State of California | Board of Equalization

Memorandum

To : Mrs. Janice Masterton

Date : May 6, 1992

From : Mary C. Armstrong
Legal

Subject : STATE ASSESSEE PRESENTATION
CONTRIBUTION DISCLOSURE OPINION 92-6

This is in response to your letter of April 21, 1992, in which you requested our opinion regarding the following:

> Are the February cap rate hearings and the early May state assessee presentations on valuation considered adjudicatory proceedings within the meaning of Government Code section 15626?

As we understand it, the cap rate hearings are held pursuant to Rule 902, which provides:

> "Each year the Valuation Division shall make capitalization rate studies and develop value indicators applicable to the unitary property of each state assessee. A copy of the appropriate capitalization rate study and a summary of the calculations of the value indicators shall be provided by the Chief, Valuation Division, to the affected assessee on request. The assessee shall be informed that the staff will be available to discuss the data supplied."

The valuation presentations are a chance for state assessees to give opinions on values and rates to the Board. These hearings are held pursuant to Property Tax Rule 903, which provides:

> "State assessees will, at the discretion of the Board, be afforded an opportunity to discuss the value of their unitary property at a public meeting. The discussion may relate

> to any information bearing on the value of the property as well as the staff-calculated value indicators. For the purposes of this discussion, the staff will not be required to provide value recommendations."

Both the above-referenced hearings are held prior to the Board action in setting the values for the year. It is only after this constitutionally-mandated duty has been performed that the state assessees may file a petition for reassessment.

Government Code section 15626(h)(5) defines the term "adjudicatory proceeding" as "a matter for adjudication that has been scheduled and appears as an item on a meeting notice of the board as required by Section 11125 as a contested matter for administrative hearing before the board members. A consent calendar matter is not included unless the matter has previously appeared on the calendar as a non-consent item, or has been removed from the consent calendar for separate discussion and vote, or the item is one about which the member has previously contacted the staff or a party."

We are of the opinion that the capitalization rate hearings held pursuant to Rule 902 and the discussions with the Board of unitary value indicators held pursuant to Rule 903 are not adjudicatory proceedings as that term is used in Government Coded section 15626. As such, the contribution disclosure requirements found in Government Code section 15626 are not required prior to participation by the Board Members in these hearings.

If you have further questions concerning this matter, we will be happy to discuss them with you.

Mary C Armstrong

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