from the First Judicial District
10 Court, Department Number 1, Case Number 11OC0004161B
11 regarding an order granting the petition for judicial review
12 and clarification of the basis for the state board's
13 decision, State Board Case Number 11-416 Howard Hughes
14 Company, LLC versus the State Board and County of Clark,
15 Nevada. This has been on the agenda before and I believe at
16 your last hearing in August the motion was to bring this
17 matter back.

18 CHAIRMAN WREN: Okay. I'm going to go off the
19 record for just a second.

20 (Discussion was held off the record)

21 CHAIRMAN WREN: Okay. Dawn.

22 MS. BUONCRISTIANI: This is just a brief overview
23 of what happened last time. I would like to be able to
24 reopen the hearing and be able to go back to the actual case
25 records and cite specifically what we did and specifically
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1 what methods of valuation we used to arrive at our decision.
2 I think we need to do that.

3 So Member Johnson stated, Mr. Chairman, in the
4 matter I guess it's Section C, number one, to reopen the
5 remand, I make a motion we do and we bring it back before
6 this board at a subsequent date in order to correctly comply
7 in my view with the order from the Court.

8 CHAIRMAN WREN: Okay. Mr. Johnson, that was your
9 motion. So we're back.

10 MEMBER JOHNSON: Great.

11 CHAIRMAN WREN: Do you want the Court order
12 again?

13 MEMBER JOHNSON: If you would refresh my mind,
14 yeah.

15 MS. BUONCRISTIANI: Okay. At issue in this
16 matter is the methodology used by the state board to
17 determine the value of the subject property. The state board
18 is permitted to use any method to determine value that is
19 prescribed by law. Imperial Palace versus State, the Nevada
20 statutes prescribe three approaches for determining value.
21 A, comparative sales based on prices actually paid in market
22 transactions. B, a summation of the estimated full cash
23 value of the land and the contributory cost of improvements.
24 And C, capitalization of the fair economic income expectancy
25 or fair economic grant or analysis of the discounted cash

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1 flow. That is NRS 361.227, Subsection 5.

2 However, in this case, it is impossible to
3 discern from the written decision whether the state board
4 applied one or more of the approved methods of valuation and
5 if it did how the approach or approaches resulted in the
6 value adopted by the state board.

7 NRS 233B.125 provides in part that findings of
8 fact if set forth in statutory language must be accompanied
9 by a concise and explicit statement of the underlying facts
10 supporting the findings. This is not the case here.

11 The transcript of the deliberation of the state
12 board on August 22nd, 2011 reveals that the ultimate value
13 incorporated in its written decision appears to have been
14 determined calculating a mathematical mid-point between the
15 initial value entered on the secured tax roll and the value
16 adopted by the county board. Calculation of a mathematical
17 average is not a statutorily prescribed method for
18 determining value. If this method was used for determining
19 the value of the subject property, the state board applied a
20 fundamentally wrong principle.

21 State Board of Equalization versus Barta, holding
22 that the state board applies a fundamentally wrong principle
23 when it applies an unauthorized valuation methodology. For
24 the foregoing reason that it is impossible to determine for
25 the record exactly how the state board reached its decision,
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1 this case is remanded to the state board to, one, reexamine
2 the evidence, two, clarify the basis for its decision under
3 233B.125, and three, there needs to be a determination of the
4 value of the subject property using one or more of the
5 prescribed approaches found in 361.2275, and four, that value
6 must be supported by substantial evidence in the record, and
7 five, the written decision of the state board must be written
8 in sufficient detail to allow for meaningful review.

9 The Court being fully advised and for good cause,
10 it is ordered that this matter be and hereby is remanded to
11 the State Board of Equalization to take further action
12 consistent with this order.

13 CHAIRMAN WREN: And I think what we attempted to
14 do last time was to explain that our decision at that time
15 with the board members on the board at that time had taken in
16 to consideration the evidence provided by both the direct
17 sales approach of large acreage parcel sales as well as the
18 discounted cash flow analysis that was done on the property.
19 And basically decided that the direct sales comparison
20 approach was most applicable given the sales and analyzed and
21 presented and had been appropriately adjusted.

22 And I don't remember that it was just a
23 mathematical average that we utilized to come up with that
24 value. But it was primarily predicated on the direct sales
25 approach and the testimony provided.

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1 MEMBER JOHNSON: And what I really want to hear
2 is I didn't feel like we went back and looked at the sales at
3 all. We just looked at the record from the actual court
4 hearing. And the more I thought about it, I wonder if that
5 was sufficient. If we should actually dig back in to it and
6 on page such and such is a comparable sales chart, those do
7 seem to reasonably supported or they don't. And I would also
8 be in favor of allowing both parties to speak. I would like
9 to hear what they say and maybe they have something that
10 would be meaningful to us in coming to a conclusion up here.

11 CHAIRMAN WREN: Okay. No objection from the
12 other board members, I will at this time give both sides five
13 minutes for any testimony you would like to give or
14 discussion you would like us to have or consider. Is that
15 fair?

16 MR. JOHNSON: Mr. Chairman, I don't think there
17 should be any new evidence submitted. If you wanted to hear
18 additional argument, that's okay.

19 CHAIRMAN WREN: Yeah, no evidence. Just
20 argument. Just recap of your position, I guess. I need a
21 confirmation from both sides before I do that.

22 MR. BANCROFT: For the record, my name is Paul
23 Bancroft. I'm appearing on behalf of Lionel, Sawyer and
24 Collins and the property owner in this case, Howard Hughes.

25 I did at the last hearing suggest, ask for the
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1 opportunity to address the board, marshalled the evidence and
2 explained how in my opinion the Court's order reconciles with
3 the evidence in the record in this case. And yes, I would
4 like the opportunity to do that. I do not believe five
5 minutes is a fair time for the presentation, considering the
6 amount of evidence we have in this case and the number of
7 different valuation indicators that have been tossed out in
8 this case. So I do think that more time is necessary.

9 CHAIRMAN WREN: Okay. Without providing any new
10 evidence, the recapitalization of what you did last time, I
11 would give both sides 15 minute and I'll give you the last
12 five minutes as we did in the other case. Go ahead.

13 And I guess in looking at what the Court is
14 actually looking for, the Court is actually looking for
15 reference to the testimony in the original case. So if you
16 can reference that -- I'm sorry. The evidence in the
17 original case. So if you can reference that also, that would
18 be helpful. Okay. Go ahead.

19 MR. BANCROFT: Both parties in this case are
20 represented by counsel.

21 CHAIRMAN WREN: I don't think your mike is on.

22 MR. BANCROFT: My mike is on. Apparently I need
23 to speak up. But both parties in this case are represented
24 by counsel. And I'd ask that -- I would object to the county
25 addressing the board directly and not through their attorney,
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1 Paul Johnson. The county -- The staff from the county were
2 fact witnesses at the lower level and there's more of a
3 likelihood of new evidence inadvertently coming in if you
4 have potential fact witnesses addressing the counsel
5 directly. So I would ask that all comments directed to the
6 board be made through Paul Johnson.

7 CHAIRMAN WREN: Okay. Let's go off the record
8 for a minute.

9 (Discussion was held off the record)

10 CHAIRMAN WREN: Okay. We're back on the record.
11 As kind of seems to be the case today, this is a pretty
12 complicated case. This is a verge large piece of property in
13 southern Nevada that is very difficult to either assess or
14 appraise. We heard this case last year with quite a bit of
15 testimony and made a decision predicated on that case and
16 that evidence presented and the Court didn't like our
17 decision, which is fine.

18 And so now what the Court has come back and said
19 is explain what you did and we don't have all the same board
20 members on here as we did when we heard that original case
21 and now we're going to try to get in to an explanation of
22 what was said and what was pertinent and what wasn't
23 pertinent, which is the appropriate thing to do, I guess.
24 But in my mind, this is one of those cases that's big enough
25 that it needs to be done right. And perhaps to do it right,
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1 and this is, I'm asking the board and directing these
2 questions at you now, in order to make sure we do this right
3 so that this doesn't get appealed and appealed and appealed
4 is to postpone this hearing to some time in the future and
5 rehear the entire case, all the witnesses, all the evidence
6 and knowing what the Court is looking for, predicate it on
7 rehearing that testimony and then making sure we make a
8 decision that we have included the appropriate reference of
9 the evidence that we relied on in making a decision, instead
10 of going back and forth like this and trying in hindsight to
11 explain what we did.

12 MEMBER JOHNSON: I'm not opposed to that.
13 Another question I have is would it be possible to send this
14 to mediation or something along those lines and try to reach
15 a settlement that way? I don't know if that's an option we
16 have.

17 CHAIRMAN WREN: They always have that option.
18 They always have that option. My concern is that we're not
19 going to be adequately -- we can't adequately answer what the
20 Court has directed us to do, I don't think. And I think that
21 the only fair way to do it and the appropriate way to do it
22 is to rehear the entire case and make sure that we provide a
23 record if it's appealed again to the court that they can make
24 their decision on. And I'm saying that because both sides,
25 of course, have a lot to say, they need appropriate time to
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1 say it. They don't have their witnesses with them today so
2 we can't just rehear the case today or I would. We're not
3 prepared to do that. But this isn't a life or death
4 situation where it has to be done today either. I would
5 rather make sure we do it right than just try to explain what
6 we did.

7 MEMBER HARPER: So you're saying actually have
8 the appraisers or the appraiser come back in and give
9 testimony again?

10 CHAIRMAN WREN: Yeah. Just set it out. I don't
11 think we'll probably do it this year. The state probably
12 doesn't have the budget. But, you know, put it off until the
13 first hearings in Las Vegas next year and just rehear the
14 whole case. I mean, this is a large land hold in southern
15 Nevada. It's something that we probably ought to make sure
16 it gets its due diligence.

17 MEMBER JOHNSON: And I'm fully in support of
18 getting to the bottom of it and getting it right.

19 CHAIRMAN WREN: Continuation is the word I was
20 looking for. So it would be my recommendation for us to
21 continue this to a future hearing whenever Terry can schedule
22 it. Terry, I don't think it's something that has to be done
23 this year. I'm sure you're getting under budge constraints.
24 But something that would need to be placed on the agenda
25 first hearing in Vegas next year.

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1 MS. RUBALD: Certainly we can do that for you.

2 MEMBER MESERVY: Is that something we need to
3 vote on?

4 CHAIRMAN WREN: Yes.

5 MEMBER MESERVY: So unless we need more
6 conversation.

7 CHAIRMAN WREN: Go ahead and conversation first.

8 MEMBER JOHNSON: Would we want to hear from the
9 parties and see if they have any objection to that course of
10 action?

11 CHAIRMAN WREN: No, I don't think so, because
12 this is a remand from the Court and the reason I'm doing
13 this, part of the reason I'm doing this is because of the
14 discussions we had at the last hearing when we tried to hear
15 this and what I can foresee coming out of the discussions
16 today and I'm not sure that's fair to them. It's not fair to
17 us either. It's not fair to Mr. Harper who has already had a
18 bad day since. He wasn't part of the original discussion.
19 So this is our decision. This is my recommendation. But
20 we're body a five, so I'll definitely go with the flow here.

21 MEMBER MESERVY: I'm going to make a motion on
22 SBE 11-416, the remand, that we actually rehear the case in
23 our next calendar year in Las Vegas.

24 CHAIRMAN WREN: Okay. Is there a second?

25 MEMBER JOHNSON: I'll second that.
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1 CHAIRMAN WREN: Okay. And I want it explicitly
2 understood that we're going to rehear the case as it was
3 actually presented with the same witnesses, the same
4 testimony. I don't want any new evidence. I don't want any
5 new discussion. I want to hear the case exactly like we
6 heard it last time, okay. Okay. All in favor say aye.

7 (The vote was unanimously in favor of the motion)

8 CHAIRMAN WREN: Opposed? Motion carries
9 unanimously. Okay. Thank you very much.

10 MR. BANCROFT: Thank you.

11 CHAIRMAN WREN: Thank you for your time.

12 Okay, Terry.

13 MS. RUBALD: Mr. Chairman, the next item is
14 number two under Section G. It's the remand from the First
15 Judicial District Court, Department 1, Case Number
16 13OC003201B regarding the order after hearing dated June 20th
17 2014 directing the state board to remand the matter to the
18 Washoe County Board of Equalization in the matter of
19 Dillard's International, Incorporated versus the State Board
20 of Equalization, Washoe County and the Washoe County
21 assessor. State Board Case Numbers 13-261, 13-262, 13-263
22 and 13-264.

23 CHAIRMAN WREN: I had heard rumors that there was
24 properly -- might be a stipulation or something here. Yes?
25 No?

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1 UNIDENTIFIED SPEAKER: No.

2 CHAIRMAN WREN: Okay. That's fine.

3 Let her read the remand first. Go ahead.

4 MEMBER MARTIN: Mr. Chairman and Board Members,
5 I'd like to recuse myself from hearing this case.

6 CHAIRMAN WREN: All right. Thank you.

7 MS. BUONCRISTIANI: Terry has already identified
8 the district court case number and the state board case
9 numbers and this is what the Court has ordered. It is hereby
10 ordered that the decision of the state board is vacated based
11 upon the finding that the written decision letter is
12 insufficient pursuant to the requirements of NRS 233B.125 to
13 allow the Court to review the administrative decision. This
14 case is remanded to the state board with instructions to the
15 state board to remand the matter back to the county board.

16 On remand, the county board must go through the
17 proper procedures discussed above. All of the pertinent
18 determinations that the county board must be supported by
19 substantial evidence in the record and be set forth in a
20 written decision.

21 It's saying that it's being remanded to the state
22 board for the state board to remand it to the county board.

23 CHAIRMAN WREN: So remanded. Okay. Hold on. It
24 just sounded so easy. We need a motion to follow the Court's
25 direction for us to remand it to the county. I don't know
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1 why they just didn't do it themselves.

2 MS. BUONCRISTIANI: Out of respect.

3 CHAIRMAN WREN: They respect us? Whoa, let's do
4 this officially right then.

5 MEMBER JOHNSON: Mr. Chairman, in this case I
6 make a motion that we remand them in accordance with the
7 Court's order to the County Board of Equalization for further
8 proceedings.

9 CHAIRMAN WREN: Okay. Is there a second?

10 MEMBER HARPER: Second.

11 CHAIRMAN WREN: Discussion? All in favor say
12 aye.

13 (The vote was unanimously in favor of the motion)

14 CHAIRMAN WREN: Opposed? The motion carries
15 unanimously.

16 Call the next case, please.

17 MS. RUBALD: Mr. Chairman, I'd like to call
18 several cases from Section H. These are direct appeals from
19 the actual county assessor for the 2013-2014 unsecured roll.
20 All of the cases in Section H beginning with 14-319, Level 3
21 Communications, which is Telecommunications Property, and
22 also the case number -- everything between 14-319 and 14-327
23 are all Level 3 Communications cases in Washoe County. Case
24 Number 14-376, AT&T Mobility, is also Telecommunications
25 Property in Washoe County. Case Number 14-378 is Nevada Bell
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1 Telephone Company doing business as AT&T Nevada, also in
2 Washoe County. Case Number 14-379, AT&T Communications, is
3 Telecommunications Property in Washoe County.

4 And then starting with Case 14-329 through Case
5 14-362 are all Level 3 Communications in Clark County. And
6 all of those have been -- there are stipulated agreements
7 that you need to consider.

8 MEMBER MESERVY: What about also 363, 364 and
9 365?

10 MS. RUBALD: 363, 364 and 365 have been
11 withdrawn.

12 MR. BANCROFT: In grouping the cases instead of
13 calling all of them at once, it may be preferable to do it by
14 county because the issues may be different and we may have
15 different questions by county.

16 MS. RUBALD: For stipulated agreement?

17 MR. BANCROFT: Well, we had separate stipulations
18 with each of the counties. And to some extent, they may
19 cover slightly different things, so I just want to make sure
20 that the board is clear.

21 CHAIRMAN WREN: I appreciate that, but since
22 they're stipulated to, unless you want us not to agree, we're
23 just going to accept the stipulations, unless you want to
24 argue. So I appreciate what you're saying, but there's no
25 sense in muddying the water. If you've stipulated and both

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1 sides have signed the stipulations, we're not going to argue
2 with them, unless you want us to. Do we get paid for that?
3 Wait. Do we get paid for that?

4 MR. BANCROFT: That's fine.

5 CHAIRMAN WREN: Okay. Everybody, both sides are
6 in agreement with all the stipulations in all the counties;
7 correct?

8 MS. RUBALD: And Mr. Chairman, for the record I
9 think Clark County is represented by Mr. Scott down on video
10 conference.

11 CHAIRMAN WREN: Identify yourselves, please. We
12 can't hear you.

13 MR. SCOTT: Good afternoon. This is Doug Scott
14 representing Clark County Assessor's Office. Can you hear me
15 okay?

16 CHAIRMAN WREN: Yes.

17 MS. GOODMAN: Laurie Goodman with the Clark
18 County Assessor's Office.

19 CHAIRMAN WREN: Have you been sworn in?

20 MR. SCOTT: Yes, we have.

21 MS. GOODMAN: Yes.

22 MR. BANCROFT: Would you like us to state our
23 appearance for the record?

24 CHAIRMAN WREN: Yes, please.

25 MR. BANCROFT: Paul Bancroft and Bill McKean from
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1 Lionel, Sawyer and Collins appearing on behalf of Level 3
2 Communications, AT&T Mobility, LLC, Nevada Bell Telephone
3 Company and AT&T Communications.

4 CHAIRMAN WREN: Okay. Thank you.

5 MR. STAFFORD: And Mark Stafford for the Washoe
6 County Assessor's Office.

7 CHAIRMAN WREN: Okay. Anybody want to make any
8 comments about the stipulations? Everybody agrees to them?
9 Okay. Close the cases. Entertain a motion.

10 MEMBER MESERVY: With regarding to the cases
11 called in Section H that Terry has already called, my motion
12 is that we accept the stipulated agreements as signed.

13 MEMBER HARPER: Second.

14 MS. BUONCRISTIANI: The stipulated agreement
15 values.

16 MEMBER MESERVY: I'm sorry. The stipulated
17 agreement values is what I meant.

18 MS. BUONCRISTIANI: Thank you.

19 MEMBER HARPER: Re-second.

20 CHAIRMAN WREN: Discussion. All in favor say
21 aye.

22 (The vote was unanimously in favor of the motion)

23 CHAIRMAN WREN: Opposed? Motion carries
24 unanimously. Okay. Thank you.

25 MS. RUBALD: Mr. Chairman, the next group of
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1 cases I'd like to call are 14-306, 14-307, 14-308, 14-309,
2 14-310, 14-311, 14-312 and 14-313. They are all Level 3
3 Communications, Telecommunications Property. And the Elko
4 County Assessor is the respondent. I should also add that in
5 these cases there are -- there is new evidence from the
6 assessor.

7 CHAIRMAN WREN: Okay. Are you ready? Okay
8 there's new evidence. First of all, identify yourself,
9 please.

10 MS. RUSSELL: Katrinka Russell with Elko County.

11 CHAIRMAN WREN: Okay. If you would give us the
12 standard of law for new evidence, please.

13 MS. BUONCRISTIANI: NAC 361, this is introduction
14 of new evidence. If this is a direct appeal it's not new
15 evidence. Is this a direct appeal?

16 MR. BANCROFT: Correct, yes.

17 MS. BUONCRISTIANI: There's no new evidence in a
18 direct appeal.

19 CHAIRMAN WREN: Okay. Go ahead and identify the
20 property, please.

21 MS. RUSSELL: The property is spread out through
22 Elko County, many different tax districts. So would you like
23 me to identify the property by the account number?

24 CHAIRMAN WREN: Is the same case -- the same
25 argument going to be through all the cases?

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1 MS. RUSSELL: That is correct.

2 CHAIRMAN WREN: Why don't you identify the one
3 that you want us to follow then?

4 MS. RUSSELL: Okay.

5 CHAIRMAN WREN: And I'm assuming that it's okay
6 with everybody that we consolidate.

7 MS. RUSSELL: So with Level 3 Communications we
8 have Case Number 307 and then we have Case Number 308, 309,
9 310, 311, 312, 313. These accounts have Telecommunications
10 equipment located in different tax areas throughout the
11 county. The reason for appeal is based on the type of life
12 schedule that was used in calculating the depreciation.

13 CHAIRMAN WREN: Okay. So what I'll do now that
14 you've identified the property is I'll let the petitioner put
15 on their case and then I'll come back to you.

16 MEMBER JOHNSON: Did you mean to include Case 306
17 as well, 14-306? I didn't hear her say that. I thought she
18 started with 307.

19 CHAIRMAN WREN: She did.

20 MEMBER MESERVY: She didn't say 306.

21 MS. RUSSELL: I'm sorry. 306 through 313.

22 MEMBER JOHNSON: Okay. Good. I just wanted to
23 make sure we're all on the same page.

24 CHAIRMAN WREN: So which one are we going to
25 follow, 306 or 307? Okay. Let's follow 307. And I

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1 entertain a motion that we consolidate these cases and the
2 testimony.

3 MEMBER MESERVY: With all the slight that we just
4 heard on 14-306, 14-307, 14-308, 14-309, 14-310, 14-311,
5 14-312, 14-313, my motion is that we consolidate them all to
6 this case using 14-307.

7 CHAIRMAN WREN: Is there a second?

8 MEMBER MARTIN: Second.

9 CHAIRMAN WREN: Discussion? All in favor say
10 aye.

11 (The vote was unanimously in favor of the motion)

12 CHAIRMAN WREN: Opposed? Motion carries.

13 Okay, go ahead, sir.

14 MR. BANCROFT: Thank you. Level 3 Communications
15 is a telecommunication company that was formerly centrally
16 assessed by the Department of Tax. This is the first year
17 that it moved to local assessment and was assessed by the
18 individual counties. What it owns in Elko County is a fiber
19 optic route that is buried in the ground and that's why it
20 appears in multiple taxing jurisdictions. The conduit is
21 laid in the ground and then a fiber optic cable is threaded
22 through the conduit. It's that property that's being valued
23 in this case.

24 And in reporting the property, some
25 inconsistencies were discovered among the counties. We
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1 worked with Washoe. We worked with Clark. And that's why
2 those cases were settled.

3 The -- If you turn to the assessor's, what's
4 labeled at SBE-1, the assessor's new evidence, this --
5 there's an e-mail cover sheet and then after that the summary
6 revisions. But the next page shows here's the personal
7 property rendition and how they treated different categories
8 of property.

9 CHAIRMAN WREN: I'm sorry. Let me catch up with
10 you.

11 MR. BANCROFT: SBE-4.

12 CHAIRMAN WREN: I know. But 14 what?

13 MEMBER HARPER: It's all the cases.

14 MEMBER MESERVY: It's got them all together.

15 CHAIRMAN WREN: I know. But it's not new
16 evidence.

17 MEMBER MESERVY: It's 13-6.

18 CHAIRMAN WREN: All right.

19 MR. BANCROFT: It's SBE-4.

20 CHAIRMAN WREN: Okay.

21 MR. BANCROFT: And so the issues that came up not
22 just in Elko but in all the counties boiled down to three
23 issues that appear in Elko. No. Four issues. One is what
24 is the appropriate depreciable life for conduit that's buried
25 in the ground. In the stipulation that we just approved for

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1 Washoe County and Clark County, the stipulation provided for
2 a 15-year depreciable life pursuant to the personal property.

3 The second category, and you'll see it on page --
4 The second category is fiber optic cable, which is a, again,
5 in the stipulation with Clark and Washoe is a 15-year life.
6 On these schedules, the Elko County assessor has moved both
7 of those categories to a 15-year life. We're in agreement on
8 that.

9 The third category of personal property, and this
10 appears on SBE-4, was initially reported as central office
11 equipment because the personal property manual didn't have a
12 lot of categories in which to put stuff. And since this was
13 the first time reporting, Level 3 wasn't sure how to label
14 this category of equipment that it put in there. It put in
15 central office equipment, which resulted in a 15-year
16 depreciable life.

17 But after explaining to the folks in Clark County
18 and Washoe County the nature of this equipment, it's actually
19 computer-based optical transmission equipment, it was moved
20 to a five-year life. So the stipulation in both Washoe
21 County and Clark County moved that category to a five-year
22 life, which is what we're asking for here.

23 And the Elko County assessor has highlighted
24 those line items on the personal property sheet that deal
25 with this switch from central office equipment to

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1 computer-based optical transmission equipment.

2 And the final item on the personal property
3 schedule is the telecommunication equipment shelter. I'm not
4 sure if you're familiar with what a telecommunications
5 equipment shelter is, but it's a pre-cast concrete
6 rectangular box that's taken on the back of a truck to the
7 location and it is placed on top of a concrete foundation.
8 It is just to protect the -- the computer-operated optical
9 transmission equipment, the equipment that receives the
10 signal and then energizes it to send it out again along the
11 conduit.

12 MS. RUBALD: Mr. Chairman, perhaps before
13 Mr. Bancroft goes too far along, I have the relevant page
14 from the Personal Property Manual that he's referring to, a
15 copy for everyone to use. It might be easier to see it than
16 to go through this --

17 CHAIRMAN WREN: Yeah, if you would please. I
18 know you have some comments on some of this. I'll let him
19 finish his and then you can do yours if you want.

20 MS. RUBALD: And for the record, the Personal
21 Property Manual can be found on the department's website at
22 tax.state.nv.gov if anybody needs to look at it immediately.

23 CHAIRMAN WREN: Okay. Go ahead.

24 MR. BANCROFT: So the fourth category,
25 telecommunications equipment shelter, Elko County initially
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1 placed it on a 50-year depreciable life schedule. And in our
2 stipulation with Clark County, Clark County reduced,
3 essentially reduced the value of all of the equipment
4 shelters to \$49,000 and placed them on a 15-year depreciable
5 life schedule.

6 What we're asking is just equal treatment, you
7 know, if a type of property was reported in one jurisdiction,
8 it should get the same tax treatment when reported in another
9 jurisdiction. And we just have four categories in Elko
10 County that we would like -- the first two issues, the
11 conduit and the fiber optic cable, they've agreed to make
12 those adjustments. The second two categories, the switch
13 from central office equipment to computer-based optical,
14 she's highlighted those changes so you can see the line items
15 there. And then that last item is just the telecommunication
16 shelters, which appear on SBE-10 and SBE-11. They're in
17 there at acquisition cost, which does not necessarily reflect
18 the, you know, natural value of these things and that's why
19 Clark County put them at a uniform \$49,000 per shelter and
20 the 15-year life instead of a 50-year life. And by doing
21 that, it would bring Elko in to consistent treatment with
22 Washoe and Clark.

23 CHAIRMAN WREN: What was the reasoning for going
24 from the 50-year life to a 15-year life?

25 MR. MCKEAN: Bill McKean for the record, Lionel,
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1 Sawyer, Collins. This issue came to light when we first
2 received tax bills -- the taxpayers received tax bills.
3 There wasn't a valuation in December, so the tax bills
4 started coming out in April and May. And saw a change in the
5 tax values. Obviously there was some change expected from
6 central to local assessment, but the tax bills were extremely
7 off the charts in terms of almost three-fold increase.

8 Working with the Washoe County assessor, we
9 discovered that they were using a 50-year life and we met
10 with the Washoe County assessor in the July time frame. And
11 at that time explained what was happening in Clark County,
12 had been locally assessed for 15, 20 years. They were
13 receiving a 15-year depreciation life, consistent with page
14 34 of the Personal Property Manual.

15 So with that information, we wanted to meet with
16 the Washoe County assessor and also explain that in Washoe
17 County Charter Communications has fiber optic cable and
18 they're receiving the 15-year life. So that convinced Washoe
19 County that something needed to be done to equalize the
20 treatment.

21 And so from there, we moved to the other counties
22 and worked with these assessors and they've been extremely
23 cooperative. But I think that's the biggest issue was that
24 there were different standards being applied to the locally
25 assessed properties. And when these two taxpayers, Level 3
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1 and AT&T, were moved to local assessment, they felt as if
2 they were treated differently and it needed to be corrected.

3 MEMBER MESERVY: Do we have the Personal Property
4 Manual available?

5 MS. RUBALD: Yes, Mr. Chairman and Mr. Meservy,
6 yes, you have the Personal Property Manual for 14-15, but I
7 can testify to the fact that these lives are the same for the
8 13-14 year and you have to go up to the top where it says NRS
9 and NAC and SBE hearing guidelines. And in there, the third
10 from the top is the Personal Property Manual.

11 MEMBER MESERVY: Thank you.

12 CHAIRMAN WREN: Okay. So when these were
13 centrally assessed, Terry, what was the life? Was it 50
14 years?

15 MS. RUBALD: Mr. Chairman, centrally assessed
16 properties are based on a unitary valuation methodology
17 without regard to the individual pieces of property. So
18 basically in unitary valuation we take the property plant and
19 equipment at historic cost less their book depreciation and
20 compare that to the income approach to see if there's
21 additional obsolescence. So we did not note individual
22 lives. But at some appropriate time I would like to testify
23 as to how this Personal Property Manual is put together.

24 CHAIRMAN WREN: Okay. Good. Thank you. Okay.
25 Go ahead.

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1 MR. MCKEAN: If I may, I do have copies of the
2 13-14 manual excerpts with page 34 and the items that
3 Ms. Rubald identified. If it's helpful, I can hand those
4 out.

5 MS. RUBALD: I just already passed out the same
6 page.

7 CHAIRMAN WREN: Okay. Good. Thank you. So that
8 didn't answer my question though. It went from a 50-year
9 life to a 15-year life. Why?

10 MR. BANCROFT: It didn't -- Some counties did not
11 go from 50 to 15. And you know, for example the conduit and
12 fiber optic cable has always been 15-year life in Clark
13 County. So it didn't go from 50 to 15. It's been 15 for all
14 of the people that, you know, CenturyLink and all of the
15 other people who have always been locally assessed, they've
16 always been on a 15-year life. So in moving Level 3 from
17 central assessment to local assessment in Clark County, Level
18 3 got the same treatment as other taxpayers in Clark County,
19 15-year life.

20 CHAIRMAN WREN: Okay.

21 MR. BANCROFT: But Level 3 has property in
22 multiple counties. And when it started comparing its tax
23 bills, it noticed that why do they have, why am I reporting
24 conduit and fiber optic cable here, why am I getting a
25 15-year life and I report it here and I get a 50-year life?

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1 And so when that discrepancy was brought to the attention of
2 Washoe County, they realized, oh, in Washoe County there are
3 existing taxpayers that they're assessing at 15 years. So
4 they said we'll drop everybody to 15 to get everybody on the
5 same page. And if this needs to be addressed we'll do so
6 through a regulatory process and deal with it on a
7 going-forward basis. But for equal treatment in the current
8 year, we'll bring everybody to that 15-year bench mark.

9 CHAIRMAN WREN: Okay. Anything else? Any
10 questions?

11 MEMBER HARPER: Mr. Bancroft, on these shelters
12 you say Clark and Washoe went from 50-year to 15-year. I
13 don't see on this handout from the personal property tax
14 manual -- Yeah, I don't see where that falls in. Is this a
15 new --

16 MEMBER MESERVY: No. He -- Isn't that where --
17 You're talking about the box?

18 MEMBER HARPER: Yeah.

19 MEMBER MESERVY: That was in the property,
20 Personal Property Manual, page 34.

21 MEMBER HARPER: We only have 33.

22 MR. BANCROFT: And I'm sorry, Mr. Harper, if I
23 misspoke. But there were no equipment shelters in Washoe
24 County. It was only Clark County that I made that comment in
25 reference to. And that's just the way Clark County treated
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1 these. I can't direct you to where in the manual it says
2 that's correct.

3 MEMBER HARPER: Okay. So it's relatively unique
4 in that it hadn't been categorized in the personal property
5 tax manual.

6 MR. BANCROFT: I don't know. Maybe on page 34.

7 MS. RUBALD: Mr. Chairman, I think it has to do
8 with whether the assessor determined whether the property was
9 real property and therefore a 50-year life or whether it was
10 personal property subject to the lives in the Personal
11 Property Manual.

12 MEMBER HARPER: And I'm sorry. I understand
13 that. I just -- I don't see where -- I don't have a 15 next
14 to anything and I only have page 33. I'm sorry. If it's on
15 34, I didn't pull it up in front of me.

16 MS. RUBALD: The full manual is on your disc.

17 MEMBER HARPER: Okay.

18 MEMBER MESERVY: It doesn't have a box
19 specifically, but everything is 15 years or less. And that's
20 I think the issue really is --

21 (The court reporter interrupts)

22 MEMBER MESERVY: The issue is whether it's real
23 or personal that makes the difference, it sounds like.

24 MS. RUBALD: And certainly one of the issues --
25 Would now be a good time to discuss that page, page 33?

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1 CHAIRMAN WREN: Let me do this. I want to
2 hear -- I want to wait. I want to hear from the county
3 first. So are you guys done? Okay. Let's go to the
4 assessor.

5 MS. RUSSELL: Okay. We are here today for
6 guidance in regard to how to do the telecommunication assets
7 and how they need to be handled. I would just like to review
8 the reason for appeal. The telecommunications community have
9 filed the appeal on the assessed value due to the methodology
10 that was used in assessing the personal property.

11 In the past, the assessments were done by the
12 Department of Taxation based on a unitary method. When it
13 was found that per NRS 361.320 Number A that some of the
14 telecommunication companies were to be assessed at the local
15 level, the counties had several meetings in regard to the
16 assessments and how to value this equipment.

17 On August 13th 2013, a letter from Washoe County
18 was sent to the department for clarification. A guidance
19 letter from the department was sent out on September 10th
20 2013 approving the alternative methodology for the
21 telecommunications equipment. And that was to be based on a
22 50-year life.

23 The telecommunications companies feel that it's
24 not a fair assessment of the real and personal property. I
25 would like to request that the board review the equipment

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1 used by the telecommunications company, provide specific
2 guidelines on the life schedule to be used on this equipment.
3 In order to maintain conformity and equity, all the counties
4 can take its ruling and go back, recalculate the 2013
5 property assessments and either rebill or refund accordingly.

6 The other thing I have an issue with is applying
7 a five-year life to an item that was purchased in 1982, 1988.
8 These items are over 20 years old. How do we account for
9 that? Years ago we had to take a look at personal property
10 equipment used by mining and we had to change the personal
11 property life schedule. Because when you compare heavy
12 equipment that was used by the contractors, that was on a day
13 to day. Well, that same heavy equipment that was used by the
14 mining company, that was used on a 24-hour basis. So we did
15 have to go back, take a look at that. And I'm wondering if
16 we need to do that with the telecommunications companies.

17 You know, how about the fiber optic and conduits
18 that are buried in the ground? Would that be defined as
19 permanent? Sure, maybe it's not all in the ground. Do we
20 need to have that broken out? It's my feeling that we should
21 review the life schedules on the equipment used by the
22 telecommunications companies for accuracy and fairness.

23 Another area that we should review at this time
24 is the telecommunications shelters. I would like some
25 guidance on whether we should be complying with the request

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1 to apply obsolescence to these buildings. If so, what kind
2 of obsolescence and how should it be calculated? You know,
3 one of my kids is grown and gone, my house is too big and
4 empty since she took all of her furniture. Should I apply
5 for obsolescence on that?

6 Joking aside, technology has come so far in
7 making the equipment smaller and more efficient. But there's
8 not that much space needed to accommodate this. Does that
9 make the building less functional? You know, that's a
10 question we need to look at there.

11 You know, you asked a question earlier, how
12 should they be valued, 15-year life or 50-year life. It
13 depends on the building. If it's something that's brought in
14 and is not permanentized to the ground, then maybe we should
15 look at that differently. But if it's real property, it's
16 attached to the life, it needs to be treated just like any
17 other building owned by a company.

18 We would also like to request that the board
19 provide guidance to the telecommunications company on the
20 procedures for reporting all real and personal property.
21 There's a need for clarity on the application costs and/or
22 the application year. Upon reviewing some of the statements
23 provided by these companies, the year of application does not
24 change, but the amount seems to increase or decrease. I
25 don't know if they're grouping the total cost to fiber optics

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1 together in that year in reducing the amount of the disposed
2 amount, which would make sense. But how do we account for
3 increasing the amount of fiber optics that was purchased in
4 1973 or 1993? I mean, I can see it going down if they had to
5 dispose of it. But how did it go up in that same year? I
6 think there needs to be a little bit of consistency in that.

7 The other thing that bothers me is on reviewing
8 some of the other accounts in the other counties, there was
9 one agreement that was made and the amount of that agreement
10 was over a hundred thousand dollars and that was indicated to
11 be equipment that follows along I-80. Elko County has a lot
12 of ground with I-80 going clear across that county. And my
13 stipulated changes came to around \$30,000 with reducing the
14 15-year life. These were numbers that I came up with in case
15 the board wanted a number to give on an agreement or
16 whatever.

17 So that kind of tells me there's some discrepancy
18 on the reporting. And so I think clarification needs to be
19 brought there. And that's all I have for you today. Thank
20 you.

21 CHAIRMAN WREN: That was quite a bit. Thank you.
22 Okay. Good. I'm glad I heard that first.

23 Terry, your comments.

24 MS. RUBALD: Mr. Chairman, the Elko County
25 assessor referenced a couple of letters in request from
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1 Washoe County and the department's response. I did bring
2 copies of that if you wish to review those. And if not,
3 that's fine too.

4 CHAIRMAN WREN: I need to ask a question. On
5 your testimony, did you recommend 50 years for the boxes?

6 MS. RUBALD: No. What we did is there was a
7 request to use for items that were considered to be fixtures
8 or real property, the question was whether an alternative
9 cost could be found because it was represented to us that
10 Marshall & Swift was not complete enough and with regard to
11 Telecommunications Property, so what we did is we approved an
12 acquisition cost basis if it was real property then to apply
13 a 50-year life.

14 CHAIRMAN WREN: Okay. Do you have enough copies
15 for both sides too?

16 MS. RUBALD: Yes.

17 CHAIRMAN WREN: Any objections?

18 MR. BANCROFT: No.

19 CHAIRMAN WREN: Just hand that out.

20 MS. RUBALD: Okay. Then I would like to talk
21 about the Personal Property Manual. You'll notice that on
22 page 33, it's for telecommunications, generally says see
23 itemized equipment and then it has a list down there at the
24 bottom. For fiber optic cable alone, it's a 15-year life.

25 Right above that you'll see something called distribution

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1 plant if personal property. And that's to imply that a
2 decision needs to be made as to whether the distribution
3 plant is real property or personal property. But if it's
4 personal property, it has a 30-year life.

5 Well, what is distribution plant? I would like
6 to reference page 56 in the Personal Property Manual. I
7 happen to be looking at the latest one, the page is unchanged
8 for 13-13. And what appendix C is, is the list of the
9 sources used to estimate expected useful life. And one of
10 the sources that's referenced there is the Department of the
11 Treasury, Internal Revenue Service, Publication 946, how to
12 depreciate property.

13 And I brought along -- We've got something else
14 to pass out, please. I brought along the relevant page on
15 Telecommunications Property that describes what distribution
16 plant is. And just as soon as you get it, I'll ask you to
17 turn from the front page to the second page. And on the
18 second page you will see at Number 48.14, a description of
19 what telephone distribution plant is. It includes such
20 assets as pole lines, cable, aerial wire, underground
21 conduits and comparable equipment and related land
22 improvements as defined in the FCC Part 31 account numbers.
23 So that is a description of what distribution plant is.

24 So how do we reconcile that with -- back to page
25 33, distribution plant if it's personal property? It appears
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1 to me that conduit is distribution plant. And although this
2 description in the IRS also includes cable, we have
3 specifically taken cable out and called it a 15-year life.
4 But distribution plant like coals and conduit are
5 distribution plant having a 30-year life. And that is what I
6 would recommend, that we continue to use the Personal
7 Property Manual as published.

8 MEMBER MESERVY: Where is the 30 year again? I
9 didn't see that on the one you just gave us.

10 MS. RUBALD: It's on page 33 and it's just right
11 above the fiber optic cable. So there's a difference between
12 the conduit, which is infrastructure, and the cable, which is
13 in the infrastructure.

14 MEMBER MESERVY: Thank you.

15 CHAIRMAN WREN: Okay. So who approves the
16 personal property? This is out of the Personal Property
17 Manual; right?

18 MS. RUBALD: It's out of the Personal Property
19 Manual. The Personal Property Manual has a workshop every
20 year and then it's taken a month later to the Nevada Tax
21 Commission for approval. And these lives have basically
22 remained unchanged for several years.

23 CHAIRMAN WREN: Okay. And your Publication 964
24 from the IRS is just substantiating information, if you will?

25 MS. RUBALD: Yes, it is. Because on page 56 of
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1 the Personal Property Manual, which is Appendix C, we
2 specifically reference the sources we use for the lives and
3 so one of the sources is this publication.

4 CHAIRMAN WREN: Perfect. And it's been approved
5 by the Tax Commission?

6 MS. RUBALD: Yes, sir.

7 CHAIRMAN WREN: So as often happens about this
8 time or earlier or later, I'm a little bit confused. The 15
9 years that they're testifying about that they want us to use
10 is for the -- is for the distribution plant so everything
11 should be 15 years?

12 MS. RUBALD: Well, it appears to me that they
13 wanted equalization with Clark County. Clark County
14 apparently has decided that the distribution -- that the
15 conduit is not distribution plant. It must be -- I won't
16 speak for them. I don't know why they made the decision that
17 they did, but they were using a 15-year life for conduit and
18 a 15-year life for fiber optic cable. And I would argue that
19 the conduit should have been 30 years, as well as telephone
20 poles.

21 MS. BUONCRISTIANI: Terry, is that based on what
22 you just discussed, that's your conclusion to what you just
23 discussed? That's what's been approved essentially by the
24 Tax Commission?

25 MS. RUBALD: Yes. And what the actual basis was
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1 in the Personal Property Manual. We didn't make it up.

2 CHAIRMAN WREN: Oh, but if you would have, it
3 would have been easier.

4 So what you're saying is Clark County should have
5 used 30 in your opinion?

6 MS. RUBALD: They should have used 30 for the
7 distribution plant, which includes poles and conduit, and
8 they should have used 15 years, and they did use 15 years,
9 for the fiber optic cable.

10 CHAIRMAN WREN: And that's what you're asking us
11 to have everybody do?

12 MR. BANCROFT: No.

13 MS. RUSSELL: Yes. It's my understanding that
14 Level 3 and AT&T have reached stipulations with other
15 counties. Yeah. That's why I asked for a guidance to be
16 very specific how it should be done, like when you're talking
17 30 years for distribution plants, 30 years for the telephone
18 poles, 15, that it be very specific so that all the counties
19 are doing it that way. That's my main concern is uniformity
20 among all the counties so there's no question about how we
21 did it.

22 CHAIRMAN WREN: Okay. Let me go off the record
23 for one second.

24 (Discussion was held off the record)

25 CHAIRMAN WREN: I think what I want to do is
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1 since we've heard the testimony, let's back up just a little
2 bit, okay, and what I need to do is ask you exactly what
3 you're asking us for, okay, regardless of the stipulation.
4 The stipulations that we approved, we just approve the
5 values, not how anybody got there because we don't know.
6 Okay. And that was kind of the important part of that is
7 that both sides said, hey, we think this is the fair tax,
8 we're not going to argue with that. However, it's very
9 important, which is what the assessor is asking for is to
10 make sure everybody is on the same page.

11 And Terry, we kind of have to look towards you
12 too to make sure that all the counties are using what's in
13 the handbook and classifying it the same way. And I don't
14 know if we need a -- You and I have had discussions about
15 personal property, trade fixtures as some of -- the county
16 and I have. I don't know if we need to have -- do something
17 to make sure -- what we need to do to make sure everybody is
18 on the right page of classifying the real property is real
19 property, personal property is personal property and so on
20 and so forth.

21 And so having said that, just so I can see where
22 we are in this case, tell us again quickly what you're asking
23 us to do.

24 MR. BANCROFT: Well, since I last spoke, a lot
25 has transpired both from Elko County and from the Department
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1 of Tax. There's more on the table. I started out thinking
2 this was simple. But it's more complicated. It's not just
3 Clark County that was treating this in one fashion. It was
4 Clark, Mineral and Nye and Lincoln were all treating conduit
5 and fiber optic as 15-year. So it's not just one county and
6 it's not just a Level 3 issue. Right. It's not just a Level
7 3 or an AT&T issue. Because there are other
8 telecommunication companies out there with conduit and fiber
9 optic cable that have historically been given a 15-year
10 depreciable life, both in Clark County and in Washoe County.

11 You know, if you look at Charter Communications
12 in Washoe County, it's on a 15-year life.

13 CHAIRMAN WREN: For their fiber optic?

14 MR. BANCROFT: For their conduit and fiber optic.

15 CHAIRMAN WREN: And how about the distribution
16 thing? That's kind of where it seems like we're going awry
17 with this.

18 MR. MCKEAN: Ms. Rubald testified that she
19 believes conduit is distribution plant. And we're simply
20 saying the policy in this state whether it's written or
21 unwritten has been to treat that distribution, if you want to
22 call it that, a 15-year life. The other property owners, Cox
23 Communications, Charter, CenturyLink, have all received that
24 treatment. It was AT&T, as you see from the letter, and
25 Level 3 were specially pulled out and instructed to be given

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1 a 50-year life, a whole different treatment than the personal
2 real property issue. They were nevertheless billed as
3 personal property and provided this billboard life, as you
4 can see, which has nothing to do with the Personal Property
5 Manual.

6 We are simply saying that in order to equalize
7 for this tax year, the only result has to be that AT&T and
8 Level 3 are not singled out for differential treatment but
9 are treated the same way that Clark County has treated all of
10 these companies for many years, as Washoe County has treated
11 all of these companies for many years, the 15-year life for
12 conduit as Lincoln County, Nye County, Mineral County have
13 done so.

14 If there's a new change in policy, perhaps the
15 rule making is appropriate and we can address some of these
16 issues in rule making. But right now, the key players, AT&T
17 and Level 3 are not the key players in the state. I would
18 warn that CenturyLink would have something to say about this
19 if they saw their tax bill for this kind of plant doubled. I
20 think there would be some other parties here.

21 We've tried to accomplish this given the playing
22 field that was out there, given what we knew about the other
23 counties and given what, for example, Josh Wilson recognized
24 in Washoe County for other similarly-situated taxpayers. It
25 put us at a competitive disadvantage with respect to the

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1 other companies with whom we compete and it was clearly not
2 fair.

3 Going forward, there is probably a lot of issues
4 for us to roll up our sleeves and accomplish and I think we
5 have stated in discussions with the assessors that we are
6 willing and able to do that. But in this kind of context, I
7 don't think that's fair to these taxpayers and I don't think
8 it's fair to the other taxpayers who aren't here who would be
9 affected by this policy change. If you were to order Clark
10 County, for example, to go to a 30-year life, that would take
11 the conduit for CenturyLink and double it. And I warrant
12 they have a whole lot more conduit in Clark County than we've
13 got in Washoe County.

14 And the others, just to put it in context, AT&T
15 reported to the assessors about 800 million dollars
16 throughout the different counties. About 18 million of that
17 was telephone poles and things like that. So most of this is
18 in fiber optic computer equipment. We're not necessarily
19 talking about what the big value is on some of these items,
20 so I just wanted to put that in context as well.

21 If I have your pleasure, I could also just maybe
22 address what Ms. Rubald went through a little bit of the
23 history here. The two letters that were from August, AT&T,
24 this is from August 2013, these letters. AT&T received tax
25 bills, like I said, in the April/May time frame under the
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1 personal property bills. And after receiving those bills,
2 they noticed in Washoe County the tax bill went up by about
3 three-fold, moving from central assessment to this 50-year
4 life. AT&T filed direct appeals to the state board of May
5 15th and that's kind of why this information wasn't provided.

6 At that time, AT&T had no idea about these
7 directive letters. These were issued without any kind of
8 public comment. They were issued and specified to taxpayers
9 for differential treatment to get a 50-year life. We haven't
10 even heard that discussion today, 15 versus 30. This told
11 the assessors to use a 50-year life for all the equipment,
12 which is why the tax bill went up so dramatically. And the
13 assessors themselves, the two assessors from the largest
14 counties said this is not fair, we can't have this and they
15 stipulated to adjust those values accordingly and
16 appropriately consistent with what they've been doing for
17 many years under the Personal Property Manual and under the
18 supervision of the Department of Tax.

19 If there's a problem with that supervision and a
20 problem with how that's been done, that needs to be dealt
21 with, but it needs to be dealt with not through secret
22 directive letters that are not copied on the taxpayers, were
23 not provided to you, were not provided to us, was done
24 without any rule making, without any notice under 233-B,
25 under the rule-making procedures. Any kind of change in

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1 policy like this should be noticed so that other taxpayers
2 who can be affected have a voice.

3 CHAIRMAN WREN: What I'm getting from this is
4 that when everything was centrally assessed there wasn't any
5 arguments or appeals.

6 MR. MCKEAN: There were appeals, but the appeals
7 were generally based on the income approach because it was a
8 unitary income approach and whether or not RCNLD --

9 (The court reporter interrupts)

10 MR. MCKEAN: At essential assessment, the issues
11 were very different. It was not a county by county. It was
12 a unitary value as to the standards.

13 (The court reporter interrupts)

14 MR. MCKEAN: RCNLD, replacement cost new less
15 depreciation is a central assessment term that is similar to
16 some of the concepts.

17 CHAIRMAN WREN: So Terry, why don't we go from
18 the centrally assessed to the counties.

19 MS. RUBALD: Mr. Chairman, in 1999 a law was
20 passed that basically said the telecommunications are
21 properties that carry video services were no longer to be
22 centrally assessed. They were to be locally assessed. And
23 that was primarily at the time aimed at cable television type
24 providers. But since that time there's been a convergence of
25 the industries between telecommunications and cable TV and

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1 those that we can identify of telecoms that carry video and
2 we released back to local assessment that happen to be Level
3 3 and AT&T Nevada and AT&T generally.

4 One of the items in your record we brought
5 forward last year, I believe, Level 3, because we had already
6 centrally assessed it when we finally got a memorandum from
7 the attorney general's office stating that we needed to
8 release these properties and so we brought it -- since it had
9 already been placed on the central assessment roll, we
10 brought it to your attention and this body issued a decision
11 taking it off the central assessment roll, that's Level 3,
12 and putting it on the local assessment roll. We had already
13 taken AT&T Nevada and AT&T off the central assessment roll,
14 so we didn't need to come to you to do that. So that's why
15 that occurred.

16 If I may, I would like to rebut the allegations
17 that Mr. McKean has seen fit to make about secret letters,
18 may I?

19 CHAIRMAN WREN: Sure.

20 MS. RUBALD: Okay. If I could refer you to NAC
21 361.128, it basically says -- it requires us to use Marshall
22 & Swift. And then it says, "If the manuals described in
23 Subsection 2 do not apply to improvements of a particular
24 occupancy or construction type, the county assessor may apply
25 to the executive director for permission to use alternative
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1 recognized cost manuals, cost determinations or subscription
2 services. If the executive director finds that the manuals
3 described in Subsection 2 do not apply to such improvements
4 and that the alternative recognized cost manuals, cost
5 determinations or subscription services are suitable, the
6 executive director shall within 30 days after receiving an
7 application pursuant to this subsection approve the use of
8 the alternative recognized cost manuals, cost determinations
9 or subscription services and notify each assessor of that
10 approval."

11 So we received a letter from Washoe County asking
12 us, telling us that they felt that Marshall & Swift was
13 inadequate for the valuation of properties, certain fixtures
14 that they found were real property. And so what we did is we
15 granted them permission to use actual acquisition cost and if
16 it was real property to use the 50-year table that was in the
17 Personal Property Manual for billboards so that they would
18 have the same treatment as other real property.

19 CHAIRMAN WREN: Okay.

20 MS. RUBALD: And there was no specific direction
21 on which property. It was just property that the assessor
22 deemed to be real property.

23 CHAIRMAN WREN: Okay. So it appears to me that
24 what we're dealing with here are fiber optics plants or
25 communications, if you will. And from what I'm getting out
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1 of this is the fiber optic cable itself has a 15-year life
2 and the distribution plant, which is everything else, should
3 have a 30-year? Is that pretty much fair to say? Those are
4 the two components we're talking about, the cable and
5 everything else?

6 MS. RUBALD: The distribution plant is as I
7 described it in the IRS publication.

8 CHAIRMAN WREN: Which is everything else.

9 MS. RUBALD: No. Because there is a lot of
10 central office equipment, computer equipment, those things.
11 And that's covered in all of these other itemized categories.

12 CHAIRMAN WREN: Right. Okay.

13 MEMBER MESERVY: It seems to me it would be a lot
14 easier if they incorporated this definition in the next round
15 in NAICS. It would be helpful to maybe list it to describe
16 what's a distribution plant by listing these items. It might
17 help some.

18 CHAIRMAN WREN: So I have a question for you and
19 a question for, I guess, for the board also. It's one of
20 those things where two wrongs don't make a right. Just
21 because Clark County and Washoe County were doing something,
22 what appears to be in opposition to what the handbook says
23 they're supposed to be doing, I don't think we should say,
24 well, okay, yeah, if you're both doing it wrong it makes it
25 right. I think everybody should be doing it in accordance

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1 with the handbook.

2 MS. BUONCRISTIANI: We've had testimony or you've
3 had testimony today as to what's occurring and as to what the
4 counties are doing. What you've done in the past is hold a
5 hearing and take the evidence to find out exactly what they
6 are doing. And so you could make a finding today that it
7 appears the counties may not be doing the same thing and hold
8 a hearing at another time and ask them to come in like you
9 did before when it came to other methods to get them to
10 testify and provide evidence about what they're doing.

11 And in terms of the -- There was one other
12 thing -- the appeal today, I don't know that you would have
13 to make a finding that this is the proper way to value these
14 things. You already had to decide that, that this is
15 whatever way it is you decide is the proper way to do it.
16 That's how you interpret the personal property. Because you
17 don't -- you cannot approve methods and you can't set those
18 lives, you know, years, but you do have to interpret it in
19 order to value property.

20 And so I guess first you would have to determine
21 what you believe based on the testimony and the evidence
22 today is the proper way to value these properties. And then
23 in terms of the allegation that it's being done different in
24 every county is hold a hearing to find out what's being done
25 in every county. Because as you stated in regard to the

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1 stipulations, just because the stipulation says that's what
2 they're doing, you would agree that's not something that --
3 you didn't approve anything about the methods there, you
4 approved the value and you would actually have to find
5 something directly from the assessor instead of taking
6 evidence as to that to make that determination.

7 And then if you find that's what's happening then
8 you would have to go on from there and you could find out
9 from the assessors if it would be helpful, as Katrinka has
10 said, to get, you know, to have regulations and have some
11 testimony to develop regulations.

12 And what you've done in the past, and I believe
13 Mr. McKean was involved in it with the golf courses, is that
14 you continued the cases pending finding a need in our
15 regulations to be doing the same thing is to continue the
16 cases until that happens. And I can't remember what happened
17 to the golf course cases.

18 MR. BANCROFT: The golf course cases are a
19 different situation because in that case you had all the golf
20 courses kind of appealing and creating that open issue. In
21 this case you've got telecommunication companies that have
22 already been assessed on this basis. The idea that the
23 conduit was not a distribution plant, it was treated as a
24 15-year property in Clark, Nye, Mineral and Washoe Counties.
25 So you have companies out there who have already received
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1 that 15-year treatment for the year at issue here. You know,
2 like CenturyLink, Charter Communications. We should be
3 getting the same tax treatment as they received. And any
4 confusion --

5 MS. BUONCRISTIANI: I addressed that with my
6 first point and that is to discuss this with all of the
7 taxpayers. What I'm talking about is if there needs to be
8 regulations. Katrinka had asked for direction on what to do.

9 MR. BANCROFT: Oh, I agree that this whole issue
10 could -- is worth clarifying on a go-forward basis. But I
11 don't see any reason to hold up the determination in the case
12 today for this tax year because we're just asking it be
13 treated as other similar taxpayers this year. On a
14 go-forward basis, yes, open up the regulatory process, have
15 workshops, come up with new rules and apply them to
16 everybody. Don't just single out two taxpayers to do it.

17 Just to get back to your question, you asked
18 specifically what categories are at issue in this case. And
19 just based on the discussion, it does not sound like fiber
20 optic cable on a 15-year life -- It sounds like people are in
21 agreement on that. The idea that computer-based optical
22 transmission is a five-year life, it doesn't sound like
23 people are in disagreement on that one.

24 The only two -- The one is conduit. Some
25 counties have apparently treated conduit as a 15-year
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1 property. That's already water under the bridge. And Terry
2 has suggested that perhaps it should be treated as a
3 distribution plant and identified a 30-year property. So
4 that's one. I started out saying there's four. Two aren't
5 at issue: Fiber optic cable and computer-based optical.
6 Conduit is the discretion of should it get the same treatment
7 as others or should it be treated as distribution.

8 And the fourth is the idea that telecommunication
9 equipment shelter, is it real property, depreciable over a
10 50-year life or should it be treated as personal property.

11 CHAIRMAN WREN: Okay. And I guess that kind of
12 makes sense now. Your testimony what the other counties are
13 doing is your testimony. We don't have them here telling us
14 that. So it's been whispered in my ear that it's hearsay,
15 which I would kind of have to agree with.

16 What I want to do is ask Katrinka how are you
17 handling your life in this case?

18 MS. RUSSELL: Okay. We did put the fiber optic
19 at a 50-year --

20 CHAIRMAN WREN: 50.

21 MS. RUSSELL: -- for the telecommunication
22 shelter based on that. But once we realized that it was
23 fiber optic, we did go ahead and I put it in the summary, we
24 did talk about doing it at a 15-year life because we're
25 treating it like fiber optic conduit out of the ground.

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1 CHAIRMAN WREN: Okay.

2 MS. RUSSELL: But what I'm asking for in guidance
3 is the distribution plant let's be very specific. Fiber
4 optic, we're going to treat it just like it says in the
5 Personal Property Manual, distribution plant, the poles and
6 all of that are going to be in here as a 30.
7 Telecommunication shelter, should we apply obsolescence to
8 that -- to the building? And if so, how should we do that so
9 that all the counties do it the same way? I just want it to
10 be very specific, the ruling, so that when we walk away from
11 here we all do it exactly the same.

12 CHAIRMAN WREN: So the building is -- the
13 building isn't called that in your handbook there, the
14 building would be part of the distribution plant; correct?
15 Is that your opinion?

16 MS. RUSSELL: I believe it depends on if it is
17 the outdoor distribution plant. Elko County has some
18 property where it's just a building. And it's not a
19 distribution plant. It's just a building. So I think --

20 CHAIRMAN WREN: Concrete bunkers.

21 MS. RUSSELL: So I think you have to make a
22 judgment call.

23 CHAIRMAN WREN: So it also comes in to question
24 then, is that personal property real property; correct? This
25 is going to surprise you, but I don't think we're going to be
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1 able to answer that today. I have my opinion, but --

2 MEMBER HARPER: Can I ask a question? And I
3 don't know if this is going down the right road or not. But
4 is this the first and only company or situation in Elko
5 County? You have no other like CenturyLink or --

6 MS. RUSSELL: You know what --

7 MEMBER HARPER: Charter?

8 MS. RUSSELL: -- We have other telecommunication
9 companies. We've been assessing them at a local level. You
10 know, they were just, you know, the communication shelters,
11 cell phone towers and the little building at the base of
12 those towers, that's pretty much it. But nothing on the
13 level of Level 3 or AT&T Communications.

14 MS. RUBALD: Mr. Chairman, I guess I should
15 mention, if we're talking about this, the department still
16 values about 20 telecommunication properties. And I told you
17 before it was on a unitary basis where we take basically the
18 historic cost less their book depreciation. And what that
19 means is we're -- we review where we can, audited financials
20 and SEC-10-K and what not. And in your own record, there's
21 the level 310-K which says that the fiber optic
22 infrastructure including conduit is valued at -- is
23 depreciated with a 25 to a 50-year life. So the
24 centrally-assessed telecommunications using book cost
25 depreciation is using a 25 to 50-year life.

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1 CHAIRMAN WREN: Okay. Let's do this. Give the
2 court reporter a chance to let her fingers cool off. Let's
3 take a short break and everybody think about it.

4 (Recess was taken)

5 CHAIRMAN WREN: I think maybe what I'd like to do
6 real quickly is get down and try to figure out -- We've had
7 testimony, hearsay, about what other counties are doing. I
8 have some assessors or assessors' representatives in the room
9 other than Elko County. And what I would like to do is have
10 the assessors or your representative from the other counties
11 come up and tell us how you are handling these issues in your
12 county so we can see kind of what page everybody is on.
13 Storey, come forward.

14 MS. SEDDON: You're going to pick on me.

15 CHAIRMAN WREN: Well, anybody that runs around
16 with "VC" on their shirt.

17 MS. SEDDON: I've got a volleyball game at 5:00
18 o'clock.

19 CHAIRMAN WREN: Well, okay. You understand my
20 question. I assume you've been listening to the testimony?

21 MS. SEDDON: Yes, I do. Jana Seddon, Storey
22 County assessor. This is the first year that we've had to
23 have any telecommunication companies, so we have tried, like
24 Katrinka has said, we tried to equalize among all the
25 counties and so we've all tried to do the same thing.

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1 Originally we put everything on at a 50-year
2 life. Then after all the other we kind of, Storey County
3 kind of hung back because we're the little guy. And what we
4 came up with a potential stipulation but based on what the
5 state board's recommendation for everybody one else we have,
6 we actually have a -- we actually have a provision in our
7 stipulation that will be null and void depending on what the
8 board decides.

9 However, what we did stipulate was 30 years on
10 the poles, 15 years on the conduit and fiber optics.

11 CHAIRMAN WREN: Okay. Which follows the
12 handbook?

13 MS. SEDDON: Well, from what we're hearing, the
14 conduit which we would rather have at the 30 year, like I
15 said, we were trying to stay in line and be equalized
16 throughout some of the other counties like Washoe and Clark,
17 we did put the conduit on 15 and the fiber optics. But we
18 agree with the 15 on the fiber optics, but we also had the
19 poles on at 30.

20 CHAIRMAN WREN: Okay. But that's what the
21 handbook says.

22 MS. SEDDON: In the poles but not the conduit.

23 CHAIRMAN WREN: Okay. So according to the
24 handbook, the conduits should be 30.

25 MS. SEDDON: Yes, from the clarification that
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1 Ms. Rubald gave us today.

2 CHAIRMAN WREN: Okay. So that was your only
3 disagreement. Okay. You're off the hook.

4 Laura.

5 MS. RUBALD: If I may just add one thing,
6 Mr. Chairman. That Personal Property Manual says
7 distribution plant if personal property. So that is, I'm
8 assuming that the decision was made by Jana that it was
9 personal property.

10 CHAIRMAN WREN: Okay. Ms. Duvall. And to be
11 fair to Laura and the assessors that come up here today, if
12 you don't know, that's okay too.

13 MS. DUVALL: Laura Duvall, Lander County
14 assessor. I would like to state on the record that I have
15 objections to even testifying because the appeals in my
16 county were not filed in accordance with Nevada law. They
17 were not appealed at the county level nor the time frame that
18 they were supposed to be appealed to the state level. They
19 were appealed actually last month.

20 CHAIRMAN WREN: Okay. We're not hearing your
21 case right now so hold off on that. I understand where
22 you're going. But I just --

23 MS. DUVALL: Okay. In Lander County as far as
24 the fiber optics we too have no argument that they should be
25 a 15-year life. We did also put them out at 15 years. And
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1 based on the directive letter from the Department of
2 Taxation.

3 However, I do feel that the distribution plants
4 if personal property, and I state if because I have real
5 concerns about what is personal property and what is real
6 property, buildings, and structures if they are deemed to be
7 real property they have a 50-year life schedule just like all
8 other real property for all other taxpayers, not just
9 Telecommunications. And the conduit should be based on the
10 Personal Property Manual should be a 30-year life. I'm not
11 in disagreement with any of that.

12 I am in agreement with following the Personal
13 Property Manual because it was adopted by the state Tax
14 Commission and it's been the manual that we use for decades
15 for these type of items. I realize some things are not
16 really specific, however, I think it's pretty clear there's
17 not a discrepancy on what is considered distribution
18 equipment and what is the fiber optics computer items at a
19 five-year life, specifically I have no problem.

20 But I do have concerns about things that
21 telecommunication companies would like to call personal
22 property. If you do the test, do you disturb the area around
23 it, do you destroy other things by removing it. And if you
24 do, it's real property. So if you are going to say the
25 conduit in the ground is personal property and there would be

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1 no disturbance of the ground by removing it, I would argue
2 that point.

3 So I think there has not been a lot of discussion
4 about the guidance letter because it says, you know, for
5 items that are deemed to be or considered by the assessor to
6 be real property, there should be a 50-year life just like
7 every other property, houses, garages, sheds, patios, decks,
8 concrete. I mean, we can sit here and argue all day is my
9 old tin shed classified as real property with a 50-year life,
10 is it going to last that long. They've got buildings that
11 have been there for more than 50 years and they're saying
12 they should be a 15-year life. Well, how can they still be
13 standing? Why are they still using them? Why are they a
14 viable part of, you know, their equipment? If they're only
15 15 years, why are they still there? They should have fallen
16 down; right?

17 That would be my concern and my issue is the
18 argument with what's real property and what's personal
19 property. But as far as the rest of it goes, I feel we
20 should adhere to the Personal Property Manual and two wrongs
21 don't make a right. And I agree the stipulated grievance
22 that granted in to there was no discussion about the
23 methodology so we don't know what was done or what wasn't
24 done in other counties. And I certainly wouldn't kick them
25 to the curb without knowing that.

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1 CHAIRMAN WREN: We haven't heard the evidence
2 so -- Okay. Thank you. Just when you thought I didn't think
3 you were back there.

4 MS. LEE: For the record, Ruth Lee, Esmeralda
5 County assessor. Chairman Wren, I don't know if you want me
6 to go in to I did it and then I amended it the way the
7 guidance letter went and then I amended it again. And I am
8 using the 15-year for the conduit and the fiber both because
9 I don't have a lot of the issues that everybody else has. I
10 don't have buildings. I've got basically junk cable on the
11 side of one of my areas near California and that's it. And
12 then I did five-year on the switches.

13 CHAIRMAN WREN: You don't have any poles or
14 cables or anything?

15 MS. LEE: No, sir, I have nothing like that.

16 CHAIRMAN WREN: I've been to your county. I
17 believe that.

18 MS. LEE: Yes.

19 CHAIRMAN WREN: Okay. But what is your
20 interpretation of the handbook?

21 MS. LEE: Well, I would have gone with the
22 telecommunications and because the cable and the fiber are
23 hooked together, they can be yanked out at any point in time.
24 It's on the edge of the county. It's really old there, you
25 know.

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1 CHAIRMAN WREN: Okay. That's fair. Good. Thank
2 you.

3 MS. LEE: Uh-huh.

4 CHAIRMAN WREN: One or both. You're up first.

5 MR. MEARS: For the record Michael Mears,
6 M-e-a-r-s, Eureka County. We originally put ours on with a
7 50-year life on the fiber and conduit. When we had
8 discussions with the taxpayer after they had received their
9 bills and realized that those bills had essentially almost
10 tripled, we went back and looked at it. I discussed it with
11 my colleague in Washoe County, Josh. And discovering that
12 they were going to put everything on a 15, we determined we
13 would do the same. So as you know because it's in your
14 packet, we did stipulate with AT&T.

15 And at this point having heard from Terry today,
16 I think there's definitely some argument to be made and some
17 discussion to be had as to whether conduit should be
18 considered real property or not and what life schedule we
19 should be putting on that. As a network person for Eureka
20 County, we have a lot of pipe in the ground and we move cable
21 in and out of it all the time. We don't move the pipe. The
22 pipe stays in the ground.

23 So I think, again, moving forward this is
24 definitely something that we would like to all have
25 clarification. The bottom line for all 17 of us is just that
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1 we're doing it the same so we're not sitting in front of this
2 board every year arguing over how we did the buildings, how
3 we did the conduit. That's where Katrinka is spot on. We
4 just want to know what you want us to do, what does the Tax
5 Commission want us to do. We just want to make sure we're
6 doing it correctly and the same as our neighbors.

7 CHAIRMAN WREN: Good. We're trying to figure out
8 how to help you get there. Thank you.

9 MS. GREEN: Norma Green, Churchill County
10 assessor, for the record. What we currently billed, and we
11 haven't stipulated to anything yet, we were waiting for some
12 further guidance, we did fiber optic at 50, we did the
13 conduit at 50, the shelters at 50, the computer equipment at
14 five and the telecommunication equipment at ten.

15 Fiber optic I have no problem being 15. The
16 conduit based on the three-part test in the Personal Property
17 Manual and using the alternative cost, I felt it should be
18 50.

19 CHAIRMAN WREN: Classifying as real property, not
20 personal property.

21 MS. GREEN: Real, not personal property.

22 CHAIRMAN WREN: So far you're the only one who
23 said that all the way across the line. What is your
24 interpretation of how you determine whether or not it's real
25 property or personal property?

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1 MS. GREEN: When you look in the personal
2 property manual, we have I think it's in the beginning of
3 that, right at the beginning of it, we're given instructions
4 to look at that to give it a three-part test and is it
5 permanently affixed in to the ground. I believe the conduit
6 is. I don't think they're typically going to remove that. I
7 think they are going take the fiber in and out but not the
8 conduit.

9 CHAIRMAN WREN: I agree. Okay. Anything else?

10 MS. GREEN: No.

11 CHAIRMAN WREN: Okay. Thank you. Who did I
12 miss?

13 MS. MCBRIDE: Melanie McBride from Lincoln
14 County. I'm in Las Vegas.

15 CHAIRMAN WREN: Sorry. I had people walking up
16 and I said that's not you. Okay. Go ahead.

17 MS. MCBRIDE: For the fiber optic and the
18 conduit, we have been using 15-year life. I have questions
19 on the shelters still because the description they gave me
20 was it's a pre-cast modular concrete shell that is strapped
21 to the side and dropped on a concrete pad. The concrete pad
22 is real property but the shell isn't, so that's one of my
23 questions. I don't know if that's how Level 3 declared
24 theirs to everyone else. But I used a 50-year life schedule
25 for that. But now I'm questioning whether it should be

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1 personal property because only the concrete pad should be
2 real property.

3 And I'm here for guidance and I want to give
4 kudos to Katrinka for asking most of the questions that all
5 of us had.

6 CHAIRMAN WREN: I was kind of proud of her too.
7 Leave it to Elko County, right. Okay. Thank you very much.
8 Jeff.

9 MR. JOHNSON: For the record, Jeff Johnson,
10 Humboldt County assessor. We costed everything at the
11 50-year life, the conduit, the fiber, all of that stuff. We
12 did it according to the guidance letter. We actually -- T
13 association had all talked about what we were going to do and
14 it was my understanding we all agreed it was going to be a
15 50-year life, so we put it on that way and left it that way.

16 CHAIRMAN WREN: Okay. Perfect. You're wrong.

17 MR. JOHNSON: Apparently. It's not the first
18 time.

19 MS. UNDERWOOD: Debbie Underwood from White Pine
20 County assessor. We did the poles, the conduit, the fiber
21 optic all at a 50-year life for the same reason why Jeff
22 said, that we felt that the guidance was there. And I felt
23 that it was supported by the dates that was given of how long
24 that equipment had been in place. We have some clear back to
25 1950s, the '70s, so we felt that that was reasonable to use a

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1 50-year life.

2 CHAIRMAN WREN: Okay. Thank you. I won't tell
3 you you're wrong. I just tell Jeff that.

4 MS. HAMILTON: I'm Celeste Hamilton. I'm the
5 Pershing County assessor. And that's C-e-l-e-s-t-e Hamilton.
6 And this makes three of us that have all done it the same
7 way: Jeff, me and Debbie. It's the 50-year life for
8 everything.

9 CHAIRMAN WREN: Okay. All right. Good. Thank
10 you very much. I appreciate that and I appreciate your
11 answers too. Did I get everybody? Does Washoe County want
12 to chime in since you're here?

13 MS. WILKINS: Good afternoon. For the record
14 Teresa Wilkins, Washoe County chief deputy assessor. Washoe
15 County initially did value the properties in question using
16 the 50-year life. Based on the additional information, we
17 revalued it and our stipulated values do reflect that recost
18 in to the 15 years.

19 CHAIRMAN WREN: Okay. Thank you. And who's in
20 Clark County? Who's in Las Vegas? Everybody here left.

21 MS. GOODMAN: Lori Goodman with the Clark County
22 Assessor's Office.

23 CHAIRMAN WREN: Hi. Do you want to address this
24 for us?

25 MS. GOODMAN: They moved the camera. Our --
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1 Basically the value that we stipulated to was the
2 reclassification on the taxpayer's report from the central
3 office equipment to the computer-based switching equipment.
4 We had originally valued the fiber and conduit in a 15-year
5 life. I toured all of the facilities that they have here.
6 Most of them are the stiff-type buildings that are on the
7 concrete pads, so the four shelters that we don't have on
8 real property records here I did take it the 15-year life.

9 CHAIRMAN WREN: Okay. And your underground
10 conduit is 15 years also?

11 MS. GOODMAN: Correct.

12 CHAIRMAN WREN: 15, okay. All right. Thank you.

13 MS. GOODMAN: 15, yes.

14 CHAIRMAN WREN: 15, okay.

15 MS. GOODMAN: Thank you.

16 CHAIRMAN WREN: All right. Well, what this tells
17 us is that everybody is not doing it the same way and the
18 fact that there are stipulated values is fine. That's
19 already come before us. So it gets back -- What you're
20 asking us to do -- Let's get back to this case now and see
21 how we can deal with this. What you guys are asking is for
22 the 15 years and what you're saying is you follow the
23 handbook; is that correct?

24 MS. RUSSELL: We did up to a point. Not on
25 everything. You know, we did the 50-year life. But on the
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1 computer-based, we did follow the personal property handbook
2 and on the computer switchback equipment and we went back and
3 changed -- Well, we did some calculations based on a 15-year
4 life with the fiber optic. But I feel like conduit 50. And
5 I wasn't sure if fiber optic conduit was the same. I found
6 out today it's not. So guidance on real property.

7 CHAIRMAN WREN: Okay. Go ahead.

8 MR. BANCROFT: Just to clarify, you know, because
9 for Elko County on their line items on their equipment
10 schedule, there's the conduit. And on the version that she
11 submitted as her Exhibit A she now has the conduit on a
12 15-year life. She has the fiber optic cable on a 15-year
13 life. She has the central office equipment that has been
14 recategorized as computer-based on a five-year life. And we
15 are comfortable with all three of those that are on her
16 Exhibit A.

17 The only question was the telecommunications
18 equipment shelter. And if this, if Exhibit A are the values
19 that she's suggesting, we're comfortable with the way she's
20 treating conduit because she's moved it from a 50-year life
21 to a 15. She's moved fiber optic from 50 to 15. She's moved
22 the computer-based optical transmission equipment from a 15
23 to a five. We're comfortable with those changes if this
24 Exhibit A is what she's proposing.

25 The only remaining question is how do you treat
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1 those SCIF-type equipment shelters, and she's applied a
2 50-year life to those. And I think the testimony was out of
3 Clark County that it was applied at a 15-year life, those
4 SCIF-type ones.

5 CHAIRMAN WREN: And there was three counties with
6 50 on them. And the difference is whether or not they're
7 personal property --

8 MR. BANCROFT: And one that --

9 (The court reporter interrupts)

10 MR. BANCROFT: And one that put a 30-year life on
11 it.

12 CHAIRMAN WREN: Right.

13 MEMBER MESERVY: I don't think she was agreeing
14 with the underground utility should be at 15 anymore. It was
15 30 based on what our conversation was. Is that correct?

16 MS. RUSSELL: I will be modifying my record to
17 reflect what we pretty much determined today, conduit, real
18 property, telephone poles, distribution plants. So the
19 summary it was just to give you an idea of what things would
20 be at a 15-year life. But now we found out the conduit
21 should be 30. So these numbers are inaccurate.

22 CHAIRMAN WREN: Okay. So this is kind of
23 complicated and we're kind of running up the clock here. We
24 don't have to make a decision tonight. We can make a
25 decision in the morning. You guys can think about it or I

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1 can close the case and we can discuss it and make a decision.

2 MEMBER MESERVY: I think the decision is easy,
3 but I'm not sure, you know, if everyone is going to agree
4 with it.

5 CHAIRMAN WREN: We don't care. So having said
6 that -- Has everybody had their due say?

7 MR. MCKEAN: I would just point to one other --
8 No more -- No further comments. Thank you.

9 CHAIRMAN WREN: Okay. Thank you.

10 Okay. Mr. Bancroft, if you will tell us exactly
11 what relief you are seeking on this property to make sure
12 we're all still on the same page.

13 MR. BANCROFT: There's four categories of
14 equipment that were reported in Elko County. They appear on,
15 at SB-4.

16 CHAIRMAN WREN: On the new evidence?

17 MR. BANCROFT: Yes. The first on SB-4, those
18 line items that are referred to as central office equipment,
19 after reviewing and identifying, that equipment was
20 reclassified as computer-based optical transmission equipment
21 and moved from a 15-year life to a five-year life. That's
22 how it's treated in Washoe County. That's how it's treated
23 in Clark County. And I understand from today's hearing that
24 Elko County is comfortable with that treatment for the
25 computer-based optical transmission equipment.

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1 On page SBE-6, there's line items for two items,
2 conduit systems and fiber optic cable. Both conduit systems
3 and fiber optic cable were initially billed by Elko County
4 using a 50-year depreciable life. The schedule she's
5 provided here are depreciating on a 15-year depreciable life.
6 We're comfortable with that. We would ask that a 15-year
7 life be applied to both the conduit and fiber optic cable.
8 That's the way it's treated in Washoe County. That's the way
9 it's treated in Clark County.

10 However, during testimony today it's been
11 identified that the conduit systems could be classified as
12 distribution equipment and a 30-year life may be in place.
13 We would argue for the 15-year life for uniformity purposes.
14 That's how it's been treated. That's how CenturyLink was
15 assessed already.

16 The fourth item -- So those are the first three
17 categories. The fourth category appears on SBE-10 and these
18 are the three telecommunication equipment shelters, the
19 SCIF-type shelters that are just dropped on the pads and that
20 Elko is currently treating them as real property, 50-year
21 property, and we would ask that it be treated as personal --
22 the shelter itself be treated as personal property and
23 depreciated under a 15-year schedule as it is being done in
24 Clark County.

25 CHAIRMAN WREN: Okay. All right. Thank you.
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1 I'll close the case. Comments.

2 MS. RUSSELL: If I may.

3 CHAIRMAN WREN: Comments, yes.

4 MS. RUSSELL: Mr. Bancroft made reference to on
5 the summary the things that were highlighted in yellow and he
6 said he's okay with that. Well, I'm glad he's okay with
7 that. The reason I made those changes going from a 15 to a
8 five is because he refiled an affidavit on September 30th
9 stating that equipment had been mislabeled and labeling it
10 correctly as computer equipment it required that I change it
11 to a five-year life. I just wanted to make sure that was
12 clear.

13 CHAIRMAN WREN: Okay. Good. Thank you. Okay.

14 MEMBER HARPER: My comments are there's
15 telecommunications companies and be it that it sounds to me
16 like the majority of them are in Clark County, be it
17 CenturyLink. I guess there's Charter up here in Washoe.
18 That have been locally assessed and in my opinion that kind
19 of sets an equalization that I think for this tax year that
20 we're talking about and these specific properties that the
21 other counties need to equalize at because I don't see how
22 just because Level 3 and AT&T all of a sudden in this one
23 year moved from being centralized -- centralized attack,
24 whatever -- Thank you -- to local that this, these two
25 companies or related companies are treated different than the
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1 existing ones that have been locally assessed for a number of
2 years.

3 And yes, I agree, moving forward maybe the whole
4 thing needs to be reopened but for all the telecommunications
5 companies, including Charter, CenturyLink and all the ones
6 that have been being assessed locally for a number of years.

7 CHAIRMAN WREN: Okay. Dennis.

8 MEMBER MESERVY: You know, my concern is that,
9 you know, I was given this job to follow the law and I can't
10 go around making up, you know, just because somebody did it
11 wrong that we all of a sudden let it go and let everyone else
12 do it wrong and the next time. You know, I really think this
13 is one that they need to have a pow-wow of some sort and get
14 with all of these counties and figure out how we can apply
15 this property and make sure that everyone understands the
16 rules.

17 But I think it's there and I don't have any
18 problem with the changes on this one, other than the 15-year
19 on underground conduits. But rather -- I feel like that
20 should be 30 based on what it's saying in the manual. But I
21 personally don't agree with just because we've let it slide
22 on others. There's a lot of evaluations that get slid every
23 year, but I don't think we should be the board that lets it
24 be known that we're just going to go along with what
25 happened. I think we need to go with what should be, so

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1 that's just my bits.

2 CHAIRMAN WREN: Aileen?

3 MEMBER MARTIN: I agree with Dennis.

4 CHAIRMAN WREN: Okay. Ben?

5 MEMBER JOHNSON: I largely agree with Aileen and
6 Dennis here. I don't think a negotiated settlement between
7 other parties is meaningful for us to make our decision based
8 on. I think we have to do what's right based on the facts in
9 front of us and we have the real property manual, Personal
10 Property Manual. We've taken a lot of testimony. I think
11 what we have here in front of us is enough to make a
12 decision.

13 CHAIRMAN WREN: Okay. Make a motion.

14 MEMBER MESERVY: If I understood it well, I think
15 the only place that we're in disagreement with what they're
16 asking is the 15 years to move it back to 30 on the
17 underground conduits. I think that's the only difference.

18 MEMBER JOHNSON: And the shelters.

19 MEMBER MESERVY: Okay. The shelters was the
20 other part. That one I'm not sure how to address because
21 that could be --

22 CHAIRMAN WREN: Before you make a comment or
23 motion, let me address that from my perspective. And I'll
24 tell you, first of all, that I agree with you raising your
25 thought that the conduit per the book is 30 years. That's

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1 where it should be, regardless if anything else has happened
2 out there. It's our job to follow the handbook also. So I
3 agree with the 30 years.

4 As far as the buildings, the SCIF buildings or
5 whatever you want to call them, they're concrete buildings
6 that are concrete foundations with a crane. The definition
7 of real property is something that is rather permanently
8 affixed. If you have to take a crane to put something on
9 something, that's rather permanently affixed. So I agree
10 with the three counties that have assessed those at 50, I
11 agree with them. I consider it real property.

12 MEMBER MESERVY: And I have no problem with that.
13 I agree.

14 CHAIRMAN WREN: Okay.

15 MEMBER MESERVY: But I'm not sure how to make a
16 motion but maybe somebody can help me with that.

17 MEMBER JOHNSON: I will make the motion then in
18 Case 14-306, 307, 308, 309, 310, 311, 312 and 313 that we
19 find that the conduit should be valued based on personal
20 property manual which indicates a 30-year economic life and
21 that the telecommunication equipment shelters are real
22 property and should be treated as real property and have a
23 50-year economic life.

24 MEMBER MARTIN: So the fiber optic stays at 15?

25 MEMBER JOHNSON: Correct.

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1 MEMBER HARPER: And the computer at five.

2 MEMBER MARTIN: And central office equipment will
3 stay at five years?

4 MEMBER JOHNSON: Yes. Correct.

5 CHAIRMAN WREN: Okay. Second?

6 MEMBER MARTIN: Second.

7 CHAIRMAN WREN: Further discussion. All in favor
8 say aye.

9 MEMBER MESERVY: Aye.

10 MEMBER MARTIN: Aye.

11 MEMBER JOHNSON: Aye.

12 CHAIRMAN WREN: Opposed?

13 MEMBER HARPER: Nay.

14 CHAIRMAN WREN: Motion carries. Okay. Thank you
15 very much. So I guess before we call the next case or
16 whatever we're going to do is I need to look at Terry and say
17 Terry, it's apparent that we need to do something to make
18 sure that everybody is on the same page in the future on
19 these and I don't know how you do that. Do you do it with a
20 workshop or do we call everybody in, do we send them all to
21 Utah? What do we do?

22 MS. RUBALD: By law we are required to have a
23 workshop on the Personal Property Manual every year. We'll
24 make this a talk item at that workshop before the next
25 personal property manual is issued.

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1 CHAIRMAN WREN: Okay. Great. Perfect. Thank
2 you. And if I can be of help, I'm more than happy to come in
3 with my two cents worth.

4 (The court reporter interrupts)

5 MEMBER MARTIN: Terry, this issue came before us
6 because it's no longer centrally assessed but now it's county
7 by county on their equipment and how that's handled. I don't
8 know if it's proper for me to ask or not, but I'm throwing it
9 out there. Sorry. Is this going -- Is this the only issue
10 that I obviously missed of things changing in the State of
11 Nevada from central assessment that it will now be up to the
12 counties? Or is there -- I'm sure there's got to be more
13 than Telecommunications or video.

14 MS. RUBALD: This particular issue only arose
15 because of the change in the law --

16 MEMBER MARTIN: Right.

17 MS. RUBALD: -- for central assessment. But as I
18 mentioned previously, we still have 20-some telecommunication
19 companies that are centrally-assessed as not identified as
20 having video services. So they will remain
21 centrally-assessed until we identify them as having the video
22 service.

23 CHAIRMAN WREN: Okay. And whatever happens in
24 your workshop will affect those also regardless of the fact
25 of how they're centrally assessed or locally assessed; right?

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1 MS. RUBALD: No. Because centrally assessed is a
2 unitary valuation and we use the historic cost less the book
3 depreciation, which I mentioned at least level three case was
4 based on the 25 to 50-year loan.

5 CHAIRMAN WREN: Okay. That makes sense. Okay.
6 So the big question is can we finish today or are we coming
7 back tomorrow?

8 MS. RUBALD: Well, I think we can probably
9 finish. But I would like if you want to get to Lincoln,
10 Pershing and Storey, I believe has already stipulated. So
11 that would leave the cases about untimely appeals and then we
12 do have -- and in that we have Smokin Snowboards, which isn't
13 related to AT&T, and that gentleman is here right now.

14 CHAIRMAN WREN: Okay. So all the rest -- all the
15 other ones were untimely filed, right, for the same reason?

16 MS. RUBALD: Everything in Section I was not
17 timely filed.

18 CHAIRMAN WREN: Okay. Let's call those and see
19 if we can get through them.

20 MS. RUBALD: Do you want to finish the ones in
21 Section G? H, I mean.

22 CHAIRMAN WREN: Yeah, I guess we have to.

23 MS. RUBALD: Okay.

24 CHAIRMAN WREN: Is it the same people, the same
25 argument?

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1 MS. RUBALD: Yes. Let me if I may. And I'd like
2 to call 14-314 and 14-315. It's Level 3 Communications.
3 It's the Lincoln County assessor. Case 14-316 has been
4 withdrawn.

5 CHAIRMAN WREN: Okay. Go ahead identify the
6 property please.

7 MS. MCBRIDE: I haven't been sworn in.

8 CHAIRMAN WREN: Oh, well, go home.

9 MS. BUONCRISTIANI: Please stand and raise your
10 right hand.

11 (Witness was sworn in)

12 CHAIRMAN WREN: Are you going to be testifying
13 back there, Mark? Is she going to be testifying? Mark?

14 UNIDENTIFIED SPEAKER: What's that?

15 CHAIRMAN WREN: Is she going to be testifying?

16 UNIDENTIFIED SPEAKER: She is.

17 CHAIRMAN WREN: Okay. Let's go ahead and get you
18 sworn in. Go ahead and swear her in too.

19 MS. RUBALD: And I think the Smoking Snowboards
20 should stand also.

21 CHAIRMAN WREN: Anybody that has not been sworn
22 in and will testify today.

23 UNIDENTIFIED SPEAKER: I was sworn in this
24 morning.

25 (The witnesses were sworn in)
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1 CHAIRMAN WREN: Including the testimony you
2 already gave.

3 Okay. Go ahead.

4 MS. MCBRIDE: I'm Melanie McBride from --

5 CHAIRMAN WREN: Go ahead. I'm sorry.

6 MS. MCBRIDE: I'm Melanie McBride from the
7 Lincoln County Assessor's Office. I started to do a
8 stipulation agreement with Level 3 on the computer-based
9 switching equipment because they amended their declaration on
10 September 29th, yeah, September 29th of 2014. So I think
11 that you've already agreed upon that and I don't have a
12 problem with it. I guess I'll let Level 3 talk because they
13 haven't actually said what problem they have with the rest of
14 my, you know --

15 CHAIRMAN WREN: Assessment.

16 MS. MCBRIDE: -- Values that I had set.

17 CHAIRMAN WREN: Okay. Go ahead.

18 MR. BANCROFT: Lincoln County is -- Let me check
19 my summary here. The issues -- The only issues with Lincoln
20 County are the reclassification of the computer-based optical
21 transmission equipment from a 15 to a five-year life, which
22 you approved in the Elko case, and the treatment of the
23 SCIF-type equipment shelters an issue you dealt with in the
24 prior case. And so, you know, what we're arguing for in --
25 on both those issues is the same thing we argued in the prior
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1 case, the five-year life for the computer-based optical
2 transmission equipment and a 15-year life for the SCIF-type
3 shelter.

4 Elko County -- or Lincoln County is I don't
5 believe has a problem with the shift on the computer-based
6 transmission equipment. They have the equipment shelter on
7 at a 50-year life and so I'm not going to reargue the case.
8 It's the same two issues as in the prior.

9 CHAIRMAN WREN: Okay. So they're at five and 50
10 already, which is what we approved a minute ago, right, five
11 years and 50?

12 MR. BANCROFT: Well, you'll have to ask Melanie,
13 but I believe based on our refile declaration she's prepared
14 to switch the computer-based optical transmission to a
15 five-year life.

16 CHAIRMAN WREN: Melanie, is that correct?

17 MS. MCBRIDE: Yes, that's correct.

18 CHAIRMAN WREN: And you've got the SCIF's at 50?

19 MS. MCBRIDE: Yes.

20 CHAIRMAN WREN: Okay. Any other comments you
21 want to make? Melanie?

22 MS. MCBRIDE: No.

23 MS. BUONCRISTIANI: The state board comments on
24 the basis of their decision, incorporate those in to this
25 record.

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1 CHAIRMAN WREN: Yeah. I'm going to incorporate
2 all the comments, discussion and evidence from the prior case
3 in to this case and close the case and entertain a motion.

4 MEMBER MESERVY: The motion that I have on 13
5 dash -- 14-314 and 14-315 is that we uphold the amount to
6 be -- or 50 years for the shelter and five years for the
7 computer-based equipment, the central office for five years.
8 Is that the only ones in contention that we need to adjust
9 for from what was assessed?

10 MR. BANCROFT: Yes.

11 MS. MCBRIDE: As far as I know. They haven't
12 talked about anything else.

13 MEMBER MESERVY: That would be my motion.

14 CHAIRMAN WREN: Is there a second?

15 MEMBER MARTIN: Second.

16 CHAIRMAN WREN: Discussion? All in favor say
17 aye.

18 (The vote was unanimously in favor of the motion)

19 CHAIRMAN WREN: Opposed? Motion carries. Thank
20 you very much. Next case, please.

21 MS. RUBALD: Mr. Chairman, the next cases are
22 14-317 and 14-318. They're both Level 3 Communications, LLC.
23 And the Pershing County assessor is the respondent.

24 CHAIRMAN WREN: Okay. Where's Pershing? There
25 she is. You guys keep hiding back there.

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1 MS. HAMILTON: I'm trying.

2 CHAIRMAN WREN: Go ahead and identify yourself
3 again and the property.

4 MS. HAMILTON: My name is Celeste Hamilton,
5 Pershing County assessor. The property or the personal
6 property is Level 3 Communications and it has been assessed
7 at a 50-year life, the same as the others.

8 CHAIRMAN WREN: All categories?

9 MS. HAMILTON: Yes.

10 CHAIRMAN WREN: Okay. Go ahead.

11 MR. BANCROFT: There's three categories of
12 reported property that are at issue in this case. The first
13 is the -- what was initially reported as central office
14 equipment but upon further review was identified as
15 computer-based optical transmission equipment. We believe
16 that the computer-based optical transmission equipment should
17 be depreciated on a five-year life, which would then make it
18 consistent with what's done in Clark County and Washoe County
19 and in the two prior cases you just approved.

20 The other two categories -- or the second
21 category is fiber optic cable. We believe it should be
22 depreciated on a 15-year life, which would make it consistent
23 then with what's done in Washoe and Clark Counties and what
24 your motion was in the Elko County case.

25 And the third category is conduit systems. We
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1 contend that the conduit systems should be depreciated on a
2 15-year life to make it consistent with how it's treated in
3 Clark, Washoe, Nye, Mineral Counties. But I understand that
4 there is -- some people believe it should be recharacterized
5 as distribution plant and depreciated over a 30-year life.
6 In any event, nobody is advocating a 50-year life and that's
7 what it's on.

8 So I'd ask that the first category,
9 computer-based optical, be reduced to a five-year. Second
10 category, fiber optic cable to a 15-year. And that the
11 conduit systems be reduced to a 15-year life as well.

12 CHAIRMAN WREN: You're kind of on a roll. Zero,
13 50, 50, two-thirds. I can't wait to see what the next one
14 is. Okay. Do you have any comments?

15 MS. HAMILTON: I don't.

16 CHAIRMAN WREN: Okay. I'm going to close the
17 case. Entertain a motion.

18 MEMBER MESERVY: On 14-317 and 14-318, the
19 computer-based central office on a five-year, are we able to
20 identify those assets?

21 MS. HAMILTON: Yes.

22 MEMBER MESERVY: And the fiber optic at 15 years
23 with the conduit systems at 30 years.

24 MEMBER JOHNSON: Second.

25 CHAIRMAN WREN: Discussion? All in favor say
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1 aye.

2 MEMBER MESERVY: Aye.

3 MEMBER MARTIN: Aye.

4 MEMBER JOHNSON: Aye.

5 CHAIRMAN WREN: Aye. Opposed?

6 MEMBER HARPER: Nay.

7 CHAIRMAN WREN: It's okay. Just before I accept
8 the vote, I want to make sure I've incorporated all the
9 testimony from the prior cases in to this one and the vote is
10 four to one and passes.

11 Okay. Next case.

12 MS. RUBALD: Mr. Chairman, the next case is
13 14-377, Nevada Bell Telephone doing business as AT&T Nevada.
14 And the Storey County assessor is the respondent.

15 CHAIRMAN WREN: Okay. Let's put somebody on the
16 spot. Identify the property, please.

17 MS. SEDDON: This is Jana Seddon, Storey County
18 assessor. This is Case Number 14-30 -- 377. This is Nevada
19 Bell Telephone Company. And it's their commercial account
20 1514. We had previously entered in to a stipulated agreement
21 with Mr. Brown from AT&T. However, based on in light of the
22 previous testimony, on the front page of the stipulation, we
23 have a provision that says in the event that the methodology
24 used to develop the original assessment of this property is
25 upheld by the State Board of Equalization, this stipulation

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1 becomes null and void.

2 However, what I'm asking the board today is to
3 withdrawal the stipulation in order to be able to be revised
4 that the 15-year life schedule that we entered in to on the
5 stipulation on the conduit be revised to 30-year.

6 CHAIRMAN WREN: Okay. Are you guys the --

7 MR. MCKEAN: Excuse me. Bill McKean for the
8 record and I represent AT&T in this, Nevada Bell DBA AT&T.
9 We approached the Storey County assessor after having entered
10 in to a stipulation with Washoe County. And the basis for
11 the stipulation with Washoe County was to equalize property
12 tax treatment between similarly-situated taxpayers. And as
13 it has been stated on the record that Clark County has been
14 historically valuing similarly-situated taxpayers' conduit at
15 a 15-year life. And I think there was some discussion of
16 whether my statements were hearsay. The Clark County
17 Assessor's Office is still represented in Clark County. I
18 would like to leave the board to call the assessor's
19 representative as a witness.

20 CHAIRMAN WREN: No.

21 MR. MCKEAN: Then I'll make an offer of proof.
22 The witness --

23 CHAIRMAN WREN: Wait, wait, wait. Let's go off
24 the record for a second.

25 (Discussion was held off the record)
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1 CHAIRMAN WREN: I thought I had already asked for
2 Clark County's.

3 MR. MCKEAN: That was in a different case. And
4 I understand you're doing some incorporation, but it was your
5 questions. I didn't get to ask any taxpayer questions and
6 I'd like that opportunity. It's not going to be a lengthy
7 questionnaire.

8 CHAIRMAN WREN: Okay. Go ahead. And Jana,
9 you'll be able to cross-examine the attorney. It will be
10 pretty cool.

11 MR. MCKEAN: Lori Goodwin. Goodman.

12 CHAIRMAN WREN: Lori Goodman, come forward,
13 please.

14 MS. GOODMAN: This is Lori Goodman.

15 MR. MCKEAN: And Doug Scott is there as well. A
16 panel is great with the chairman's indulgence.

17 MR. SCOTT: Doug Scott present for Clark County
18 also.

19 CHAIRMAN WREN: You need to scoot over in front
20 of the camera. Move over, Doug. There you go. Go ahead.

21 MR. MCKEAN: Thank you. From Clark County
22 Assessor's Office perspective does the ruling of the board
23 today raise policy concerns and concerns for Clark County?
24 And Mr. Scott, please go first if you want to go first.

25 MR. SCOTT: I would have to say that it's the
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1 board's prerogative to make the decision that they feel is
2 appropriate to equalize all of the counties. And I would
3 have to say I'm neutral on the issue.

4 MR. MCKEAN: And Ms. Goodman?

5 MS. GOODMAN: I agree. It's the board's
6 prerogative to, you know, decide on the value. And I believe
7 we all need to be equitable. That's what I'm looking for is
8 the equity among the counties and the different taxpayers.

9 MR. MCKEAN: Well, in hearing this ruling today
10 will other entities in Clark County be affected while you're
11 making changes to their assessments?

12 MR. SCOTT: Ultimately, yes.

13 MR. MCKEAN: What about for the current tax year,
14 the 13-14 tax year?

15 MR. SCOTT: We would make the decision
16 prospective going forward.

17 MR. MCKEAN: So are there other telecommunication
18 companies in Clark County for the 13-14 tax year whose
19 conduit is being valued on a 15-year life schedule? And I'm
20 saying other taxpayers besides Level 3 or AT&T.

21 MS. GOODMAN: Yes.

22 MR. MCKEAN: And is that entity the largest
23 telecommunication carrier in the state?

24 MS. GOODMAN: Level 3?

25 MR. MCKEAN: No. The one who is the other
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1 taxpayer who is receiving the 15.

2 MS. GOODMAN: No.

3 MR. MCKEAN: There's multiple other ones?

4 MS. GOODMAN: There's multiple, yes.

5 MR. MCKEAN: And is it your understanding that
6 those other taxpayers compete with AT&T Level 3?

7 MS. GOODMAN: Yes.

8 MR. MCKEAN: So in your view would the valuation
9 methodology between Clark County for the telecommunications
10 carriers at a 15-year life for conduit be equalized for the
11 13-14 tax year with conduit being valued in Washoe County?

12 MS. GOODMAN: I believe so.

13 MR. SCOTT: I have no opinion on that.

14 MR. MCKEAN: So the -- the same life is being
15 used for the 13-14 tax year in Washoe County and Clark
16 County?

17 MR. SCOTT: I don't know. You'll have to ask
18 Washoe County.

19 MR. MCKEAN: Okay. So there's a difference
20 between the two counties for this 13-14 tax year because
21 you're not going to fix -- you're not going to adjust the
22 other taxpayers' conduit to a 30-year life for the 13-14 tax
23 year?

24 MR. SCOTT: We would have to wait for a state
25 board decision before we move forward.

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1 MR. MCKEAN: So absent an order from the state
2 board, the other taxpayers in Clark County are going to still
3 receive 15 years and pay taxes for the 13-14 tax year on a
4 15-year life for their conduit?

5 MR. SCOTT: It sounds to me like the decision is
6 being made in the middle of a fiscal tax year.

7 MR. MCKEAN: I agree with that. So do you have
8 an answer to my question?

9 MR. SCOTT: I would have to say that going
10 forward that we have to be consistent in the way it's valued.
11 So if the state board renders a decision that this is how we
12 value property and you apply the same methodology, Level 3
13 Communications, we would also apply that to our other
14 telecommunications companies.

15 MR. MCKEAN: For the 2013-14 tax year, the tax
16 year we're discussing today?

17 MR. SCOTT: Sure. No. For the current tax year.

18 CHAIRMAN WREN: Let me stop the questioning just
19 to make sure I understand. Are you representing these other
20 taxpayers somehow some way, are you representing them here
21 today?

22 MR. MCKEAN: No.

23 CHAIRMAN WREN: Is the assessor of the county
24 representing them here today? I don't think so. So I don't
25 want to talk about them.

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1 MR. MCKEAN: You don't want to talk about
2 equalization between the counties?

3 CHAIRMAN WREN: No, that's not what I said. What
4 I said is I don't want to talk -- You asked if you could ask
5 questions and I've got you and I appreciate that. I
6 understand exactly what you're trying to get them to say,
7 which is fine, but it's not necessarily germane because
8 you're not representing those other taxpayers, nor are they
9 represented here, nor is Clark County represented here. So
10 let's not talk about them.

11 MR. MCKEAN: Mr. Chairman, there's been a lot of
12 talk about equalization and similarly-situated taxpayers are
13 entitled to equal treatment. And the clear evidence, not
14 just hearsay, the clear evidence is that taxpayers in Clark
15 County are being treated one way for the 2013-14 tax year and
16 taxpayers in Washoe County are being treated a different way
17 for the same tax year and I guess as long as --

18 CHAIRMAN WREN: You have that on the record.

19 MR. MCKEAN: Thank you very much. No further
20 questions.

21 CHAIRMAN WREN: Okay. Any questions?

22 MS. BUONCRISTIANI: I'd like to state for the
23 record that I don't think that issue was aired sufficiently.
24 I think that that has come up in the middle of a hearing.
25 The assessor who is before us isn't knowledgeable about that
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1 and the people who are being asked the questions in Clark
2 County came up unaware that anything was going to happen. So
3 if that's going to be an issue, I think that needs to be
4 something where everybody has a chance to have input as to
5 what is going on, instead of just a kind of a last minute
6 kind of a thing. Because nobody's attorney is here to
7 represent them in terms of what's going on.

8 MR. MCKEAN: I appreciate that. I think Lori
9 Goodman is the person who does the personal property
10 valuation for the telecommunication companies in Clark
11 County.

12 CHAIRMAN WREN: Okay. Very good. So back to
13 Storey County. I guess my original question was they have
14 made an offer of stipulation. Do you want to agree it to or
15 do you want to keep arguing the case? Isn't that what you
16 did.

17 MS. SEDDON: I asked for the stipulation that we
18 entered in to based on the verbiage that in the stipulation
19 to be withdrawn and amended.

20 CHAIRMAN WREN: Right.

21 MS. SEDDON: Yes. I just want to make sure we're
22 all on the same page.

23 MR. MCKEAN: And I guess for clarity, the
24 difference would be the conduit would be changed to 30-year
25 life and of course I'm not agreeing with that. I think it

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1 should be equalized between the county and the state.

2 CHAIRMAN WREN: Okay. That's fine.

3 MR. BANCROFT: But the alternatives, you know,
4 there's a stipulated agreement and there's this clause down
5 here that says I can back out of this stipulation in one
6 situation. That's not this situation. It's if this board
7 decides a 50-year life is correct, it goes back to the
8 original assessment of this property. That's not what she's
9 asking now. It's not the original assessment. She wants a
10 30-year life.

11 CHAIRMAN WREN: What page is the stipulation on?

12 MS. SEDDON: Actually I believe -- No, the board
13 doesn't have it. We -- Mr. Brown signed it yesterday. They
14 don't have an original copy with my signature on it yet.

15 MS. RUBALD: Mr. Chairman, Anita has a copy of
16 it. Do you wish to see it?

17 CHAIRMAN WREN: Yes, please.

18 Dawn, I guess it's late in the day for me. But
19 we've got a stipulation here that the petitioner agrees to
20 the above stipulation in the event that the methodology used
21 to develop the original assessment of this property is
22 upheld. Do we know what the original assessment is?

23 MS. BUONCRISTIANI: You can ask where it is.

24 CHAIRMAN WREN: Where is it?

25 MS. SEDDON: It's attached.

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1 CHAIRMAN WREN: Okay. I'll turn the page.

2 MEMBER JOHNSON: A question for you, Dawn. Do we
3 have to accept a stipulation?

4 MS. BUONCRISTIANI: We do have to approve it.

5 (The court reporter interrupts)

6 CHAIRMAN WREN: This is the first time we've ever
7 had a stipulation that says here's a stipulation, but if it
8 doesn't go my way it's null and void. Don't do that again.

9 MS. SEDDON: We're waiting for direction from the
10 board.

11 (The court reporter interrupts)

12 MS. BUONCRISTIANI: The stipulation still has to
13 be approved by the board.

14 CHAIRMAN WREN: Okay. I'm going to close the
15 case. I gave you guys the last word; right? Do you remember
16 that?

17 MR. MCKEAN: Yes. And thank you very much.

18 CHAIRMAN WREN: Thank you. I'm willing to
19 entertain a motion that we don't accept the stipulation and
20 then I would entertain a motion to assess these properties
21 exactly the same way we did with the other cases and
22 incorporate all the record and testimony from everything.

23 MEMBER MESERVY: On 14-377, so moved.

24 CHAIRMAN WREN: Is there a second?

25 MEMBER JOHNSON: Second.

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1 CHAIRMAN WREN: Discussion? All in favor say
2 aye.

3 MEMBER MESERVY: Aye.

4 MEMBER MARTIN: Aye.

5 MEMBER JOHNSON: Aye.

6 CHAIRMAN WREN: Aye. Opposed?

7 MEMBER HARPER: Nay.

8 CHAIRMAN WREN: Motion carries.

9 MS. RUBALD: Mr. Chairman, the next two are
10 stipulated agreements, Case Number 14-387 and 14-388. 14-387
11 is Nevada Bell Telephone Company doing business as AT&T
12 Nevada and 14-388 is AT&T Communications. The respondent in
13 both cases is Eureka County assessor.

14 CHAIRMAN WREN: Now, just to throw this fly up on
15 the wall, your stipulated agreement is not uniform with all
16 the other decisions we just made, is it?

17 MR. MEARS: Mr. Chair, Michael Mears for the
18 record. That would be correct.

19 CHAIRMAN WREN: Okay. So I just want to put that
20 on the record that that's true. That we also prior to these
21 had stipulated agreements that we were just stipulating to
22 the value. Now, is this stipulation just to value or is it
23 to the methodology you used to get to that value?

24 MR. MEARS: It is the methodology I used to get
25 to the value. I took the conduit and the fiber optic from a
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1 50-year life down to a 15-year life to come up with the new
2 assessed value that we stipulated to.

3 CHAIRMAN WREN: And is everything else in
4 accordance with the way we ruled?

5 MR. MEARS: Yes.

6 CHAIRMAN WREN: So having said that, given what
7 we've already done, we would just move that from 15 up to 30,
8 if we're staying in line with the other decisions made;
9 correct?

10 MR. MEARS: Yes.

11 CHAIRMAN WREN: Okay. So did everybody
12 understand what he said and what I said?

13 MEMBER MESERVY: Yeah. But they probably won't
14 accept the stipulations.

15 CHAIRMAN WREN: We don't have to accept the
16 stipulation. That's the reason I wanted to bring it up
17 first. I'm going to give you guys --

18 MEMBER MESERVY: And incorporate the other cases?

19 CHAIRMAN WREN: Yeah. I'm going to
20 incorporate -- No matter what we do, I'm going to incorporate
21 all the other cases and testimony. I'm just saying we need
22 to start being consistent here. We don't have to accept the
23 stipulation like we did the other ones because they were just
24 value and now the testimony this isn't value, this is
25 methodology.

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1 MR. MCKEAN: And I don't have anything else to
2 add to what we previously discussed, the equalization issue
3 among the counties.

4 CHAIRMAN WREN: Thank you. I'll close the case.
5 And I guess the easiest way to put it is entertain a motion
6 that we don't accept the stipulation but that we have the
7 assessor set the life on these at the same level as we have
8 the prior cases.

9 MEMBER MESERVY: On 14-387 and 14-388, so moved.

10 MEMBER MARTIN: Second.

11 CHAIRMAN WREN: Discussion? All in favor say
12 aye.

13 MEMBER MESERVY: Aye.

14 MEMBER MARTIN: Aye.

15 MEMBER JOHNSON: Aye.

16 CHAIRMAN WREN: Aye. Opposed?

17 MEMBER HARPER: Nay.

18 CHAIRMAN WREN: Motion carries. So if we take
19 the Band-Aid off your nose can you say aye?

20 MEMBER HARPER: No. Not as long as it's conduits
21 within 30 years.

22 CHAIRMAN WREN: Where are we? Next case.

23 MS. RUBALD: Mr. Chairman, we would move on to
24 the recommendations by the secretary to dismiss. And due to
25 the time, do you wish to continue the telephone companies? I
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1 do wish to bring to your attention Case Number 14-408, which
2 isn't telecommunications, and that gentleman is here.

3 CHAIRMAN WREN: Okay. How are we doing on time?

4 MS. RUBALD: Well, we're getting close to being
5 in trouble.

6 MEMBER HARPER: Mr. Chairman, this clock up there
7 on that side is right.

8 MS. MOORE: We're not in trouble yet. We're
9 almost in trouble.

10 CHAIRMAN WREN: Okay. So let's go ahead and
11 take -- Let's see if we can get the snowboard I guess, is
12 that what you're saying?

13 MS. RUBALD: Yes.

14 CHAIRMAN WREN: Let's see if we can get that
15 done.

16 MS. RUBALD: Therefore I'd like to call Case
17 Number 14-408 under Section I. Petitioner is Smoking
18 Snowboards, personal property. Washoe County is the
19 assessor, the respondent. And in this case the appeal was
20 filed late to this board.

21 CHAIRMAN WREN: And your recommendation was as
22 to?

23 MS. RUBALD: To dismiss the appeal.

24 CHAIRMAN WREN: Okay. So I need standard of law
25 for a late submittal.

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1 MS. BUONCRISTIANI: Standard for filing late to
2 the state board is whether there were circumstances beyond
3 the control of the taxpayer as to why you didn't file timely.

4 CHAIRMAN WREN: Okay. So identify yourself.

5 MR. QUINTIN: My name is Jay Quintin for the
6 record. Last name Q-u-i-n-t-i-n. And I don't have any
7 excuse for being late. I'm not trying to come up with a
8 bunch of excuses. The assessment is incorrect for the
9 property at my snowboard factory.

10 CHAIRMAN WREN: All we can deal with at the
11 moment is why you were late. We've got to kind of do this in
12 a certain order. It depends on whether we even hear your
13 case. Why were you late?

14 MR. QUINTIN: The moment that the gentleman told
15 me that I needed to talk about this, I went in that day and
16 talked to him and filed it that day within five minutes. So
17 I had a bookkeeper there told me that they had taken care of
18 it. They called me. I was in within 15 minutes. I went in
19 to the office, filed the paperwork and gave them the correct
20 information for my company.

21 The year before, I paid \$1300 when it should have
22 only been about \$700 because I'm new and I didn't know and I
23 just paid it. And you guys, from what I'm seeing here, you
24 guys want what's fair and what's fair is to charge somebody
25 for what their property is worth. I'm not trying to not pay
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1 my taxes. I just want to pay what it's worth.

2 CHAIRMAN WREN: Okay. I'm sorry. I've got to do
3 it this way. You were late and standard of law there has to
4 be a good reason you were late.

5 MR. QUINTIN: There is a good reason. I was
6 always taught not to give excuses, so I'm not trying to give
7 you an excuse. The reason --

8 CHAIRMAN WREN: Well --

9 (The court reporter interrupts)

10 MR. QUINTIN: Sorry. I don't want to lie. I
11 don't have an excuse. I was taught that as a kid not to make
12 excuses and I don't have an excuse.

13 CHAIRMAN WREN: And I appreciate that.

14 MR. QUINTIN: I know that's not what you want to
15 hear, but --

16 CHAIRMAN WREN: No, it is what I want to hear.
17 We have rules. We want to be fair, but we have real specific
18 rules we have to adhere to and one of those is timely
19 filings, okay. So we have to make a determination whether or
20 not we're even going to hear this case since it was late.
21 And your testimony is you were just late and I appreciate
22 that.

23 MR. QUINTIN: I've never -- I didn't know and I
24 would never be late again. I'm new to -- I'm new to
25 business. I'm a snowboarder and I'm selling a lot of
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1 snowboards and I'm trying to hold on to the reigns and it's
2 very difficult.

3 CHAIRMAN WREN: And you might get another
4 opportunity. Hold that thought.

5 Okay. I need a motion whether or not to hear
6 this case.

7 MEMBER HARPER: I'll make a motion in Case 14-408
8 that we not accept jurisdiction and hear the case because of
9 late filing. There was no reason given that would meet the
10 standard for late filing.

11 CHAIRMAN WREN: Is there a second?

12 MEMBER MARTIN: Second.

13 CHAIRMAN WREN: Okay. Comments? I just want the
14 petitioner to know that this isn't personal, that we have
15 things that we just kind of have to put our foot down --

16 MR. QUINTIN: I just want to say for the
17 record --

18 CHAIRMAN WREN: No, don't say anything.

19 MR. QUINTIN: For the record --

20 CHAIRMAN WREN: Don't say anything.

21 MEMBER JOHNSON: And I was going to say the same
22 thing, that we've had a lot of cases they've been filed late
23 and we have to uphold. We follow the rules unfortunately or
24 fortunately, but.

25 MR. QUINTIN: I respect that. Thank you for
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1 saying that. I feel like --

2 CHAIRMAN WREN: Wait a minute. All in favor say
3 aye.

4 (The vote was unanimously in favor of the motion)

5 CHAIRMAN WREN: Opposed? Motion carries.

6 Okay. Unfortunately we're not going to hear your
7 case.

8 MR. QUINTIN: Can I even say anything about it?

9 CHAIRMAN WREN: No. But you can come back next
10 year. File on time.

11 MR. QUINTIN: I feel like I'm being treated like
12 the Mafia. Pay \$20,000 when it's not true. It's not right.
13 It's not fair. It's not right, seriously. It's not fair
14 either. This is over \$600. It's ridiculous.

15 CHAIRMAN WREN: Next case, please.

16 MS. RUBALD: Mr. Chairman, the next cases are all
17 the telecommunications cases from 14-397 through 14-407 that
18 are listed in Section I. They involve Nevada Bell Telephone
19 Company doing business as AT&T Nevada and AT&T
20 Communications. The respondents in these cases are Humboldt,
21 Churchill, Lander, Lyon, Pershing and White Pine Counties.
22 And in each case the appeal was filed late to the state
23 board.

24 CHAIRMAN WREN: Okay. You've heard the standard
25 of law. Why did you file late?

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1 MS. BUONCRISTIANI: In this particular case, if
2 I'm understanding it correctly, a taxpayer, there were
3 circumstances -- there are circumstances listed that
4 regarding the late-filed appeal, but there are also legal
5 reasons why an appeal can be filed late. And so there are
6 two different things in this particular case that may be
7 under consideration.

8 CHAIRMAN WREN: Okay.

9 MR. MCKEAN: And I'm prepared to address both the
10 legal and the factual in my presentation here. In August,
11 Nevada Bell and AT&T stipulated to Washoe County and you've
12 heard those cases. Those are Cases 378 and 379 today, 14-378
13 and 379. As previously noted, the stipulations were based on
14 Washoe's recognition that Clark, Nye and Mineral Counties all
15 were using the 15-year life --

16 (The court reporter interrupts)

17 MR. MCKEAN: -- for telecommunications property.
18 On September 9th, Nevada Bell filed its late-filed appeals to
19 the state board. And in that appeal that you have before
20 you, it explained that the statutory deadline not bar
21 correcting unconstitutional assessment and the deadline is
22 told until the taxpayer knew its rights had been violated.

23 In our pleading before you, we cited a case,
24 Metropolitan Water case, which is 99 Nevada 506, 1983 case.
25 And it's an instructive case because there Metropolitan Water
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1 owned electric transmission lines in Clark County and for
2 nearly 40 years had been centrally assessed and taxed by
3 Clark County. In 1997 -- In 1979, after 40 years,
4 Metropolitan Water discovered that it was being treated
5 different than other similarly-situated taxpayers. It had
6 been taxed at historical costs without depreciation while
7 other property taxpayers were receiving depreciation on their
8 centrally-assessed property.

9 In 1979, after 40 years, it paid its tax under
10 protest and filed an appeal with the Department of Tax. And
11 Clark County argued the taxpayer was derelict in failing to
12 file on time and the Court disagreed. The Supreme Court
13 ruled in favor of the taxpayer. It said, and I quote, "The
14 water district had absolutely no reason to suspect it was
15 being singled out for discriminatory tax treatment.

16 To put the burden of investigation upon the water
17 district as respondents suggest would require the water
18 district to make gratuitous inquiries as to the methods used
19 to assess not only itself but other similar entities. It
20 would be unfair to impose such a duty upon a tax entity. And
21 we hold that no such duty exists.

22 The Court in that case, in the Metropolitan Water
23 case, ruled the limitations period was by law extended until
24 taxpayer knew or had reason to know that its rights to equal
25 tax treatment had been violated.

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1 Accordingly, this case the board has two
2 decisions. It can either view these petitions as being
3 timely or the board can exercise its general authority under
4 NRS 361.395 to equalize similarly-situated properties
5 throughout the state. And that statute specifies that during
6 the annual session of the state board, the state board shall
7 equalize property values in the state and must review the tax
8 rolls of the counties to do that. And here you've had ample
9 evidence by the various county assessors that there's a
10 differential treatment happening for the 2013-14 tax year.
11 And I think by taking jurisdiction of these petitions or by
12 entering, operating under a general equalization authority
13 these are unique circumstances where the taxpayer had no
14 reason to know and did not know until after it had stipulated
15 Washoe County and that's immediately thereafter we filed
16 these, they filed petitions. Thank you.

17 CHAIRMAN WREN: You didn't mention the Mafia
18 once.

19 MR. MCKEAN: I wrote it down.

20 CHAIRMAN WREN: Okay. So here is the -- I think
21 he has a good case, as I indicated, they have a good case for
22 us to take jurisdiction and equalize them as we have with the
23 prior cases. So what I'm willing to do is to incorporate all
24 testimony in all cases that we've heard previously today with
25 a motion and have you move that all of these properties be

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1 assessed similar to the same years that we put on the
2 previous cases, even though that Mr. Harper is opposed to 30
3 years.

4 MEMBER HARPER: I was just -- Do all of these
5 involve conduit that's being moved to 30 years?

6 MR. MCKEAN: Yes.

7 MEMBER MESERVY: So my motion would be I guess
8 it's section not including 14-408, is that how I can say it?

9 CHAIRMAN WREN: All the cases called.

10 MEMBER MESERVY: All the cases called would be
11 what you had just mentioned, one, to make sure that we also
12 accept the jurisdiction also. That's the first part of it.
13 Is that okay? And then that we unless-

14 MEMBER JOHNSON: Can we take a longer time?

15 MEMBER MESERVY: Yeah. Why don't we accept
16 jurisdiction? Can we do that?

17 MEMBER JOHNSON: One at a time.

18 MEMBER MESERVY: So my motion is on what was
19 called to accept jurisdiction.

20 CHAIRMAN WREN: Is there a second?

21 MEMBER JOHNSON: I second that.

22 CHAIRMAN WREN: Discussion? All in favor say
23 aye.

24 (The vote was unanimously in favor of the motion)

25 CHAIRMAN WREN: Opposed? Motion carries.
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1 MEMBER MESERVY: The question I have though is
2 were we supposed to let any of the assessors have anything to
3 say on that before we voted?

4 CHAIRMAN WREN: Well, we've taken all the
5 testimony. Are you going to change it?

6 MS. RUSSELL: I just wanted to thank you for
7 that. We all agree and we think it's fair to do this for
8 AT&T and I just wanted to let you guys know that.

9 CHAIRMAN WREN: Okay. Thank you. Do any of the
10 assessors dispute what the Elko assessor just said?

11 MS. GREEN: I'm retiring, so I can say it. Norma
12 Green, Churchill County assessor for the record. The only
13 thing I guess I dispute is the conduit because we've been
14 referring to the personal property manual and the 30-year
15 life, which if you deem it personal property I have no
16 problem with that. But if you stay conduit is real then I
17 think it should be the 50-year, where I think the conduit
18 should be 50-year.

19 CHAIRMAN WREN: And that's why I want to have a
20 workshop to address that specifically and put specific labels
21 on these. Churchill retiring.

22 MS. GREEN: Retiring.

23 CHAIRMAN WREN: Okay. Thank you. All right.
24 Dennis, with your second motion then.

25 MEMBER MESERVY: Well, I guess -- we didn't
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1 actually hear that case to know whether it was real property
2 or not. So that's a concern to me.

3 CHAIRMAN WREN: Well, what you did in all your
4 motions and I still agree and all the conduit at 30 years, so
5 let's be consistent with that. And I personally think that
6 there's some changes that need to be addressed and that's
7 going to have to be done in a workshop. Today we're being as
8 consistent as we can be with the information we have before
9 us.

10 MEMBER JOHNSON: I would just like to hear each
11 of them, we've got the assessors here, and make sure there
12 aren't any issues that are different. If they all are the
13 same, that's fine. But if there are some slight differences,
14 I just want to make sure we're not taking one paint brush and
15 painting across here.

16 MEMBER MESERVY: I think we should give them that
17 option, but if they don't want to come up and go through that
18 process.

19 CHAIRMAN WREN: I've already invited everybody
20 up. So they've already consolidated all of the testimony
21 that's been incorporated. And we're going to be consistent
22 with our motion as we have been in the previous cases.

23 MEMBER JOHNSON: Then can we just see if there's
24 any objection by either side to consolidate them all in to
25 one motion?

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1 CHAIRMAN WREN: We already did.

2 MEMBER JOHNSON: Okay. As long as there isn't

3 then I'm good.

4 MEMBER MESERVY: Okay. So then I would like to

5 make that motion on the Section I on the ones that have been

6 called that we incorporate the decisions we've used in the

7 previous cases in using the conduit systems at 30 years and

8 fiber optic 15, the computer-based five year and stay

9 consistent with all of those, as well as the shelter at 50

10 years.

11 CHAIRMAN WREN: Okay. Is there a second?

12 MEMBER MARTIN: Second.

13 CHAIRMAN WREN: Discussion? All in favor say

14 aye.

15 MEMBER MESERVY: Aye.

16 MEMBER MARTIN: Aye.

17 MEMBER JOHNSON: Aye.

18 CHAIRMAN WREN: Aye. Opposed?

19 MEMBER HARPER: Nay.

20 CHAIRMAN WREN: The motion carries.

21 All right. Thank you very much. I encourage you

22 guys if you would when you do these workshops --

23 MR. MCKEAN: The Mafia will be with us.

24 CHAIRMAN WREN: This is Nevada.

25 Okay. Terry.

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1 MS. RUBALD: Mr. Chairman, the next item is in
2 Section K and it's a report by the Washoe County assessor
3 regarding review of land values of similarly-situated
4 properties to the property described in state board Case
5 Number 14-240 located in Crystal Bay. You may recall that
6 this was heard, I believe, in May, the Case Number 14-240,
7 and a decision was made in that case but you asked the Washoe
8 County assessor to come back and report on any equalization
9 issues in Incline Village.

10 CHAIRMAN WREN: Okay. Thank you.

11 MR. LOPEZ: Good afternoon, Mr. Chairman and
12 Members of the Board. Rigo Lopez with the Washoe County
13 Assessor's Office. I could say that everything is really
14 good and there are no problems in Crystal Bay based on that
15 hearing that we had on May 19th, but I'm sure you probably
16 want a little bit more information, but I know we're short on
17 time. That's why I offer that up.

18 CHAIRMAN WREN: Okay. Thank you. Be as brief as
19 you can be. I appreciate it, as the court reporter is about
20 ready to kill me, I think.

21 MR. LOPEZ: I did go back through the minutes
22 regarding this and I know that the minutes are in the record.
23 And when I took a look at the minutes and read through it,
24 there was a lot of discussion regarding from the appellant at
25 that time and in over the equalization is where it came from
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1 because the appellant was referencing actual sale prices as
2 well as listing compared to his taxable value and the taxable
3 value of those other properties that he had gathered from a
4 local Realtor in the Incline/Crystal Bay area.

5 And given the fact that Nevada taxable value
6 system does not lend itself to a sales ratio study, you can
7 find that anywhere throughout the state and you're going to
8 find that exact same result. And I completely understand the
9 concern and confusion that the taxpayer had when he had
10 discussions with our office.

11 I also noted that in some of the questions and
12 comments that Member Johnson had on page 12 -- I'm sorry. On
13 page -- it was on page 20, and the comments there were
14 equalization with other similarly-situated properties. To me
15 that's the key. What I did is I went back and I looked at
16 those homes in the same neighborhood as the subject parcel
17 and we absolutely have the same base lot value of \$250,000
18 for all of those homes.

19 Crystal Bay is its own neighborhood and this is
20 absolutely including the lakefront parcels because that would
21 be another separate neighborhood. We have the same base lot
22 values in the Crystal Bay neighborhood. We have adjustments
23 for view. We have adjustments for lack of coverage. We have
24 adjustments for development costs. And we apply those
25 consistently depending on what stage those parcels are in as
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1 far as development stages.

2 So I feel comfortable with where our values are
3 and how we have established the base lot value based on sales
4 that have taken place in Crystal Bay. I did run some record
5 cards, if you wanted to look at those, that were on his same
6 street if you wanted to see those. But my testimony today is
7 that we have absolutely applied that consistently and equal
8 with, again to me the key was similarly-situated properties.
9 And if you have any questions based on that, I would be happy
10 to try and answer those.

11 CHAIRMAN WREN: Okay. Good. Thank you.

12 Does that answer your question, Ben.

13 MEMBER JOHNSON: It did. I appreciate that.

14 CHAIRMAN WREN: Okay. Perfect. Okay. Thank you
15 very much. Thank you for your brevity and your research.
16 Terry.

17 MS. RUBALD: Mr. Chairman, the last item is the
18 review of the tax rolls of the various counties, review of
19 valuation methods used by county assessors, consideration of
20 possible equalization action for the 2013-14 unsecured tax
21 roll and the 14-15 secured tax roll pursuant to NRS 361.395
22 and NRS 361.659.

23 And just to make it short in your record is the
24 ratio study that was performed this last year as well as the
25 decision letter of the Nevada Tax Commission with the various
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1 directives to assessors to do whatever corrections there
2 were.

3 And based on that ratio study and the directives
4 given by the Tax Commission, we don't have any further
5 recommendations for equalization at this time.

6 CHAIRMAN WREN: Perfect. That's what we want to
7 hear. Okay. All right. Thank you.

8 Okay. And again, given that, that's good.
9 Apparently we have some issues with the personal property
10 that you need look in to and you already indicated you're
11 going to be doing workshops to address that. So we look
12 forward to a comment on that at our next hearing.

13 Okay. Next item.

14 MEMBER JOHNSON: Can I just touch on that
15 briefly?

16 CHAIRMAN WREN: Sure.

17 MEMBER JOHNSON: We heard today equalization
18 issues relative to house and the telecommunication was
19 treated and our position is we equal -- we took care of it
20 today on an individual case-by-case basis and for
21 equalization purposes across the state we're asking the
22 department hold a workshop and uniformly assess all of the
23 telecommunications facilities fairly and consistently going
24 forward for future tax years. Is that a correct statement?

25 CHAIRMAN WREN: I think so. And also address the
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1 classifications of property, what is actually personal
2 property and what is personal property. I mean, what's real
3 property and what's personal property. So that everybody is
4 on the same page there.

5 MEMBER MESERVY: And especially with the
6 telecommunications area.

7 CHAIRMAN WREN: Yeah.

8 MEMBER JOHNSON: Okay. And that seems to be more
9 fair to me to do it, answer the questions and do it going
10 forward than to try it this year and try to equalize in the
11 county we didn't touch today and I think we should leave
12 those values in place and just as we get the answers deal
13 with it on a going-forward basis.

14 CHAIRMAN WREN: Okay.

15 MEMBER MESERVY: And if we saw a huge issue that
16 they come back to it, that that was a large dollar amount, I
17 have no problem with coming back and addressing it. Maybe
18 that workshop will fill us a little more in.

19 MEMBER JOHNSON: Is that a reasonable course of
20 action, Terry?

21 MS. RUBALD: Yes.

22 CHAIRMAN WREN: Okay. Terry.

23 MS. RUBALD: That concludes the agenda, I
24 believe.

25 CHAIRMAN WREN: Okay. Is there any public
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1 comment?

2 MEMBER MESERVY: Just for my sake on the
3 scheduling, this is not public comment, but we don't have any
4 until the March hearing? Is that the next?

5 MS. RUBALD: That's correct. When you adjourn
6 today you would be adjourned for this session.

7 MEMBER MESERVY: Thank you.

8 CHAIRMAN WREN: Have we heard all the cases for
9 this year, Terry? Are we caught up?

10 MS. RUBALD: Yes, we've heard all the cases.

11 CHAIRMAN WREN: Okay. No public comment. I
12 would like to thank the -- Terry, you and your staff for
13 doing a great job again this year. We'll give the court
14 reporter the Court Reporter Award of the year. Thank you
15 very much. Dawn, thank you for your legal assistance, as
16 always, keeping me out of as much trouble as you can. Board
17 members, thank you for your time, deliberation and good work.

18 Having said all of that, we are adjourned for the
19 year.

20 (Hearing concluded at 5:25 p.m.)

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1 STATE OF NEVADA)
)ss.
2 COUNTY OF WASHOE)

3

4 I, CHRISTY JOYCE, Official Court Reporter for the
5 State of Nevada, Department of Taxation, do hereby certify:

6 That on Thursday, the 9th day of October, 2014, I
7 was present at the State Board of Equalization for the
8 purpose of reporting in verbatim stenotype notes the
9 within-entitled public meeting;

10 That the foregoing transcript, consisting of pages
11 1 through 274, inclusive, includes a full, true and correct
12 transcription of my stenotype notes of said public meeting.

13

14 Dated at Reno, Nevada, this 1st day of November,
15 2014.

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CHRISTY Y. JOYCE, NV CCR #625

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