

Centrally-Assessed Properties.

COMMENTS BY THE GENERAL PUBLIC:

In accordance with the Open Meeting Law, Chairman Leberski asked for any public comments that members of the audience might have.

No public comments were submitted.

Chairman Leberski closed the period for public comments.

ACTION TO BE TAKEN ON APPEALS:

Walt Leberski explained the procedure for the hearing under the Nevada Revised Statutes and the Nevada Administrative Code.

Tape 1A Point 202 (2.6) Case No. 05-102

QUEENSTAKE RESOURCES

Case No. 05/102

Parcel No. : MM-004-13-3

SUBJECT MATTER:

This being the time set for hearing the petition of Queenstake Resources for review of assessed valuation on property. Queenstake Resources USA, Inc. appealed the taxable value placed on the 2004-2005 unsecured roll by the County Assessor as recommended by the Department of Taxation.

The Department of Taxation developed the original valuation in accordance with Nevada Revised Statute (NRS) 361.227 and (NRS) 361.260 using a replacement cost new, less depreciation methodology to value the buildings in reappraisal years and applied a trending factor to the values in non-reappraisal years. All personal property was valued using acquisition costs, trending factors and depreciation as indicated in the Nevada Person Property Manual. Additionally, the Department of Taxation considered obsolescent factors based on both an income indicator and prior year's purchase of the property.

Chairman Leberski noted the normal procedure was a brief orientation given by the State Department of Taxation and then a rebuttal by the Petitioner followed by a rebuttal by the State.

DOCUMENTS SUBMITTED BY STATE:

- I. Petition for Review
- II. NRS 361.227 Determination of taxable value, NRS 361.260 Method of assessing property for taxation, appraisals and reappraisals, NRS 361.357 Appeal to County Board of Equalization where full cash value of property is less than its taxable value.
- III. Nevada Dept. of Taxation Mining Property Appraisal, 2004-05 Unsecured Ad Valorem Transmittal.
- IV. Nevada Department of Taxation Letter dated January 28, 2005.
- V. Nevada Department of Taxation 2004-2005 Unsecured Ad Valorem Transmittal Mining Property Appraisal.

STATE'S REPRESENTATIVE PREVIOUSLY SWORN IN:

Bruce Gustafson, Department of Taxation Supervisor for Centrally Assessed Property.

Bruce Gustafson stated this case was for the 2004-2005 unsecured roll. He noted that this case involved their real property improvements and personal property located at the mine site in Jerritt Canyon. He stated that the property was located 39.5 miles Northwest of Elko at Section 10, Township 40 North, Range 53 East. He stated this case was identified by the Department of Taxation as #4053-10-001 and by the County Assessor's Office as parcel/roll number MM-004-13-3. Bruce Gustafson stated this property was appraised by the State of Nevada. He commented that the Department of Taxation initially did a replacement cost, less depreciation valuation and performed a discounted cash flow analysis for the property. The Department of Taxation assigned the taxable value of \$20,997,160.00 to the property with an assessed value of \$7,349,010.00. Bruce Gustafson reported that valuation was sent to the Elko County Assessor.

Bruce Gustafson stated that when the Taxpayer received the bill, the Taxpayer filled a Petition of Appeal with the County Board of Equalization. He noted that the Taxpayer indicated that there was certain property out there which was no longer in use, in terms of buildings. The Taxpayer also provided the Department of Taxation with a revised list of their assets and they had assigned values to those various assets. Bruce Gustafson stated the Department of Taxation re-computed the fixed and the mobile equipment based upon that information. He reported that the Department of Taxation reassigned obsolescence to the improvements at approximately 60%. He stated this information was reviewed with the Taxpayer. Bruce Gustafson stated that the value assigned to the property after considering the information provided by the Taxpayer was \$19,150,530.00 net, with an assessed value of \$6,702,680.00. Bruce Gustafson stated that after review of this information, the Taxpayer signed an Agreement (Exhibit #4) indicating that they accepted that value. He stated that the Department of Taxation had revised the value and on Exhibit 5 hand carried a transmittal to the County Assessor in those amounts. Bruce Gustafson stated the Department of Taxation requested that the Board of Equalization approve that valuation.

Board Member Kelly Buckner inquired what year that tax was for. Bruce Gustafson replied from the 2004-05 unsecured roll.

Chairman Leberski asked if there was anyone from Queenstake who wished to add any comments to the record. Bruce Gustafson reported that no one was present from Queenstake. Chairman Leberski clarified that Bruce Gustafson was asking the Board of Equalization to approve the

value as agreed upon by Queenstake. Bruce Gustafson replied in the affirmative. He stated that value was indicated upon Exhibits 4 & 5. He noted that upon Exhibit 5 there was a transmittal indicating both the taxable value including pollution control and assessed values.

DOCUMENTS SUBMITTED BY PETITIONER: None

PETITIONER'S REPRESENTATIVE: None

RECOMMENDATION:

The Department of Taxation recommends the current taxable value be revised to \$27,945,920 and the assessed value be revised to \$9,781,070 before the exemption of pollution control property with a taxable value of \$19,150,530 and assessed value of \$6,702,680 after the exemption of pollution control property.

(State's Exhibit V).

TAPE 1A, POINT 8.3, CASE 05-102

DECISION

Board Member Kelly Buckner moved that the Board accept the State Assessor's value placed on the property for the 2004-05 with a value of \$19,150,530.00 and an assessed value of \$6,702,680.00.

Board Member Wes Bowlen seconded the motion.

The Motion was carried by the following vote:

Voting Aye: Chairman Leberski
Member Plank
Member Bowlen
Member Buckner

Voting Nay: None

Abstaining: None

Absent: Member Winer

Tape 1A Point 9.5 Case 05-112

KENNETH D. & EVA M. WELLINGTON

Case No. 05-112

Parcel No. 074-008-030

SUBJECT MATTER:

This being the time set for hearing the petition of Kenneth D. & Eva M. Wellington for review of

assessed valuation on property described as follows: Parcel No. 074-008-030.

PETITIONER DULLY SWORN: KENNETH (KEN) D. WELLINGTON

DOCUMENTS SUBMITTED BY PETITIONER:

- F. Summary
- G. Sketch - 2nd Floor, Family Room
- H. Sketch - 2nd Floor, Hallway
- I. Sketch - 2nd Floor, Craft Room
- J. Sketch - 2nd Floor, Storage Area
- K. Statement - 230.9 square feet difference
- L. Proper perimeter boundaries
- M. Assessor's 2004-2005 tax list
- N. Summary of Events
- O. Statement - Actual Construction Costs

DOCUMENTS SUBMITTED BY ASSESSOR:

- I. Assessor's Summary
- II. Maps/Photos/Plans
- III. Cost Approach to Value
- IV. Market Approach to Value
- V. Permit Information
- VI. Financial Information
- VII. Recommendation
- VIII. Correspondence Information
- IX. Overview Map of Area
- X. Dimension Sketch on Submitted Plans
- XI. Re-figured Revision of Cost Estimate

APPRAISER, PREVIOUSLY SWORN IN: JANET IRIBARNE

Janet Iribarne, Elko County Appraiser, being previously sworn in, noted for the record that the Assessor's Case number was 05-112. Ms. Iribarne described the property located at 284 Ashford Lane Spring Creek, Nevada. It is located in Spring Creek Association Tract 109 approximately 16 miles South of Elko, Nevada. She stated it was in the Greencrest Drive area just south of the animal farm in Block 8 Lot 30. Janet Iribarne stated that the lot size was 8.08 acres. She stated the single family residence was calculated at 4,475 square feet.

Janet Iribarne stated the reason for the appeal was that the Petitioner felt that his land and improvement values were over assessed. She noted the Petitioner said he had proof of the over assessment. She stated that the taxable land value on this property had been set at \$20,000 since 1996-1997. Janet Iribarne stated that the improvement value was calculated in July 2003 for a taxable value of \$283,250. She noted that this value had not been changed except for the improvement factor

for 2005-06 which has been applied equally to all improvements in Elko County.

Janet Iribarne stated in November 2004 Petitioner denied the office access to the property. She stated that they have been unable to examine the property for errors. The Petitioner had informed their office that he had an appraisal done by a private appraiser but was not comfortable showing them the information in that appraisal.

Ken Wellington submitted folders to each of the Board Members, Clerk and the Assessor's Office containing Exhibits numbered 1-10. The Board accepted the exhibits and the Clerk marked the Petitioner's Exhibits A-J.

Ken Wellington commented that this started in November 2004 when they noticed a major increase in their house payment because their property taxes had gone up. He stated that he had called the Elko County Assessor's Office because he had a problem with the Appraiser which had come out or left some business cards in the early Spring or late Winter of 2004. Ken Wellington stated he was twenty-seven years retired from the Las Vegas Metropolitan Police Department. Ken Wellington stated that they chose to retire in this community. However, they have some small business that they were involved in within the Las Vegas area. Ken Wellington stated that they travel to Las Vegas, Arizona and Southern California for the businesses. He stated that in April or May when he was sweeping off his front porch and he found a business card from the Elko County Appraiser. He stated on the back of the card was a handwritten note that indicated that it was the second notice that they were at that location . . . stop avoiding the contact and to contact them as soon as possible. Ken Wellington stated that he called the telephone number on the card and spoke to the Appraiser, whom he believed her name was Janet. Ken Wellington stated the Appraiser was rude on the phone. He told her on the phone that they were not in the Elko area all the time because they had businesses. He had told her that he was not avoiding her and had called her as soon as he had found the business card. Ken Wellington stated the Appraiser accused him of being a liar. He stated at that point the phone conversation ended with him telling her that she was no longer welcome on their property nor was anybody from the Elko County Assessor's Office, unless he was present. Ken Wellington stated they had their occupancy since September of the prior year. He stated that they had been in the house and assumed all the paper work from the occupancy and the building inspectors had been forwarded to the Assessor's Office. Ken Wellington stated that obviously by her (Janet Iribarne) going out to the property and looking into the windows she could see the furniture within the residence. He stated that in November when he had contacted the Office his initial call was to find out how they determined the value of his property. He was sure that there were paperwork or public records which would show that information to him. Ken Wellington stated that the Appraiser immediately put him over to her supervisor because Joe Aguirre was not in the Office. Ken Wellington stated his phone call was given to a girl named Katrinka in the office. He stated that he could hear the Appraiser in the background when he was trying to talk to her. He felt the conversation was going downhill. He requested her to send him the paperwork on how they appraised his property so he could consult with an attorney and see if it was fair or not fair. Ken Wellington noted that Katrinka at that time stated that he should have a copy of the appraisal done by the bank for his financing. He stated she refused to send the paperwork on what the Appraiser had done without him sending the appraisal from his financial institution. Ken Wellington stated that he would not send that to her and he did not have to produce that to her. Ken Wellington stated that he ended that

phone conversation because the conversation was going downhill. He asked who was her supervisor and asked if he could contact the County Manager. Ken Wellington stated that Katrinka gave him the County Manager's phone number. Ken Wellington commented that he had attached a summary of that phone conversation in the Summary of his report (Petitioner's Exhibit A). Ken Wellington stated that after Joe Aguirre got back he made a phone call to him and told him of the problem that he had with Katrinka and his Appraiser. He reiterated that all he asked for was how they determine the value of their home and asked if he would send him that paperwork. Ken Wellington stated that he informed Mr. Aguirre that they had tried to coerce him into releasing a copy of the appraisal from his financial institution. He was informed that was not a common practice. He stated that within two days he had received a packet from Joe Aguirre showing how the appraiser had reached those values.

Ken Wellington stated that he started going through the packet and then called Joe Aguirre. He asked Joe Aguirre if he felt the value placed on the home was fair. Ken Wellington felt that the Appraiser was being prejudice because of the phone conversation which had taken place early in the Spring when he told her not to come on the property. Ken Wellington had told Joe Aguirre that he did not want any appraisers on that property but he was more than welcome to come out when he was present. He stated then Mr. Aguirre could do whatever measurements they wanted to do at that time. Ken Wellington stated that Joe Aguirre had commented that he would review the packet and get back with him. He stated that Joe Aguirre advised him that he needed to file the petition so that he could come to this Board and contest the appraisal.

Ken Wellington stated under section 1 (Petitioner's Exhibit 1) were the e-mails that started the conversation between him and Mr. Aguirre. He stated that by January 11, 2005 he had not heard back from Mr. Aguirre so he sent an e-mail checking to see if Joe Aguirre had reviewed his taxes to see if they were fair. Ken Wellington stated all he wanted Mr. Aguirre to do was to check over her work. He felt that she was prejudice. Ken Wellington stated he received a response back from the Appraiser stating that they had doubled checked the components, and figures. He noted she had written "*Since this was an addition to the plans submitted and was never inspected by our office in it's completion, it is possible that the area calculated is not exact.*" However, in Section 9 (Petitioner's Exhibit I) was a Summary of the Events which was given to him when he asked Mr. Aguirre for copies on December 3, 2004. Ken Wellington pointed out that on the June 17, 2003 entry by the Elko County Appraiser, she did have access and did measure the upper floor since they were altered. He noted that in the e-mail the Appraiser had asked to come back on the property because they did not have a chance to take measurements. Ken Wellington stated his response back to Joe Aguirre was that he had received the Appraiser's e-mail but did not want to speak to her. He wanted to speak to Joe Aguirre. Ken Wellington noted that Joe Aguirre had told him that he would review it. He stated from then Joe Aguirre's response went downhill.

Board Member Kelly Buckner inquired if on June 17, 2003, did Ken Wellington agree that the property was 53% completed at that time. Ken Wellington replied yes, it was right at 53% and was not completed.

Ken Wellington commented that Joe Aguirre's response was that he was trying to give him the best advice that he could offer. Ken Wellington did not feel that he had received any advice. He stated that the only advice Joe Aguirre had given him was to come before this Board. Ken Wellington stated that all he wanted Joe Aguirre to do was to review it. He stated that Joe Aguirre commented that the

direction he was going was not in his best interest. Ken Wellington stated he immediately took offense to that comment. He stated that he had nothing to lose to stand in front of this Board. He asked what would they do, raise his taxes? Ken Wellington stated he was here to explain why he felt that he was over taxed and over appraised on his property.

Ken Wellington stated in Section 2 (Petitioner's Exhibit B) he went to the second floor. He noted the Appraiser stated the total footage of the second floor was 1632.5 square feet. He did not know how they came up with that amount of square footage. Ken Wellington stated that the one hallway was not shown and the width was not depicted. He stated all the figures that she had in there did not match that figure. Ken Wellington stated that the County Appraiser showed the width of the first room at 30 feet. He noted the actual width was 29.8' and when multiplied with 19.5' which he had an actual of 17' then there was a 78.4' square foot difference in his favor. Ken Wellington stated that when they go through sections 3,4,5, and 6 (Petitioner's Exhibits C, D, E, and F) which was the entire upstairs, the measurements were all wrong. He commented that made the upstairs square footage off in his favor of 230.9 square feet. Ken Wellington stated on 6/17/03 she measured those rooms upstairs. He stated that there was no carpet up there but all the walls were completed. He stated that she had full access to that area to take the measurements of that second floor. Ken Wellington stated that he went with the second floor because that was his concern. He understood that she stated there was a modified section of plans. Ken Wellington stated he was the owner/builder on the building. Ken Wellington stated that he had hired licensed contractors to do some of it but he and his father did a lot of the work on it to try and keep the costs down on this residence. Ken Wellington stated that he built the home for \$240,000.00. He stated that he had a \$250,000 note and with closing costs, etc., he was just at \$240,000.00. Ken Wellington stated when he talked to Katrinka back in November initially on this he told her that he did not understand how they came to these figures because he had receipts showing he was just over \$240,000.00 on his home. Ken Wellington stated that Katrinka told him he had to add on contractors' fees. He stated that Katrinka explained to him that her husband was a contractor and that was how it was done. When you do the figures, you add in the costs for replacement with the contractor costs. Ken Wellington informed her that he would not have a contractor because he could do that himself. He stated that he hired licensed people for framing, sheet rock, etc.

Ken Wellington noted in section 10, (Petitioner's Exhibit J) he had Residential Estimate (Respondent's Exhibit 3 pg 11) given to him by Mr. Aguirre in the packet. He assumed that the Appraiser had filled this out or someone from the Assessor's Office regarding plumbing fixtures, a shingle roof, sub-floor, floor coverings, etc. Ken Wellington stated in going through the figures he noted they had added on the contractor's fees. He stated that with regards to the \$240,000.00 amount he had previously told them about, he did not have contractor discounts. He stated when he went to Franklin Lumber he did not receive discounts on his lumber, etc. He paid for those costs out of his pocket. Ken Wellington stated in the Residential Estimate it showed plumbing fixtures. He stated that for some reason she looked in and sees plumbing fixtures and she figured it at \$16,931.00. Kelly Buckner noted in Section 10 it showed the figures. Ken Wellington stated if the \$16,931 was correct his wife wished she had plumbing fixtures for that amount. He stated they had a plumbing bill for \$9,840.00 but a lot of the fixtures they picked up at Home Depot such as for their sinks, etc. He stated that there was no way they could have reached the \$16,931.00. Ken Wellington stated they add that into the plumbing rough-ins.

Kristin McQueary of the District Attorney's Office felt it was the appropriate time to bring the Board's attention to Nevada Administrative Code (NAC) 361.128 *Improvement and replacement of improvement: Determination of costs*. Kristin McQueary stated that subsection 1 stated that: "The cost of replacement of an improvement must include all costs for labor, materials, supervision, contractor's profit and overhead, architects' plans and specifications, sales taxes and insurance." Kristin McQueary noted that subsection 2 stated that: "In determining the costs of an improvement, the County Assessor shall: (a) For rural buildings, use the standards in the Assessor's handbook entitled *Rural Building Costs as adopted by the Commission*." Kristin McQueary stated that meant the Tax Commission. She read: NAC 361.128 (b) *For other improvements, use the standards in the cost manuals, including modifiers of local costs, published through or furnished by the Marshall and Swift Publication Company, as they existed on October 1 of the year preceding the closure of the roll for the appropriate assessment year, if the Executive Director approves it for use by County Assessors in determining the costs of improvements. A computer program for determining cost furnished by the Marshall and Swift Public Company may also be used. Other computer programs for determining cost which are based on costs published by the Marshall and Swift Publication Company may be used with the prior approval of the Executive Director.*" Kristin McQueary stated that was the Executive Director of the Tax Commission.

Chairman Leberski asked if Ken Wellington understood what Kristin McQueary was stating. Ken Wellington replied no. He inquired if they used set fees. Chairman Leberski stated that basically the Assessor was instructed to use Marshall and Swift which adds labor and materials together. He stated that probably Mr. Wellington was discounting the labor. He felt that summarized the situation. Ken Wellington stated that was what the subcontractor cost him to do that and that was the receipts which were in the packet so he was not discounting labor.

Kristin McQueary stated that the Assessor's Office, pursuant to Nevada Administrative Code and Statutes, had to apply a factor equally across the board. She stated that how the factors were determined were in this Nevada Administrative Code in which the State Tax Commission had adopted this Administrative Code based upon the Marshall and Swift Publication. She stated that even though actual cost may be lower on one, it was a value rather than a cost. Ken Wellington inquired if that was set on the cost of living for that area or was it statewide. Katrinka Russell stated it went by area. Kristin McQueary stated the factor was what the State people adopted for the County. She stated that the Assessor had to agree if that factor was appropriate for his County or not. Joe Aguirre stated it was by area. However, last year they did it statewide. Joe Aguirre noted that the definition of the area changed from year to year. He stated last year they gave them the factor for the whole State of 2.5%. He stated this year the area was divided into six different areas ranging from 10% to 14% increase throughout the State.

Board Member Al Plank noted that Mr. Wellington stated his actual costs were lower because he did not use a general contractor but the Administrative Code states to assess the property with replacement values. In using replacement values those were defined in the NAC to include a general contractor's markup. He inquired if that summarized the situation? Kristin McQueary stated that was the cost of the replacement of an improvement. She stated that the replacement cost was the basic standard and for rural buildings they were to use the standards in the *Rural Building Costs* as adopted by the Tax Commission. Kristin McQueary stated that the Assessor's Office could use Marshall and Swift

Publications, Marshall and Swift computer programs, or other computer programs based on Marshall and Swift. Kristin McQueary stated it was basically Marshall and Swift multiplied by the factor which was adopted by the Tax Commission for our particular area.

Ken Wellington stated that for floor covering the Appraiser submitted paperwork stating hardwood floors, granite counter tops and ceramic tile. He stated that did not give square footage or the rooms that it was in. He stated that led you to believe that it was throughout the entire house, which was not so. Ken Wellington commented that the Appraiser did the floor allowances at \$32,310.00. He stated that it did not say how many square feet were hardwood floors or what type of tile it was. He stated that in his packet there was a receipt for carpet which broke down the square footage. Ken Wellington stated that in the entire building there were only 1390 square feet of hardwood floor. He stated that his bathrooms were tiled. Ken Wellington stated in the Appraiser's report and in the paperwork he received from Mr. Aguirre it led you to believe that there was no carpet in this house. He stated therefore the price that she tagged on there was \$32,310.00 when his actual cost with carpet was \$19,836.00.

Board Member Kelly Buckner asked that he repeat that. Ken Wellington replied that according to the Appraiser the floor cover allowance was \$32,310.00 in the Residential Estimate (Respondent's Exhibit III pg 11). He asked if that was the right line? He stated that in the paperwork submitted to him by Mr. Aguirre it did not state how much square footage was for the hardwood floors. He assumed that she knew that there were granite counter tops because she had been in the house or looked in the windows to do her appraisal.

Board Member Kelly Buckner clarified that for floor cover allowance he was saying it was \$32,310.00. He stated that did not break it out whether it was carpet, wood or whatever they might be. He stated that Ken Wellington also indicated that there was tile in the house. Ken Wellington commented that was in the other paperwork that he had received from Mr. Aguirre's Office. He stated that was in the residential building records which stated granite counter tops, hardwood floors, ceramic tiles but carpet was not placed on there. Ken Wellington stated he assumed she did that because it was upgrade to the property. Board Member Kelly Buckner asked Mr. Wellington if he did have granite counter tops and tile. Ken Wellington replied that he had ceramic tile in two bathrooms. He had hardwood floor on 1390 square feet of that home and the rest was carpet. Ken Wellington stated upstairs they had downgraded the carpet.

Board Member Al Plank noted the total line item (floor cover allowance) was \$32,310.00. He inquired what the sub-floor was. Ken Wellington stated it went to sub-floor. He stated that when he went through the receipts and looked at her paperwork he realized it went to sub-floor. Ken Wellington stated he went through L & S to do the concrete which cost approximately \$17,000 for the sub-floor. He stated that was with a licensed contractor. He stated that he could go back and forth through theses different parts with his costs on the flooring. Ken Wellington felt that the Appraiser had upgraded his house because she thought it had hardwood floors and she was appraising it higher. He stated that he had a problem with that. Board Member Al Plank felt that the paperwork actually indicated that the floor cover allowance per the Assessor's Office was \$17,000.00 and his invoice was \$19,000. Ken Wellington agreed and stated that was with the downgraded carpet upstairs and the hardwood floors. Ken Wellington stated that he could go back to the sub-floor and say he had a \$17,000 receipt from his licensed contract for doing the footing so now he has more money back the other way.

Board Member Al Plank inquired what the definition was for the raised sub-floor. He asked what components were included in that? Janet Irbarne, Appraiser, replied she believed that it was the complete raised floor construction everything the hardwood floor but not the floor covering. She stated that she did have her Residential Cost Handbook if they wanted to break it down. Ken Wellington stated he would get off of that because he was beating it up.

Ken Wellington stated under Section 8 (Petitioner's Exhibit H) there was a copy of the Elko Daily Free Press which was put out by Mr. Aguirre in December. Ken Wellington stated Mr. Aguirre's note in the paper claimed that if you went through the list to see if there was comparable property and if so then they should do what he was doing. He noted on the second page of the exhibit was a perfect example of that. He had gone to Mr. Gerber's house which was on the marina which was a bigger house than his and overlooked the marina. He noted that Mr. Gerber's tax was set lower than his. Ken Wellington stated on the next page was the Davis home which sat on the corner of Spring Creek Parkway and that included their house with a barn, and two car garage which was much lower. Ken Wellington stated that he assumed it was lower due to the square footage.

Ken Wellington stated with regards to the summary under Section 9 (Petitioner's Exhibit I) he would like to make a note that obviously the Summary of Events was completed on 11/17/04 when he initially filed a complaint because of the last sentence. "She had not heard from him until today." Ken Wellington stated that she had dated it that day. He understood that after their conversation she would send him a copy of the dimension or sketch. Ken Wellington stated he had received two things from the Assessor's Office. He stated one package was dated February 3rd or February 1st which was the package he requested from Joe Aguirre. The other one was the notice for him to be at this hearing. Ken Wellington stated that he did not know what she was talking about because he had not received any sketches or anything from the Assessor's office because the telephone conversation did not end in that manner. Ken Wellington stated he had asked the Assessor to look at this. Ken Wellington stated that: "If this Board feels this was a fair tax on this property, then so be it, I'm done." Ken Wellington stated that if the Board felt that this property was over taxed, and he felt it was because of a retaliatory due to the conversation that happened last Spring. He felt it went downhill because of the things that occurred in November. Ken Wellington stated that he had filed a formal complaint with Mr. Aguirre on both Katrinka and Janet. He did that with his letter requesting this hearing. Ken Wellington stated he did that for a purpose. He stated he had been in public service for over twenty-seven years before he retired. He commented that if someone in his office was to treat the public as he was treated then they would not have worked there anymore. Ken Wellington thanked the board for their time and dedication.

Chairman Leberski inquired if his basic complaint was about the size. Ken Wellington stated size and it was comparable to Mr. Gerber house, which was a larger house than his and he was taxed lower. Ken Wellington felt that a fair price on it for reconstruction of that house was \$240,000 or maybe \$248,000 tops for him to rebuild that house again. Board Member Al Plank inquired what that would equate to for a square footage cost.

TAPE 1 SIDE B

Ken Wellington stated using a \$245,000 figure the cost to do that would be approximately \$57.72 per square foot. Board Member Al Plank noted that the Assessor's cost was approximately \$64.00 per square foot.

Board Member Wesley Bowlen stated he was really familiar with a person building their own residence. However, he stated the Board was governed by law. Board Member West Bowlen stated to his knowledge, the Assessor had the right to do it either on replacement value or market value whichever fits the situation. He stated that the Appraiser had to do it by Marshall & Swift. He stated unfortunately somebody who was astute as he was usually got bitten on the backside. Board Member Wesley Bowlen commented that Ken Wellington saved quite a few thousands of dollars but when it comes time to pay the taxes and to evaluate on the taxes he would get bitten on the other hand. Board Member Wesley Bowlen noted that they had appraised Ken Wellington's property at \$259,000. Board Member Wesley Bowlen asked Ken Wellington if he thought that amount was in error and would he sell that property for \$259,000 on the retail market? Ken Wellington commented that right now with all the things going on and with the taxes they were at the point of getting rid of it. Ken Wellington stated that they would not sell it because it was their retirement home. Board Member Wesley Bowlen asked that Ken Wellington forget the fact that he wanted to retire there. He asked Ken Wellington if he thought the value of \$259,000.00 was right or did he think it should be higher? Ken Wellington replied that he would hope the value of that house would be higher. Board Member Wesley Bowlen noted that was where Marshall & Swift came in. He stated that the market value of that home would be higher. Ken Wellington inquired if Wesley Bowlen thought the market value in this community would generate that house selling for that price? Board Member Wesley Bowlen replied in the affirmative. Ken Wellington noted that his wife was in real estate and they did not believe that price would go with the way things were going up here. He believed that houses were sitting for long periods of time because of employment. Board Member Wesley Bowlen stated he would not debate that but commented that he had good friends that were real estate people who would say the opposite. Board Member Wesley Bowlen noted that his point was Ken Wellington was not the first one that came in here and got bitten by the way he did it. He noted a number of people had come in here with the same situation. Board Member Wesley Bowlen stated that when they have to apply the law, then they get bitten by the taxes. He reiterated that the Board was governed by law. Board Member Wesley Bowlen noted that Ken Wellington had gotten into a personality conflict with the Assessor's Office. He stated in his opinion that did not do him any good. He stated that by refusing the Appraiser to go on his property and appraise it, and it would do more harm to himself. Board Member Wesley Bowlen noted that Ken Wellington had commented in his e-mails that the Assessor should not have his job if he could not do the job that the Appraiser did. Ken Wellington stated that was not what he said. He stated that if the Assessor could not overrule the Appraiser that worked for him. Board Member Wesley Bowlen reviewed the e-mail and noted that Ken Wellington did not use the word "overruled." Board Member Wesley Bowlen read a portion of Ken Wellington's response to Joe Aguirre's email dated January 12, 2005: "I was unaware that you were not qualified enough to supervise your own elected office." Ken Wellington stated that he had gotten that from his (Joe Aguirre's) paragraph before. Board Member Wesley Bowlen relayed a story of when he was working in Ely. He stated he met a person who had an eighth grade education but he was a millionaire and owned a mine in Ely. Board Member Wesley Bowlen had asked the individual how he got the job done and received the reply that he hired people to do the job to get the end result. Board Member Wesley Bowlen understood that Ken Wellington was in law enforcement but he did not believe that Mr. Wellington knew every job that was in law enforcement. He did not believe any good managers or supervisors probably knew everything that was going on. He

stated that was why they have others to do the work. However, if the Manager or Supervisor came up with the correct end result and knew approximately how they came up with that result, then they were good managers. Board Member Wesley Bowlen felt that Joe was very well qualified to do his job. He believed that by not allowing the Appraisers to go on the property would hurt him. Ken Wellington stated that they were on his property. Board Member Wesley Bowlen noted that he had stated he would not allow these people on his property. Ken Wellington stated that Mr. Aguirre could come out to his property. Ken Wellington asked if Joe had a license. Board Member Wesley Bowlen replied he did not know. He stated Joe was not the Appraiser. He stated that if they exclude the Appraisers then Joe could not do the job. He believed it would be like asking the District Attorney to go out and do the investigation on a drug store crime. Board Member Wesley Bowlen stated in his opinion he felt Ken did a lot of harm by not allowing the Appraisers on the property to do their job. Ken Wellington stated that she was on his property in June 2003. He stated the only ones that he did not want on that property was the Appraiser that he had the problem with or Katrinka. He asked if those were the only two appraisers in Elko County. Board Member Wesley Bowlen stated they could not change Appraisers as per personalities on each person that says their taxes were not right or did not like the Appraiser, because the job would not get done.

Board Member Kelly Buckner asked Kristin McQueary if a taxpayer refuses to allow an Appraiser, for whatever reason personality or otherwise, to appraise the property or to examine the property was there any statute or law with regard to the function of the Board of Equalization in that case? Kristin McQueary read into the record: Nevada Revised Statutes 361.345 (2) *If a person complaining of the assessment of his property has refused or, without good cause, has neglected to give the county assessor his list under oath, as required by this chapter, or has refused entry to the assessor for the purpose of conducting the physical examination required by NRS 361.260, the county assessor shall make a reasonable estimate of the property and assess it accordingly. No reduction may be made by the county board of equalization from the assessment of the county assessor made pursuant to this subsection.* Kristin McQueary stated that this Board needed to determine what "good cause meant" in this circumstance.

Chairman Leberski asked that the Assessor's Office give testimony at this time.

Janet Iribarne, Elko County Assessor, noted that Mr. Wellington had a problem with the second floor measurements and she had a problem with those measurements. She stated that was why she wanted to reinspect the property. She passed out a supplemental sheet (Respondent's Exhibit X). Janet Iribarne stated that this (Dimension Sketch-Petitioner's Submitted Plans) was submitted to the building department. She stated that the Wellingtons submitted a sketch with the second floor showing 2260 square feet in September of 2004. Janet Iribarne stated when she went through and made her measurements it was framed but there were no actual walls or sheet rock up. She explained that the Assessor's Office did not pick up any area that was under 6' in wall height. Janet Iribarne asked the Board Members to look at her Exhibit II page 9 wherein her sketch showed only 12 feet across the top of the garage. She noted that Mr. Wellington's showed 23 feet. Janet Iribarne commented that on the left-hand side of the wall she had a 17-foot measurement versus the 20 feet that the Petitioner's plan suggested. She stated that this (Petitioner's sketch) was not available to her until after she had already appraised the property. Janet Iribarne stated that she did want to go back and double check those second floor figures. She explained that was why she kept going back to the property and leaving her

card. She did not realize that he did not live here. Janet Iribarne commented that she did send the sketch on page 8 (Assessor's Exhibit II pg 8). She stated that was standard procedure, to send a sketch of the home because there were a lot of homes that she was not able to get inside of. She also sent page 11 which was the Residential Cost Estimate to him and asked if there were any errors or concerns that he may have but she did not hear back from him. Janet Iribarne stated she went with these figures even though she did not feel comfortable with them. She stated that those figures have not been changed nor had she changed the value on this property since the time she originally appraised it in July of 2003. Janet Iribarne noted that he had suggested that she was vindictive of trying to raise his value because he would not allow her on his property. Janet Iribarne reiterated that she had not changed the value since she did the original appraisal. She felt they had previously discussed the sub-floor and the floor covering allowance. She stated that they had \$17,676.00 and Mr. Wellington had indicated that he had spent \$19,836.00 on that particular item. Janet Iribarne felt that this appraisal was more than fair, in his point of view. She stated that there were things that she had left off. Janet Iribarne stated that she did not add in the air conditioning. She stated that when she went out there, there was no brick work on the front of the home and she had left it at 100% vinyl siding. She believed that a driveway had been poured in front of the garage which she had not included. Janet Iribarne stated that there was a road constructed from Ashford Lane to his home that was not included. She reviewed Assessor's Exhibit II page 13 which was verbatim from the Marshall and Swift Cost Approach Handbook. She stated this page listed the costs, what they include and what they do not include. Janet Iribarne stated that they had included plans in the costs. She did not know if he had included the building plans, the surveying plans, and building permit fees into his price. Janet Iribarne stated that there were interest and processing fees on a typical mortgage which was included in their costs. She stated that all the labor, material costs and sales tax costs were added into the appraisal. Janet Iribarne felt that the site preparation was a little extensive but they did not add any valuation for that. She stated that utilities for a typical set back were included in the costs. She noted that his was further from the road and was non typical so they could have increased those costs. Janet Iribarne stated that real estate commission was also added into the Marshall and Swift including the contractors' overhead and profit, jobs supervision, workmen's compensation, fire and liability insurance, unemployment insurance, equipment, temporary facilities, and security. She stated that these were the types of things that Marshall & Swift includes. Janet Iribarne felt that he had not included all those in his cost of \$245,000.00.

Janet Iribarne stated that the "*not included costs*" were the basics such as the cost of buying the land. She noted that they add the land value back into the property. She stated that they did not add the cost of hillside foundations in. Janet Iribarne stated that they did not add the cost of land planning or that type of thing back in. She did not feel comfortable with increasing his costs by doing that because they had not done that to any other taxpayer. Janet Iribarne stated that she was trying to maintain equity and give him a fair appraisal. She stated that if they look at the building plans submitted to the building department on page 6 (Assessor's Exhibit II page 6) they could see that this home had many angles. She stated that the roof line had two types of roofs. She stated it had a Hip roof and a gable-ended roof. Janet Iribarne stated it was very intricate in architectural design so she gave it a 3.5 quality which she felt it could have gone to a 4 which would have raised his costs. She stated on page 14 (Assessor's Exhibit IV) was her market analysis for the past six months in this area. She commented that their homes were not sitting on the market for a long period of time. She had a

friend in real estate that stated good houses were sitting on the market for a matter of hours. Janet Iribarne noted that they could see they had other homes in this same price range as Mr. Wellington's and those homes were much smaller and did not have the architecture design that the Wellington's had. Janet Iribarne stated that those homes were not as good a quality. She felt that their value was fair. She included on page 32 (Assessor's Exhibit VII) a revised residential cost estimate. She had left the home at the same quality but had included some of the items that they had missed into the value so it would raise the value. She noted that the price of the home would be at \$321,860.00. However, she had made an error on that calculation and submitted page 32 (r) (Assessor's Exhibit XI). Janet Iribarne stated that there was a mistake on the road costs. She stated that her value would be \$296,713.00, and they would add in \$20,000 for the land for a total of \$316,713.00. She stated it would be \$316,713.00 if they were to go with all of the components actually being appraised at a 3.5 quality.

Board Member Al Plank inquired if that revision would include the square footage of 1632 rather than the 2260 square feet. Janet Iribarne stated that she was still going with her original calculations on the second floor of the 1632 square feet. She felt there were errors which may not be in Mr. Wellington's favor. She believed their estimates may be smaller than what Mr. Wellington had proposed. She noted they took out for the 6 feet wall height adjustment.

Chairman Leberski stated in looking at the building permit information it showed a home size at 5169 and a garage for 1140 for total of 6309 square feet. Ken Wellington noted that included a guest house which was taken off. Janet Iribarne stated that was the amount they submitted to the building inspector. Ken Wellington explained that they did not do the guest house because it was off of the side and it would be too much to build the retaining walls and the foundation. He stated the guest house was removed from those plans. Chairman Leberski requested clarification that the building permit would be 3598 for the home and 910 for the garage. Ken Wellington noted that the garage was actually less than that. He stated that she showed on her papers it was 1100 and something but it was not. Chairman Leberski stated that it showed 758 square feet. Ken Wellington stated that in her calculation when she did her estimates it was shown at 1100 and something which added on about 400 more square feet. Janet Iribarne denied that.

Assessor Joe Aguirre asked that his Appraiser be allowed to finish her presentation. Janet Iribarne stated that she was finished. However, she noted that she had the garage at 758 square feet at \$16.46 per square feet on page 11 (Assessor's Exhibit 3 page 11).

Chairman Leberski noted that originally she had 1632 square feet in the second floor and questioned the 2260 square feet. Janet Iribarne stated that the plans specified the 2260 square feet. She stated that if she drew that according to the plans, she could not make it work. It did not fit into his first floor. Janet Iribarne stated that with her calculations it was at 1632 square feet which were quite a lot less than what the plans which were submitted stated. She stated that was why they actually wanted to go out and measure these buildings because they were not always built to the plans.

Ken Wellington stated that on page 16 (Assessor's Exhibit V) of the Building Permit that she presented to them it was 5,169 for the home and 1140 for the garage. He stated that included the guest house. He noted the guest house was removed off and he wanted to make that clear. Chairman Leberski stated that he understood that.

Ken Wellington noted on their residential building records it did show that there was central air. He stated that she had it marked on her sheet that there was an air-conditioning unit, and it was central

air. Ken Wellington stated that there was no driveway. He had not poured any additional driveway. He stated that if he did he would go down and pull a permit to do that. Ken Wellington noted that he had other concrete work to do and at that time he would pull a permit so that there would be a permit for that. He commented that she stated that she sent him stuff. He stated that he did not receive anything from her regarding any of the measurements, the review or anything of that matter. He stated the only two things that he received was from Mr. Aguirre. The packet which showed how they determined that factor and that was the first time he saw anything that dealt with that property that she had. He stated that he had received nothing unless she had something to show him that could prove him wrong. Ken Wellington stated this was from Ken Wellington. He stated that he did not receive anything from her.

Chairman Leberski asked if there were any questions from the board.

DISCUSSION:

Board Member Kelly Buckner stated that there were two issues that he saw. He stated number one the personality issues were unfortunate which have occurred. However, it appeared to him, given the facts of the case and the issues that have come up with regard to the value of the property, it would have been in Mr. Wellington's interest to allow the Appraisers back on the property to come up with the correct measurements, and exact measurements to the property. He stated with that and the statute that the District Attorney previously quoted, it would be his recommendation that the board not reduce the value of the property and accept the appraiser's assessed valuation for tax purposes.

RECOMMENDATION:

Board Member Kelly Buckner recommended that the board not reduce the value of the property and accept the appraiser's assessed valuation for tax purposes.

TAPE 1 B POINT 31.6 CASE 05-112

DECISION:

Board Member Kelly Buckner moved that the board not reduce the value of the property and accept the appraiser's assessed valuation for tax purposes. Board Members Al Plank seconded the motion.

The motion carried the following vote:

Voting Aye: Chairman Leberski
Member Plank
Member Bowlen
Member Buckner

Voting Nay: None

Abstaining: None

Absent: Member Winer

Chairman Leberski informed the Petitioner, Kenneth D. Wellington, that they had the right to

appeal. Joe Aguirre submitted an appeal form to Mr. Wellington.

 Chairman Leberski called a recess at 10:15 a.m., and reconvened the meeting at 10:20 a.m.

TAPE 1B POINT 33.4

APPROVAL OF MINUTES:

The Board considered approval of the preceding minutes from February 19, 2004, and the February 20, 2004 meetings of the Board of Equalization.

MOTION: Board Member Kelly Buckner moved to approve the minutes for the meetings held on February 19, and February 20, 2004. Board Member Al Plank seconded the motion. The motion was passed unanimously.

TAPE 1 B, POINT 34.1

Katrinka Russell, Chief Appraiser, requested approval on the roll request changes made by the Assessor “Based on Income Approach.” Information was provided by the taxpayers. Settlements were reached and the petitions were withdrawn. She requested that the Board give their blanket approval. See summary listed below:

SETTLEMENT OFFER BASED ON INCOME

Total Number:	Description:	Current Assessed:	Proposed Assessed:	Difference:
4	Casinos	\$34,295,390		\$ 7,869,458
12	Motels	\$ 6,795,040	\$26,425,932	\$ 1,334,456
2	Office Buildings	\$ 210,790	\$ 5,460,584	\$ 90,085
2	Shopping Center	\$ 2,352,840	\$ 120,705	\$ 531,482
0	Vacant	\$ 0	\$ 1,821,358	\$ 0
9	Apartments	\$ 6,173,620	\$ 0	\$ 1,380,253
1	Single Family Residences	\$ 107,570	\$ 4,793,367	\$ 0
	Adjusted Based on Income Approach	\$49,935,250	\$ 170,570	-
30			\$38,729,516	\$11,205,734

Chairman Leberski noted that Mr. Youngman, and the two McClaskey properties had settled. He inquired if it was settled to the satisfaction of the Assessor’s Office. Katrinka Russell replied yes it was.

Katrinka Russell noted that on the summary it contained all the casinos, motels, office buildings, shopping centers which totaled 30. She noted that she had listed the currently assessed amounts were and what the proposed assessments were. She asked for a blanket approval on the increases and decreases for all those. Chairman Leberski inquired if they reduced the value by 11 million when they settled. Katrinka Russell noted that on the summary it indicated the difference. She stated they could indicate the full amount and the reduced amounts in their motion. Katrinka Russell noted that she had all the files present if anyone had any questions. Chairman Leberski asked if Joe was satisfied with all the adjustments. Joe Aguirre stated he was satisfied. He commented that they meet with some of the ma and pa's motel operations. He felt that they should look at another format for their hotels. He stated that they could turn them into apartments, shopping centers, etc. He did not believe that the ma and pa's motels could survive because they could not compete with the hotels at the interchanges. Joe Aguirre stated the statutes did give them the latitude to make those adjustments if a business was not carrying itself. Joe Aguirre stated the casinos were some of the same ones they had over the last three or four years. He stated that they did pick up a new one. He stated Cactus Petes in their financial statement gave away more rooms, dinners, more comp.s, etc. He stated their bottom line was not as much so Cactus Petes was included in the adjustments. He stated that Cactus Petes had come in over the past four or five years but they had never given them a break. However, this year their net was down, so they gave them a break. Chairman Leberski stated he was going by what was in the newspaper with regards to room tax. Joe Aguirre noted they compd., more but they still had to pay the room tax even if they compd., the room.

Joe Aguirre stated with regards to Generation 2000, he had spoken to Clark County and Washoe County who had been through bankruptcies. He believed from those conversations that it would take a minimum of five years before Generation started to level out. Board Member Wesley Bowlen asked if that was in Wendover. Joe Aguirre replied yes, that was formerly Stateline. Board Member Kelly Buckner asked if the major casinos and hotels were audited and if the Assessor's Office utilized the financial statements for them. Joe Aguirre stated they have but not necessarily. He stated they have taken them and compared them to other counties. He stated that they request an audit if they push it too much. Joe Aguirre stated if the expenses and vacancies were close to other casinos they do not go through the expense of an audit. He stated that if something looked uncomfortable to them, then they would request an audit. Joe Aguirre stated that they have always questioned the writing off of the plane for Red Lion. He noted that ended up with what they had last year. Chairman Leberski stated that was his main concern the Red Lion.

Board Member Al Plank inquired about the business from Wells. Joe Aguirre replied that they only had one and it was settled. Katrinka Russell noted that they could look at it in the commercial category. Board Member Wesley Bowlen inquired if the reduction was on gross sales. Katrinka Russell replied they had given them a reduction based on their income. She noted on the Commercial page Talebreza was listed for the Best Western Sage Motel and the Super 8 Motels. She stated that reduction was based on his income. Katrinka Russell asked how long Talebreza was open last year. Carolyn Risley replied that he was opened seven months. Katrinka Russell stated Mr. Talebreza claimed he was only open seven months during last year. Board Member Wesley Bowlen inquired if that was based upon his gross income. Katrinka Russell stated it was based on that income.

Board Member Al Plank inquired if all the proposed changes were based on the income method,

and if there was a consistent cap rate applied, based on industry. Katrinka Russell noted this year they did the base on actual income unless they were totally outrageous. She noted that they took an average of what everyone else was doing in that industry and leveled the average. Joe Aguirre noted that they had changed the cap rate because of the economy. He stated the cap on casinos was moved from 22.5% to 20%. He commented that even with the motels, they drastically changed the cap rate. Joe Aguirre stated most of them agreed with the adjusted cap rates. He stated that the economy was starting to pick up.

TAPE 2 A

Chairman Leberski called for a motion on the proposed revisions that had been agreed upon by the Assessor's Office.

Kristin McQueary asked for the Board to approve the petitions which had been withdrawn at the same time.

TAPE 2 A, POINT .3

DECISION:

Board Member Al Plank moved to accept the Department's proposed assessed values and the withdrawal of the filed Petitions as stated in the handout. Board Member Kelly Buckner seconded the motion. The motion was passed unanimously.

Joe Aguirre, inquired if the Board understood the difference between settlements and withdraws. He stated that on some of them there were no settlements. He stated that they withdrew their petition after they showed them the income. Board Member Kelly Buckner inquired if McClaskey had withdrawn. Joe Aguirre stated that he withdrew one and they settled on one. He stated that they offered him the same as last year. Board Member Kelly Buckner commented that they had heard from Queenstake through the State and Joe Aguirre replied that was correct and they had settled. Board Member Kelly Buckner inquired if Youngman was a withdrawal. Joe Aguirre replied that Youngman was a withdrawal. Chairman Leberski complimented Joe and his staff on their efforts. He felt they did a good job on settling these. There was a short discussion about the personality conflict. Chairman Leberski felt there was still some question as to what the square feet actually were. Joe Aguirre noted that they still do not have the amount of square feet. He stated that they never received that from the building department. Joe Aguirre stated that Janet Iribarne had made several trips to the building department and they had a couple of different plans there. He stated that they were not sure if they had the correct square footage now. Joe Aguirre stated that there had been problems trying to issue the permits and as much trouble in trying to put a value on it. Joe Aguirre noted that his appraisers were doing 1200 to 1800 appraisals a year. He stated that he used to do 220 appraisals when he was an FHA appraiser. Joe Aguirre stated that the Taxpayer had contacted Janet, Katrinka and then him so he did not feel that the Taxpayer was being very cooperative.

Kristin McQueary commented that the majority of the board's terms expired at the end of fiscal year. She inquired if any of them were interested in remaining on the Board. All members indicated that they wanted to be reappointed. Kristin McQueary requested that Joe Aguirre put that item on the Elko County Commissioner's agenda for reappointment of the Board.

ADJOURNMENT:

TAPE 2 A POINT 4.5

FINAL ACTION:

Board Member Wesley Bowlen moved to adjourn the 2004-05 meeting. Board Member Al Plank seconded the motion.

The motion was carried by the following vote:

Voted Aye: Chairman Leberski
Member Plank
Member Bowlen
Member Buckner

Voted Nay: None

Abstaining: None

Absent: Member Winer

Chairman Leberski adjourned the meeting at 10:38 A.M.

APPROVED,

WALTER LEBERSKI, Chairman

ATTEST:

MARILYN TIPTON, Deputy County Clerk