STATE OF NEW MEXICO
ADMINISTRATIVE HEARINGS OFFICE
TAX ADMINISTRATION ACT

IN THE MATTER OF THE PROTEST OF
SSC ALBUQUERQUE OPERATING COMPANY LLC
TO DENIAL OF REFUND ISSUED UNDER
LETTER ID NO. L1047049520

v. **D&O No. 18-16**

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

DECISION AND ORDER

A formal hearing on the merits in the above-captioned protest was held on April 19, 2018 before Hearing Officer Chris Romero, Esq., in Santa Fe, New Mexico. The Taxation and Revenue Department (Department) was represented by staff attorney, Mr. David Mittle, Esq. Protest auditor, Ms. Mary Griego, appeared as a witness for the Department. Staff attorney, Mr. Ken Fladeger, Esq., appeared to observe. Mr. Hai Pham, Director of General Accounting, appeared for SSC Albuquerque Operating Company, L.L.C. ("Taxpayer") and was accompanied by Ms. Laura Glose, Manager of General Accounting, and Ms. Pam Forstell, Division Vice President for Finance. Taxpayer appeared by telephone with the prior approval of the Hearing Officer. Taxpayer Exhibit 1 and Department Exhibits B through H were admitted into the evidentiary record of the hearing. A more detailed description of exhibits submitted at the hearing is included on the Administrative Exhibit Coversheet. The Hearing Officer took notice of all documents in the administrative file. Based on the evidence and arguments presented, IT IS DECIDED AND ORDERED AS FOLLOWS:

FINDINGS OF FACT

1. On or about November 16, 2016, Taxpayer submitted a sequence of Applications for Refund asserting entitlement to refunds of gross receipts taxes purportedly overpaid for the

reporting periods from January 2014 through January 2016 in the total amount of $55,912.75. The applications claimed refunds for the following periods and the corresponding amounts:

a.	February 2014:	$302.40
b.	March 2014:	$1,217.40
c.	April 2014:	$1,183.99
d.	May 2014:	$517.82
e.	June 2014:	$1,151.44
f.	July 2014:	$596.65
g.	August 2014:	$3,900.27
h.	September 2014:	$872.26
i.	October 2014:	$2,342.24
j.	November 2014:	$2,946.21
k.	December 2014:	$2,214.26
l.	January 2015:	$2,555.08
m.	February 2015:	$3,320.28
n.	March 2015:	$3,627.52
o.	April 2015:	$2,767.96
p.	May 2015:	$2,353.57
q.	June 2015:	$2,557.99
r.	July 2015:	$2,477.76
s.	August 2015:	$2,946.80
t.	September 2015:	$2,932.16
u.	October 2015:	$3,430.49
v.	November 2015:	$3,038.58
w.	December 2015:	$3,079.10
x.	January 2016:	$3,580.52
	TOTAL:	**$55,912.75**

[*See* Administrative File]

2. Taxpayer's Applications were accompanied by amended CRS-1 reports, a sample Admission Agreement, payment confirmations, and additional information describing the basis for its Applications. [*See* Administrative File].

3. On June 5, 2017, the Department issued a denial of Taxpayer's refund request in the amount of $55,912.75 under Letter ID No. L1047049520. Although a notation on the

correspondence indicated that the address utilized was incorrect, Taxpayer's protest was timely and neither party raised any issues with respect to the notation. [*See* Administrative File].

4. On July 31, 2017, Taxpayer executed a Formal Protest of the refund denial issued under Letter ID No. L1047049520. The Formal Protest was received in the Department's Protest Office on August 3, 2017. [*See* Administrative File].

5. On August 29, 2017, the Department acknowledged the receipt of Taxpayer's protest under Letter ID No. L1310911792. [*See* Administrative File].

6. On October 10, 2017, the Department submitted a Hearing Request to the Administrative Hearings Office in which it requested that Taxpayer's protest be scheduled for a scheduling hearing. [*See* Administrative File].

7. On October 10, 2017, the Administrative Hearings Office entered a Notice of Telephonic Scheduling Conference which set a scheduling hearing to occur on October 27, 2017, a date within 90 days of Taxpayer's protest. [*See* Administrative File].

8. On October 30, 2017, the Administrative Hearings Office entered a Scheduling Order and Notice of Administrative Hearing which in addition to establishing various other deadlines, set a hearing on the merits of Taxpayer's protest to occur on December 4, 2017. [*See* Administrative File].

9. On November 1, 2017, Taxpayer submitted a request to appear telephonically for the hearing on the merits of Taxpayer's protest. The Department did not oppose the request. [*See* Administrative File].

10. On November 9, 2017, the Administrative Hearings Office entered an Order Allowing Telephonic Appearance or Testimony. [*See* Administrative File].

11. On November 14, 2017, the Department filed an Unopposed Motion for Continuance. [*See* Administrative File].

12. On November 15, 2017, Taxpayer filed its pre-marked exhibits in anticipation of a telephonic scheduling hearing. The Hearing Officer did not review the exhibits prior to their admission as Taxpayer Exhibit 1 at the hearing occurring on April 19, 2018. [*See* Administrative File].

13. On November 20, 2017, the Administrative Hearings Office entered a Continuance Order, Amended Scheduling Order and Amended Notice of Administrative Hearing, which in addition to establishing various deadlines, set the date of April 19, 2018 for a hearing on the merits of Taxpayer's protest. [*See* Administrative File].

14. On April 2, 2018, Taxpayer requested permission by email to appear by telephone for the hearing on the merits of its protest scheduled to occur on April 19, 2018. On April 3, 2018, the Department indicated by email that it did not oppose Taxpayer's request. The request and response were submitted as part of a lengthier email chain which was not relevant to the Hearing Officer's consideration of the request, and which the Hearing Officer did not review. [*See* Administrative File].

15. On April 3, 2018, the parties filed their Joint Prehearing Statement. [*See* Administrative File].

16. On April 9, 2018, the Administrative Hearings Office entered an Order Permitting Telephonic Appearance in which the Taxpayer was permitted to appear by telephone for the hearing of April 19, 2018. [*See* Administrative File].

17. Taxpayer operates The Village at Alameda which is an assisted living residence at 8810 Horizon Blvd NE in Albuquerque, New Mexico (hereinafter "TVA"). [Testimony of Mr. Pham; *See* Department Ex. C].

18. Taxpayer acquired TVA and assumed its operation in 2014. [*See* Administrative File, Joint Prehearing Statement, Taxpayer's Statement of Facts, No. 1; Testimony of Mr. Pham].

19. Prior to its acquisition, Taxpayer's predecessor calculated gross receipts taxes based on the prior-year's receipts from leasing real property and total gross receipts to arrive at a percentage representing the amount of the total receipts that should be deducted. [*See* Administrative File, Joint Prehearing Statement, Taxpayer's Statement of Facts, No. 4; Testimony of Mr. Pham].

20. Taxpayer retained the method of calculation employed by its predecessor and reported and paid taxes in reliance on that method in all periods now subject of its protest. [*See* Administrative File, Joint Prehearing Statement, Taxpayer's Statement of Facts, No. 3; Testimony of Mr. Pham].

21. In August of 2016, Taxpayer evaluated the method by which it had been calculating and determining the amount of the deduction to which it was entitled for the lease of real property. It determined that the calculation was unreliable and inaccurate, and proposed, in lieu thereof, the method underlying its claims for refund. [*See* Administrative File, Joint Prehearing Statement, Taxpayer's Statement of Facts, Nos. 5 – 6; Testimony of Mr. Pham].

22. TVA charges residents for the lease of residential space of varying sizes and various services which are included in the rental price. [Testimony of Mr. Pham; *See* Department Ex. C].

23. Services included in the price of any given apartment regardless of size include housekeeping, laundry, and meal preparation. [Testimony of Mr. Pham; *See* Department Ex. C-00003 – C-00004].

24. Included services, consisting of housekeeping, laundry, and meal preparation are outsourced which permit the Taxpayer to identify the value of those services merely by referring to the costs it incurs in contracting with third parties to provide those services. [Testimony of Mr. Pham].

25. In addition to the services of housekeeping, laundry, and meal preparation, Taxpayer also includes, within the cost of rent, a portion of services for nursing and nursing administration. Taxpayer has determined that the rental price should include two hours of nursing care per day. Taxpayer calculates that portion of services by dividing the total cost of nursing per month by the total number of patient days per month. Patient days represent one patient per day per month, such that, for example, one resident residing at TVA for 30 days would represent 30 patient days. The patient day cost is then multiplied by the total number of patient days in that month, divided by 24 hours to provide an hourly cost, multiplied by 2 to determine the cost for nursing services of two hours per day. The result represents the portion of rent allocation to nursing services per day. [Testimony of Mr. Pham; *See* Taxpayer Ex. 1].

26. TVA provides a variety of other services as well, such as cosmetology services, but receipts from those services are not included as part of the rental price, and are not in dispute. [Testimony of Mr. Pham].

27. With respect to separating receipts from services, from receipts for residential space, Taxpayer modified its method from that previously utilized by its predecessor to separate

rental receipts by subtracting the costs of outsourced services incurred for housekeeping, meal preparation, and laundry, plus two hours of nursing per day, from the total receipts from rental units. The difference between the total receipts and the receipts after the reductions for those specific services are the receipts Taxpayer asserts should be deductible as receipts from leasing real property. [Testimony of Mr. Pham].

28. Taxpayer has not evaluated the market value of the rent charged based on comparables within the market. [Testimony of Mr. Pham].

29. Taxpayer relied on its interpretation of Revenue Ruling 430-00-5 to evaluate and establish the method by which it should calculate its tax liability. [Testimony of Mr. Pham].

30. Ms. Mary Griego is the protest auditor responsible for Taxpayer's protest. She reviewed the protest, Taxpayer's documents, and engaged in additional research to evaluate the reasonableness of Taxpayer's method for calculating its tax obligations, and specifically, its entitlement to a deduction for the lease of real property. [Testimony of Ms. Griego].

31. Relying on Revenue Ruling 440-98-2, deductible gross receipts should be calculated by engaging in a comparable market analysis which consists of determining the fair market value of residential space and common area per square foot. [Testimony of Ms. Griego].

32. Ms. Griego's market research concluded that Taxpayer's deduction from rent was overstated based on comparable rates in the local market. [Testimony of Ms. Griego; *See* Department Exs. B; C; D; E; F; G].

33. Based on average market rates at the time she conducted her research, Ms. Griego identified an average rental rate of $1.25 per square foot for residential living space in the same

general geographic area as TVA. [Testimony of Ms. Griego; *See* Department Exs. B; C; D; E; F; G].

34. Relying on that average, Ms. Griego determined that at full capacity, TVA might expect receipts from rentals to approximate $85,890.00 per month, would would also represent a reasonable deduction under NMSA 1978, Section 7-9-53. [Testimony of Ms. Griego; *See* Department Exs. B; C; D; E; F; G].

35. In contrast, Taxpayer's average rental deduction per month surpassed $175,000.00, exceeding what might be considered reasonable by comparables in the local residential rental market. [Testimony of Ms. Griego].

36. In performing her review and research, Ms. Griego relied on Revenue Ruling 440-98-2 because it was more specific than Revenue Ruling 430-00-5, although Taxpayer provided both rulings for her consideration. [Testimony of Ms. Griego].

37. Ms. Griego's market analysis focused primarily on determining the fair market rate of residential rental property based on the rates charged by apartment complexes within the same general geographic area, and did not consider the rates charged by other facilities similar to TVA because those entities also bundle services with rent similar to TVA. In contrast, Ms. Griego's purpose was to determine a reasonable fair market rate of residential property alone, not including services. [Testimony of Ms. Griego].

DISCUSSION

The single issue before the Hearing Officer concerns the method Taxpayer proposes to apportion and distinguish receipts eligible for deduction under NMSA 1978, Section 7-9-53, from total gross receipts including receipts from the sale of goods and services. The parties expressed no

meaningful dispute with the material facts or with the application or interpretation of the law. Rather, the dispute in this protest concentrated on the reasonableness of the method proposed by Taxpayer to determine that portion of its receipts that should be deductible as receipts deriving from the lease of real property, and whether it should be entitled to a refund of previously-paid taxes based on its new method of calculation.

Because Taxpayer's claim for refund is premised on a deduction from gross receipts tax, specifically NMSA 1978, Section 7-9-53, "the statute must be construed strictly in favor of the taxing authority, the right to the exemption or deduction must be clearly and unambiguously expressed in the statute, and the right must be clearly established by the taxpayer." *See Wing Pawn Shop v. Taxation & Revenue Dep't*, 1991-NMCA-024, ¶16, 111 N.M. 735, 809 P.2d 649 (internal citation omitted); *See also TPL, Inc. v. N.M. Taxation & Revenue Dep't*, 2003-NMSC-007, ¶9, 133 N.M. 447, 64 P.3d 474; *See also CCA Corr. Corp. of Am. of Tenn. v. State*, 2007-NMCA-148, ¶17 & ¶29, 142 N.M. 779, 170 P.3d 1017 (Court of Appeals reviewed a refund denial through "lens of presumption of correctness" and applied the principle that deductions underlying the claim for refund are to be construed narrowly). In this protest, the Department does not dispute Taxpayer's entitlement to a deduction. However, it does dispute that Taxpayer has established the right to the deduction because it perceives the method by which Taxpayer determines the amount to be unreasonable.

Deductions from Gross Receipts Tax

For the privilege of engaging in business, New Mexico imposes a gross receipts tax on the receipts of any person engaged in business. *See* NMSA 1978, Section 7-9-4 (2002). Under NMSA 1978, Section 7-9-3.5 (A) (1) (2007), the term "gross receipts" is broadly defined to mean:

> the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing or licensing property

> employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico.

"Engaging in business" is defined as "carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit." *See* NMSA 1978, Section 7-9-3.3 (2003). Under the Gross Receipts and Compensating Tax Act, there is a statutory presumption that all receipts of a person engaged in business are taxable. *See* NMSA 1978, Section 7-9-5 (2002). Despite the general presumption of taxability of an entity engaged in business in New Mexico, taxpayers may avail themselves of the benefits of various deductions. The relevant deduction in this protest, permits taxpayers to deduct from gross receipts those amounts derived from the lease of real property. NMSA 1978, Section 7-9-53 provides:

> **7-9-53. Deduction; gross receipts tax; sale or lease of real property and lease of manufactured homes.**
>
> A. Receipts from the sale or lease of real property and from the lease of a manufactured home as provided in Subsection B of this section, other than receipts from the sale or lease of oil, natural gas or mineral interests exempted by Section 7-9-32 NMSA 1978, may be deducted from gross receipts. However, that portion of the receipts from the sale of real property which is attributable to improvements constructed on the real property by the seller in the ordinary course of his construction business may not be deducted from gross receipts.

Taxpayer is engaged in the business of leasing real property and is entitled to deduct from its gross receipts those amounts deriving from that business activity. However, unlike the landlord of a customary apartment complex, whose rent usually compensates the landlord for the right to occupy the premises and common areas, Taxpayer's rent also includes various services unique to the population it serves.

In Revenue Ruling 440-98-2, which will be addressed below, the Department acknowledged that:

> Assisted living facilities occupy a middle position on a continuum extending from apartment buildings at one end and nursing homes on the other. In a typical lease of an apartment unit, little if any personal service is provided by the landlord. Nursing homes provide care for the individual, who is more a patient than a resident; nursing home receipts are predominantly from providing services.

Although Mr. Pham testified that the rent charged by TVA included only two hours of nursing per day, meals, housekeeping, and laundry services. A review of the sample admission agreement contained in the administrative file suggests the prospect that compensation for additional services may also be included in the rental rate charged, including activities, snacks (separate and apart from meals), utilities, trash removal, cable services, and fees associated with a resident's level of required assistance. Additional fees based on a resident's level of need range from $200 to $2,100 per month and appear to be bundled into the monthly rental rate. *See* Administrative File, Contract Sampler, Section IV, Paragraph 1.

The sample admission agreement also suggests that the total monthly rate for the real property and integrated services includes associated gross receipts taxes. Section IV, Paragraph 1.a states "[r]esident shall be charged the basic room and board rate (which includes the current NM Gross Receipts tax) set forth below[.]"

In 1994, the Department recognized that assisted living facilities garner receipts from blending a leasehold interest in real property with various services, and has provided guidance in the form of revenue rulings to taxpayers seeking the benefit of NMSA 1978, Section 7-9-53. When presented with similar facts in Revenue Ruling 430-94-2, the Department determined:

> The receipts from the rental of real property are deductible and the receipts from meals, housekeeping and other services are taxable. Separate stating of taxable and nontaxable items is not required. To clarify its billings and reporting, X may separately state the amount of taxable and nontaxable items in its billings and accounts. Alternatively, without separately stating taxable and nontaxable items in its billings, *X may apportion its receipts using some reasonable basis to determine the portion attributable to the lease of real property and the portion attributable to the sale of meals, housekeeping and other services*.
>
> (Emphasis Added)

The Department, refraining from imposing any specific method for apportioning receipts, only required that a taxpayer employ some *reasonable basis* for its apportionment.

Approximately four years later on December 17, 1998, the Department took a comparable approach under similar facts. In Revenue Ruling 440-98-2, a taxpayer sought a ruling on the propriety of the method it intended to utilize to distinguish taxable gross receipts from deductible receipts from leasing real property. The Department approved the taxpayers methodology which it summarized as follows:

> R calculates the value of the rental portion of the monthly charge by multiplying the square footage of each apartment (adjusted for a proportionate share of the square footage of the common areas) by a square footage rental rate that is comparable for the market. The computed rental amount is then subtracted from the total monthly charge to determine R's gross receipts from the services component.

The Department, approved the proposed methodology and explained it was more appropriate than alternative methods which might consist of characterizing all "receipts as deriving totally from leasing of real property versus providing services based on whether the calculated value of the real property lease exceeds the calculated value of the services provided[.]"

On August 14, 2000, the Department again considered similar facts in Revenue Ruling 430-00-5, and maintained that a taxpayer "may apportion its receipts using some reasonable basis to determine the portion attributable to the deductible receipts from the lease of real property and the portion attributable to the taxable receipts from the sale of meals and services."

According to Mr. Pham's testimony, Revenue Ruling 430-00-5 represents the basis for Taxpayer's methodology, which ultimately served as the foundation for its refund applications. Taxpayer's methodology reduces apartment rental receipts by actual amounts the Taxpayer incurs for dietary, housekeeping and laundry services because those services are completely outsourced. Taxpayer further reduces the apartment rental receipts by an amount equivalent to the cost of two hours of nursing and nursing administration expenses per day. The remainder of receipts after those reductions represents the amount for which Taxpayer asserts the deduction.

The Department claims that Taxpayer's methodology is not reasonable because it fails to consider the fair market value of the real property, which should be the principal variable to which Taxpayer's methodology is fixed. Instead, Taxpayer's methodology is fixed to the cost of services which it subtracts from its rental receipts with the difference representing the deduction claimed.

Ms. Griego testified that based on her research, the fair market value of residential rental property is approximately $1.25 per square foot. Relying on that estimate, she testified that Taxpayer's receipts from leasing property would be approximately $85,890.00 at Taxpayer's full capacity. In contrast, the Taxpayer's methodology has resulted in a claim for a deduction which on average, exceeds $175,000.00 per month. Of course, Taxpayer asserts that Ms. Griego's research should be rejected for a variety of reasons, but failed to offer any alternatives for establishing a fair market value of the rental property, similar to that method endorsed in Revenue Ruling 440-98-2.

Of course, the Hearing Officer acknowledges the possibility that the value of residential property at TVA may be higher than average, justifying a deduction in the amounts Taxpayer seeks. However, giving any weight whatsoever to that possibility would require the Hearing Officer to engage in impermissible speculation because the Taxpayer presented no evidence to establish the basis for the rents it charges its residents. If Taxpayer asserts that its property is more valuable than other property in the area, thereby enabling it to demand a higher rate and a higher corresponding deduction, then Taxpayer should be required to establish that fact. It did not do so.

The Hearing Officer is also unable to find, based on the evidence presented, that Taxpayer's methodology is reasonable. Tax is imposed on Taxpayer's gross receipts less any applicable deductions or exemptions. When asserting a deduction under NMSA 1978, Section 7-9-53, the calculation for determining the amount of the deduction should correlate in some fashion to the fair market value of the real property subject of the deduction, subject to any deviations that may be supported by the evidence.

In reaching this conclusion, the Hearing Officer considered the statutory definition of "leasing" which "means an arrangement whereby, *for a consideration*, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease[.]" *See* NMSA 1978, Section 7-9-3 (E). The Department, in defining "consideration" for the purposes of the Gross Receipts and Compensating Tax Act, states "'Consideration' is any benefit, interest, gain or advantage to one party, usually the seller, or any detriment, forbearance, prejudice, inconvenience, disadvantage, loss of responsibility, act or service given, suffered, or undertaken by the other party, usually the buyer." *See* Regulation 3.2.1.7 (C) NMAC.

Neither the Gross Receipts and Compensating Tax Act nor the regulations implementing it appear to provide additional guidance on determining a fair, adequate, or sufficient consideration with respect for the lease of real property, or for establishing the reasonableness of a corresponding deduction. However, the Hearing Officer finds particular provisions in the Uniform Owner-Resident Relations Act, NMSA 1978, Sections 47-8-1 through – 51 to be informative. For example, NMSA 1978, Section 47-8-15 (A) provides "[t]he resident shall pay rent in accordance with the rental agreement. In the absence of an agreement, the resident shall pay as rent the *fair rental value* for the use of the premises and occupancy of the dwelling unit." (Emphasis Added). NMSA 1978, Section 47-8-3 (H) provides that "*fair rental value* is that value that is *comparable to the value established in the market place*[.]" (Emphasis Added). Accordingly, at least with respect to other enactments addressing the issue of consideration within the framework of leasing real property for residential purposes, the Legislature has recognized that fair rental value is synonymous with fair market value, which is similarly consistent with what might be considered fair or adequate consideration. *See* Black's Law Dictionary, 347 (9th ed. 2009) ("adequate consideration" is "[c]onsideration that is fair and reasonable under the circumstances of the agreement."); Black's Law Dictionary, 348 (9th ed. 2009) ("fair consideration" is "[c]onsideration that is roughly equal in value to the thing being exchanged[.]")

Taxpayer's methodology, in contrast, is unreasonable because it is indifferent to the fair market value of the receipts from leasing property. Rather, it relies solely on the cost of services for determining the amount of the claimed deduction by subtracting the cost of those services from gross receipts, and asserting the balance as the deduction for the lease of real property.

Accordingly, Taxpayer's methodology lacks the reasonable basis to which the Department has consistently referred while providing guidance to taxpayers under similar facts.

Taxpayer's protest should be DENIED. The evidence failed to establish that Taxpayer was entitled to any refund based on the method it claimed was reasonable for calculating a deduction under NMSA 1978, Section 7-9-53.

CONCLUSIONS OF LAW

A. Taxpayer filed a timely, written protest to the Department's denial of its claims for refund, and jurisdiction lies over the parties and the subject matter of the protest.

B. A hearing was timely set and held within 90-days of Taxpayer's protest under NMSA 1978, Section 7-1B-8 (2015).

C. Taxpayer did not establish entitlement to a refund under NMSA 1978, Section 7-9-53 for the periods subject of the protest.

For the foregoing reasons, Taxpayer's protest **IS DENIED.**

DATED: May 30, 2018

Chris Romero
Hearing Officer
Administrative Hearings Office
P.O. Box 6400
Santa Fe, NM 87502

NOTICE OF RIGHT TO APPEAL

Pursuant to NMSA 1978, Section 7-1-25 (2015), the parties have the right to appeal this decision by *filing a notice of appeal with the New Mexico Court of Appeals* within 30 days of the date shown above. If an appeal is not timely filed with the Court of Appeals within 30 days, this Decision and Order will become final. Rule of Appellate Procedure 12-601 NMRA articulates the requirements of perfecting an appeal of an administrative decision with the Court of Appeals. Either party filing an appeal shall file a courtesy copy of the appeal with the Administrative Hearings Office contemporaneous with the Court of Appeals filing so that the Administrative Hearings Office may begin preparing the record proper. The parties will each be provided with a copy of the record proper at the time of the filing of the record proper with the Court of Appeals, which occurs within 14-days of the Administrative Hearings Office receipt of the docketing statement from the appealing party. *See* Rule 12-209 NMRA.

CERTIFICATE OF SERVICE

On May 30, 2018, a copy of the foregoing Decision and Order was mailed to the parties listed below in the following manner:

First Class Mail *Interoffice Mail*