

MINUTES

SAN BENITO COUNTY BOARD OF SUPERVISORS sitting as the COUNTY BOARD OF EQUALIZATION ASSESSMENT APPEAL HEARINGS TUESDAY, OCTOBER 2, 2007

1:30 P.M.

The San Benito County Board of Supervisors, sitting as the County Board of Equalization, met in the Board Chambers on the above date to hear appeals of applications for changed assessment.

Supervisors Loe, Botelho and Marcus were present. Supervisors De La Cruz and Monaco were absent. Also present was Clerk of the Board Linda Churchill, Deputy County Counsel Shirley Murphy representing the Assessor and County Counsel Dennis LeClere representing the Board. Assessor Tom Slavich and members of the Assessor's staff were present.

Chair Marcus presided.

The Board adjourned as the Board of Supervisors and reconvened as the County Board of Equalization.

1) Applicant: KMART Corp. / The Coolidge Group

APN: 08-004210-LO Filed on 9/16/03 for the 2003/2004 Tax Year; Filed on 11/2/04 for the 2004/2005 Tax Year and Filed on 12/7/05 for the 2005/2006 Tax Year.

APN: 12-003498-00 Filed on 9/16/03 for the 2003/2004 Tax Year; Filed on 11/2/04 for the 2004/2005 Tax Year and Filed on 12/7/05 for the 2005/2006 Tax Year.

APN: 057-23-0-025-0 Filed on 12/5/03 for the 2003/2004 Tax Year; Filed on 12/3/04 for the 2004/2005 Tax Year and Filed on 12/2/05 for the 2005/2006 Tax Year.

(Continuance was granted for the above appeals on 5/26/07)

Deputy County Counsel Shirley Murphy stated that under Evidence Code Section 664 and Property Tax Rule 321a the Board must presume the Assessor regularly and correctly assessed the property unless K Mart proves substantial competent evidence different than the Assessors sufficient to call into question whether the Assessor's methods were proper. Furthermore, Revenue and Taxation Code 1607 and Property Tax Rule 316 requires that K Mart must appear in person, or through their agent, to provide evidence at the assessment appeal hearing. Ms. Murphy stated that since they were not present she requested that the Board find K Mart did not meet their burden of proof and dismiss the case without requiring the Assessor to present any evidence substantiating the assessed value at this time.

The Clerk read the Assessor's Parcel Numbers (APN'S) of the three individual cases into the record.

County Counsel Dennis LeClere also noted that for the record that the applicant, or the authorized agent for the applicant, were not present.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Botelho, denied the appeal by making findings that Kmart did not meet the burden of proof and dismissed the case based on that finding without requiring the San Benito County Assessor to present any evidence substantiating the assessed value. (3-0 vote. De La Cruz & Monaco absent.)*

It was noted for the record that there was a non-appearance by the applicant or authorized agent.

2) Approve the minutes of the November 9, 2006 Assessment Appeal Hearings.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Botelho, approved the minutes of the November 9, 2006 Assessment Appeal hearings. (3-0 vote. De La Cruz & Monaco absent.)*

The vote of each member of the Board of Supervisors, sitting as the County Board of Equalization, upon each matter at the foregoing hearings, unless otherwise stated, are as follows:

AYES: Loe, Botelho, Marcus
NOES: None
ABSENT: De La Cruz, Monaco

DON MARCUS, CHAIR

San Benito County Board of Supervisors
sitting as the
County Board of Equalization

Attest:

Linda Churchill

Clerk of the Board