

**NEVADA COUNTY ASSESSMENT APPEALS BOARD MEETING  
MINUTES  
AUGUST 19, 2020**

**REGULAR MEETING: 9:00 a.m.**

Call to Order:

ACTION TAKEN: Chair Bushore called the meeting to order at 9:00 a.m.

The following Board Members attended by remote:

Gerald Bushore (Chair)  
James Rees  
James Dal Bon

Pledge of Allegiance:

ACTION TAKEN: Pledge of allegiance held. \*\*\*\*\*

Corrections and/or deletions to the agenda.

ACTION TAKEN: No corrections were noted. \*\*\*\*\*

Public Comment:

ACTION TAKEN: No public comment received. \*\*\*\*\*

**ASSESSMENT HEARINGS:**

1. 18/19 Regular Assessment #18-023: Dolgen California LLC (Dollar General), Applicant. INVOKE Tax Partners LLC (previously CTMI, LLC), Agent. APN 035-400-019. Property located at 2033 Nevada City Highway, Grass Valley. Assessor's current value on the roll: \$2,962,017. Request for a written stipulation between the Assessor and Applicant for a new stipulated value: \$650,000 land, \$1,850,000 for improvements, for a total value of \$2,500,000. Findings of Fact are not requested.

**Requested Action:** Approval of the stipulated value.

ACTION TAKEN: The following individuals were sworn in by Ms. Lelia Loomis, Clerk to the Assessment Appeals Board: Mr. Peter Villaverde, Agent for the Applicant; and Mr. Ernie Thompson, Chief Appraiser.

Mr. Dal Bon stated that he has read the assessment history where there is an actual sale and a lease, but there is no mention of those items. He believed that when there is a sale, his understanding is that often sets the value of the property.

Mr. Ernie Thompson, Chief Appraiser, reported that the Assessor's office initially enrolled the sales price predicated on the established lease agreement which was with a well-established national chain and very favorable for the area.

Mr. Dal Bon confirmed with Mr. Thompson that the lease terms exceeded the market value levels as of the date of the transfer of ownership. He asked how the existing income flow compare to what Mr. Thompson arrived at when comparing to the market. He asked what the rate was that came out of the sale.

Mr. Thompson stated that this might be confidential information.

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Mr. Rees believed that by submitting the appeal, the Appellant was also yielding all of the information needed for the Board to make their decision. Mr. Villaverde was willing to provide the lease information.

Mr. Thompson explained that \$1.63 per square foot was the reported amount. In his assessment, he came in at \$1.50 based on roughly 15 sales of Dollar Generals throughout the North State at approximately the same time and found that all but two did not enroll the sales price. They enrolled something that was more marketable for their area based on what the property could bring for an income stream in their area.

Chair Bushore and Mr. Dal Bon asked if the Assessor has a copy of the lease. Mr. Thompson responded they do have a copy.

Mr. Dal Bon felt the overwhelming piece of market evidence to consider in estimating a rental rate would come directly from the contract. He added that there is another similar property that has been built in the County, that may be out of the time frame, but it might offer some insight.

Mr. Rees shared Mr. Dal Bon's concerns and felt it is a tough argument to prove the value is less than the sale price or lease terms. He believes a very thorough explanation is needed as to why those measures are not the measures being used in determining the value.

Chair Bushore confirmed that the Assessor has a complete copy of the lease.

Mr. Villaverde responded to questioning regarding the cap rate that resulted from the lease, stating that it was a build-to-suit lease with the lease and rent to be determined by the tenant. He stated that is one of the benefits that allows these stores to get built. They established these terms favorably for a developer to invest and build and then sell to an investor. He added that Dollar Generals are very favorable on the investor market. The initial lease term, usually 15 years flat, is over market and then they have 3 five-year options where each of those bumps is 10%. Investors choose to invest in that type of property because it is guaranteed income from a Nationally traded company with a corporate guarantee. He asked, if the property wasn't leased by a Dollar General, would it really lease for \$1.65?

Board discussion ensued.

The Board took a short break due to technical difficulties.

Chair Bushore reconvened the meeting.

Mr. Dal Bon had concerns regarding the stipulated valuation due to the sales price and the lease terms. He stressed that a thorough study of the market in the local area would need to be done to compare both amounts. To make the best determination he felt he would need the following information: 1) any recent leases in the Brunswick Basin; 2) the time period of those leases; and 3) what kind of rentals are they producing.

Chair Bushore reiterated that this property and lease are premium and well sought after by investors, which increases the overall worth.

Mr. Dal Bon summarized that if the property were being leased to a local business the lease cost would be closer to \$1.50 and the value of the property would be \$2.5 million.

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Mr. Rees agreed and added concerns related to the cap rate. He felt that if the Board would approve this stipulation it would deviate from past practice of the Board wherein, they required substantial evidence in order to make their determination.

Board discussion ensued.

Chair Bushore wanted to hear the evidence from Mr. Villaverde.

Mr. Villaverde provided information regarding the property and the variances between investment value and the fee simple value. He believed that the Assessor's handbook had protocol for this situation wherein they would make an adjustment if there was investment value down to the fee simple value. He suggested that this type of investment is generally not found in this local area, you must go to a national player to get this type of security. He felt it boiled down to whether an investor pay \$330 per square foot if there wasn't a guaranteed tenant and wondered whether the value of the stipulation provided the value if the guarantee was not part of the sale.

Mr. Dal Bon asked what market evidence the Applicant had to show that the sales price was above market.

Mr. Villaverde referred to information in "CoStar" noting that there were no sales in Grass Valley close to \$330 per foot that were not necessarily guaranteed by a national operator.

Chair Bushore agreed with Mr. Villaverde that there was a willing seller and willing buyer for what has been referred to as a "golden" investment. However, he agreed with Mr. Rees and Mr. Dal Bon that the purchase price was market value.

Mr. Dal Bon stated that he was not opposed to decreasing the valuation of the property. However, to overcome the sales price he would need further convincing evidence and he did not feel that that had been presented.

Mr. Rees agreed. He felt Mr. Villaverde's information was enlightening but added that the evidence had not been presented to the Board.

Mr. Scott McLeran, Counsel for the Assessment Appeals Board, suggested that the Board set the valuation for a full hearing.

Mr. Dal Bon felt that would be a better idea and provide the ability for the Applicant to present additional evidence.

Chair Bushore asked Mr. Villaverde if he would agree to the full hearing being scheduled.

Board discussion ensued.

Chair Bushore inquired about the timeline for setting a full hearing. Ms. Loomis offered to send the two-year waiver to Mr. Villaverde, who agreed to sign and return the form.

Chair Bushore asked Counsel a question regarding the Agent Authorization and added that Mr. Villaverde was currently the Agent of Record for the Application.

Mr. Rees requested that these specific items be presented at the full hearing: the lease and the contract for construction.

Board discussion ensued.

Chair Bushore asked if the Agent would be able to provide the development cost at the full hearing.

Mr. Villaverde responded that he would be unable to get that cost from the developer because they are an uninterested party. He has had difficulty contacting them and getting any response.

Mr. Dal Bon asked what the permit cost was on the property. Mr. Thompson responded that the Assessor did not have that amount and at the time of valuation was not concerned with the construction cost since the property sold within one month of completion of construction.

Brief recess for technical difficulties.

Chair Bushore reconvened the meeting.

Mr. McLeran advised the Board that the motion to be made would be to reject the stipulation and set the matter for a full hearing on the valuation.

Mr. Dal Bon asked if that would be a date to be announced, or would it be set at today's meeting. Mr. McLeran responded that the date of the hearing could be set today.

Mr. Villaverde agreed to sign the 2-year waiver and asked that the hearing be set at a time when the meeting could be in-person. Mr. Rees and Mr. Dal Bon agreed.

Discussion ensued regarding a date that accommodates both COVID protocol and time for both the Assessor and the Applicant to collect the evidence requested by the Board. Six months was suggested. Ms. Loomis stated that the meeting in six months would be Wednesday, March 17, 2021.

**MOTION:** Motion made by Mr. Dal Bon in the matter of application 18-023, to reject the stipulated value and set the appeal for a formal hearing scheduled for March 17, 2021 also provided Mr. Villaverde submits a signed 2-year waiver, seconded by Mr. Rees. On a roll call vote the motion passed unanimously.

2. Acceptance of minutes for July 20, 2020.

**MOTION:** Motion made by Mr. Dal Bon, seconded by Mr. Rees, to accept the July 20, 2020 minutes. On a roll call vote the motion passed unanimously.

### **NEW BUSINESS**

3a. Approval of updated Nevada County Local Rules.

**ACTION TAKEN:** Mr. Dal Bon inquired if all of the recommendations requested by the Board have been incorporated in the Local Rules.

Mr. Scott McLeran, Counsel for the Assessment Appeals Board, responded that one requested requirement needed approval from the Board of Equalization and has been included in the Authorization Form. It is regarding requiring a new Agent Authorization if any changes in the company occur before the appeal is heard. We have received approval from the Board of Equalization.

Mr. Rees asked if this was not the subject of Agenda Item #3b.

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Mr. McLeran stated that he had included the information in his updates from the last meeting and it could be postponed until the next item is heard. He added that one other proposed addition to be incorporated in the Local Rules, on page 9, Section 2e4, having to do with the Clerk receiving signed stipulations at least seven calendar days before a hearing.

Mr. Rees asked about the other requested changes and Mr. McLeran responded that all changes that were agreed to in the last hearing have been made in the Local Rules as presented today. Ms. Loomis confirmed that is the case.

Mr. McLeran provided clarification regarding the issue of electronic signatures. His position is the decision whether to accept electronic signatures should be a decision made by the Clerk so long as the method meets the current County policy. He felt that the Clerk wished to continue to require wet signature on certain forms, such as the application, but might make other decisions regarding other forms. He offered proposed language on page 9, Section 2e4, the second paragraph, which would include: "Clerk shall have discretion to accept a stipulation with electronic signature if meeting the requirements of the County's electronic signature proceedings." This is an additional item for the Board to consider.

Mr. Dal Bon and Mr. Rees stated they have no issue with this decision being up to the Clerk.

Chair Bushore had a question regarding Civil Code 1633.1 that requires both parties to agree in writing. He asked if the County's electronic signature code would cover that? Mr. McLeran responded that Government Code 1625 authorizes public entities to conduct business through electronic signatures but does not specifically address whether both parties have to agree. He added that, in this case, language could be included that would state "upon agreement of all parties" the Clerk could accept electronic signatures for stipulations.

Board discussion ensued.

Ms. Loomis provided information that the County procedure using Adobe eSign certifies who is signing the document. AAB staff would not be accepting scanned forms sent by email for the stipulations. Chair Bushore stated that would be acceptable. Mr. Dal Bon and Mr. Rees stated the issue was a Clerk issue and Mr. McLeran stated it did not necessarily have to be included in the Local Rules.

Board discussion ensued.

Mr. McLeran provided information regarding the electronic signature State laws and that the County policy follows the current law. After discussion the Board members unanimously decided that this sentence did not need to be included in the Local Rules and that the signature discretion could be left up to the Clerk under the current County policy.

Mr. McLeran reported that all other changes requested by the Board at the meeting of July 20, 2020 have been included in the Local Rules and the Board could move forward with a vote to approve the updated Local Rules.

**MOTION:** Motion made by Mr. Rees, seconded by Mr. Dal Bon, to approve the updated Local Rules. On a roll call vote the motion passed unanimously.

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- 3b. Discussion regarding Agent Authorizations, including the foreign agent issue of registration in the State of California and addition of sentence under Rule 305b-4 regarding changing of business entity before hearing.

**ACTION TAKEN:** Mr. Scott McLeran, Counsel for the Assessment Appeals Board, reviewed the proposed language mentioned earlier that was sent to the Board of Equalization (BOE). Approval had been received from the (BOE) and he referred the Board to the Agent Authorization form provided with the new language highlighted. He confirmed that this language was not made part of the Local Rules but is now a permanent addition to the Agent Authorization form.

**MOTION:** Motion made by Mr. Rees, seconded by Mr. Dal Bon, to authorize the additional language on the Agent Authorization form. On a roll call vote the motion passed unanimously.

Mr. McLeran provided additional information regarding out-of-state agents (foreign agents) and confirmed that agents who were not registered with the State or possibly were not in good standing with the State or the Franchise Tax Board, were acceptable by the BOE to represent Assessment Appeal applicants. Mr. McLeran read the exact responses from the BOE regarding these agent requirements and he summarized that an agent need not be a registered entity, or in good standing with the State to be a representative of an applicant. He felt that the applicant bears the risk regarding who they appoint as their representative and it is outside the jurisdiction of the Board to attempt to police or make legal determinations as to whether an agent is in compliance with State law regarding their corporate status.

Chair Bushore stated that this information clears any questions he had. Mr. Rees and Mr. Dal Bon had no comment.

Mr. Thompson requested the procedure for holding hearings virtually and providing evidence to all parties. Ms. Loomis responded that for other hearings evidence is sent out as discovery before a hearing. Mr. McLeran responded that would be due process. Mr. Thompson added that the applicant would need to have the procedure information.

Discussion ensued.

Ms. Loomis asked the Board how comfortable they would feel having an in-person meeting in the Board chambers. The Board members would all prefer an in-person meeting, which followed the current COVID recommended health procedures. Ms. Loomis will check what other counties are doing.

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**ADJOURNMENT:**

**ACTION TAKEN:** There being no further business, Chair Bushore adjourned the meeting at 11:06 a.m.

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*Dan A. Bushore*

Chair of the Assessment Appeals Board

ATTEST:

By:   
Lelia Lucchetti-Loomis, Deputy Clerk to the Board