

F2

23 June 2015

Hearing Summary Statement

To: State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0090

From: Thomas Crandall, Taxpayer



Subject: Taxpayers' Bill of Rights Hearing - Culver City, 23 June 2015

To the Board Members, California State Board of Equalization,

I appear before the Board today to offer a recommendation to improve the Property Taxpayers' Rights Advocacy Program. I will also comment on the Board's overall administration and enforcement of the Revenue and Taxation Code (RTC, the Code).

Previous Taxpayer recommendation:

As I noted at last year's hearing, the Taxpayers' Rights Advocates Office (TRA) is well intentioned, but it lacks the expertise-of-statute to recognize and elevate significant property taxpayer rights issues. My recommendation was for the Board to provide the TRA dedicated legal counsel committed to the taxpayer perspective and the protection of taxpayer rights. The Board assured me this was unnecessary. I was invited to directly contact the BOE legal department with my taxpayer rights questions and Richard Moon was identified as the proper legal department liaison.

Taxpayer evaluation of BOE Legal opinions:

I followed the Board's recommendation and, with Mr. Moon's assistance, I solicited and received several BOE-legal opinions¹. I found the opinions contain biased interpretations of the Code contrived to support existing assessor positions, and generally devoid of a taxpayer perspective. A proper evaluation of these opinions cannot be accomplished at this forum. However, 2nd District Deputy James Kuhl has offered to host a meeting in Sacramento to discuss this and related matters. I request the TRA attend and also facilitate a July/August 2015 meeting.

Revised Taxpayer recommendation: refer unresolved Taxpayer/TRA matters to the District Office:

Actual taxpayer rights inherently exist within the Revenue and Taxation Code. The TRA has no authority to correct a taxpayer rights violation and often TRA advocacy merely entails explaining an assessor's existing position. **Recommendation: if a taxpayer disagrees with a TRA explanation, the TRA shall elevate the matter to the appropriate District Office for resolution.** Only the District Office has the enforcement authority to require an assessor to correct an error in assessment.

Evaluation of a taxpayer request for District Office investigation:

The administration and enforcement of the RTC is the sole responsibility of the State Board of Equalization². I made a request to my District Office on 14 August 2014 to investigate the Humboldt County Assessor's current-tax-year refusal to assess according to the County Record. To date, my District Board Member has abdicated their duty to investigate³ and instead offered the aforementioned legal opinions and a letter from Mr. David Gau as a proxy investigation. This is improper: I expect a direct investigation and direct response from my District Office, with a credible explanation based on statute.

¹ Assignment Nos. 14-155 & 14-301 (depublication), 14-179 (RTC§1361), 15-048 (escapes), 15-147 (fee simple title)

² GOV § 15606(h)

³ GOV § 15623

STATE BOARD OF EQUALIZATION



-1-

Appeal Name: Thomas Crandall

Case ID: _____ ITEM #. F2

Date: 6/23/15 Exhibit No: 6.7

TP FTB DEPT **PUBLIC COMMENT**

Effect of the District Office failure to investigate this taxpayer request:

Referring to Mr. Gau's letter⁴, he did address my concern for uncollectible tax revenue. The letter advised that 1) assessment and tax collection are separate revenue-and-taxation roles, 2) that statutes exist that ensure assessed property taxes do not remain uncollected, and 3) that County Counsel would guide the tax collector in the application of those statutes. I would add to this 4) the State Controller shall promote uniformity-of-procedure⁵ in the collection of taxes throughout the State.

Unfortunately, the County Counsel of Humboldt County has implemented a non-uniform tax collection procedure that combines the roles of assessment and tax collection. County Counsel now holds that the assessor will only recognize those owners-of-record who contribute to an unsubstantiated lump-sum-payment of \$135,000, payable to the Humboldt County Tax Collector. I submit that this illegal stipulation occurs in lieu of a timely District Office response to my August 2014 request to investigate this assessor's illegal disregard of the current County Record.

Conclusion: Board oversight is required to protect Taxpayers' Rights and ensure uniform practices⁶:

District Board Members cannot carry-out their duties and responsibilities by deferring to the BOE legal department; your office must investigate District matters brought to your attention. Taxpayers are an implicit early warning system: I alerted the TRA in October 2002 of the initial disregard of the County Record by the Humboldt County Assessor. This violation of RTC§405(a) was subsequently condoned by BOE Annotation 220.0148 in December 2002. This assessor's reliance on this flawed annotation allowed 14 years of uncollectible property tax revenue to accrue. And in 2015 County Counsel continues their dominion over this assessor and revenue-and-taxation in Humboldt County. Had the TRA referred my 2002 request to my District Office, and had my District Office investigated this violation in 2002 and enforced the Code, both revenue-and-taxation and taxpayers would have been much better served.

This protracted and documented assessment fiasco presents a unique opportunity for the Board to both improve taxpayer advocacy and affirm to all assessors their fiduciary duty⁷ and liability⁸ under the Code. I encourage the Board to capitalize this opportunity.

Respectfully,



Thomas P. Crandall

⁴ Gau letter to Crandall dated 9/12/14

⁵ GOV § 12423

⁶ RTC § 169

⁷ RTC § 405(a): Annually, the assessor shall assess all the taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date.

⁸ RTC § 1361: The assessor and his sureties are liable on his official bond for all taxes on property which is unassessed through his wilful failure or neglect.

23 June 2015

To: State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0090

From: Thomas Crandall, Taxpayer

Subject: Taxpayers' Bill of Rights Hearing - Culver City, 23 June 2015

To the Board Members, California State Board of Equalization,

I appear before the Board today to offer a recommendation to improve the Property Taxpayers' Rights Advocacy Program. I will also comment on the Board's overall administration and enforcement of the Revenue and Taxation Code (RTC, the Code).

Previous Taxpayer recommendation:

As I noted at last year's hearing, the Taxpayers' Rights Advocates Office (TRA) is well intentioned, but it lacks the expertise-of-statute to recognize and elevate significant taxpayer rights issues. My recommendation last year was for the Board to provide the TRA dedicated legal counsel committed to the taxpayer perspective and the protection of taxpayer rights. The Board assured me this was unnecessary: the BOE legal department is unbiased, committed to protecting taxpayers' rights, and accessible to the TRA, assessors, and taxpayers alike. I was invited to directly contact the BOE legal department with my taxpayer rights questions and Richard Moon was identified as the proper legal department liaison.

Taxpayer evaluation of BOE Legal opinions:

I followed the Board's recommendation and, with Mr. Moon's assistance, I solicited and received several BOE-legal opinions¹ which apply the Code to specific assessment circumstances. This direct interaction with BOE-legal was telling: the offered opinions contain biased interpretations of the Code contrived to support existing assessor positions; the opinions are devoid of a taxpayer perspective. I realize BOE legal opinions are only advisory in nature, but they are official interpretations of the RTC. A proper evaluation of these opinions cannot be accomplished at this forum. However, I stand by my assertion of bias and I welcome the opportunity to present, explain, and defend this assertion before the Board. 2nd District Deputy James Kuhl has offered to host a meeting in Sacramento to discuss this and related matters. I look forward to this meeting and I hope it will prove informative and constructive to all parties. I request the TRA attend and facilitate a July/August 2015 meeting.

Revised Taxpayer recommendation: refer unresolved Taxpayer/TRA matters to the District Office:

Actual taxpayer rights inherently exist within the Revenue and Taxation Code. The Morgan Property Taxpayers' Bill of Rights merely ensures taxpayers are provided credible explanations and that errors in property tax assessment are promptly resolved and corrected. The TRA has little authority to resolve and no authority to correct errors in property tax assessment and often TRA advocacy merely entails explaining an assessor's existing position.

Recommendation: if a taxpayer disagrees with a TRA explanation, the TRA shall elevate the matter to the appropriate District Office for resolution. Ultimately, the District Board Member is the supreme advocate for taxpayer rights issues in their District. Taxpayer rights depend on the enforcement of statute and only the District Office has the enforcement authority to require correction of errors in assessment.

Evaluation of a taxpayer request for District Office investigation:

The administration-and-enforcement of the RTC is the sole responsibility of the State Board of Equalization². I made a request to my District Office on 14 August 2014 to investigate the Humboldt County Assessor's current-tax-year refusal by to assess according to the County Record in violation of RTC § 405(a). To date, my District Board Member (Ms. Yee, and now Ms. Ma) has abdicated their duty to investigate³ and instead offered the aforementioned legal opinions and a letter from Mr. David Gau as a proxy investigation. This is improper: I expect my District Office to directly investigate and apply statute to circumstance. And I expect a direct response from my District Office with a credible explanation based on statute.

¹ Assignment Nos. 14-155 & 14-301 (depublication), 14-179 (RTC§1361), 15-048 (escapes), 15-147 (fee simple title)

² GOV § 15606(h)

³ GOV § 15623

Effect of the District Office failure to investigate this taxpayer request:

Referring to Mr. Gau's letter⁴, he did address my concern for uncollectible tax revenue as follows:

"With regard to your [Crandall] concern about potential revenue loss, it is the role of the assessor to place assessments on the roll, and the Tax Collectors's responsibility to collect those taxes. The BOE's role does not include advising Tax Collectors on their collection responsibilities. I [Gau] have been advised, however, that there are statutes that help ensure assessed property taxes do not remain uncollected, and the County Counsel would guide the Tax Collector in the application of those statutes."

I agree with Mr. Gau that assessment and tax collection are separate revenue-and-taxation roles, and that statutes exist that ensure assessed property taxes do not remain uncollected. And, although County Counsel may guide the tax collector in the application of statute, I would add that the State Controller (if not the BOE) shall promote uniformity-of-procedure⁵ in the collection of taxes throughout the State.

Unfortunately, the County Counsel of Humboldt County has implemented a non-uniform tax collection procedure that combines the roles of assessment and tax collection. County Counsel now holds that the assessor will assess according to the County Record (recognize recorded change-in-ownership) only for those owners-of-record who contribute to an unsubstantiated lump-sum-payment of \$135,000, payable to the Humboldt County Tax Collector. In other words, County Counsel holds the assessor's fiduciary duty for ransom. I submit that this illegal stipulation occurs in lieu of a timely District Office response to my August 2014 request to investigate this assessor's disregard of the current County Record in violation of RTC § 405(a).

Conclusion: Board oversight is required to protect taxpayers' rights and ensure uniform practices⁶:

My understanding is the buck stops with the District Board Members. You cannot carry-out the duties and responsibilities of your elected office by deferring to the BOE legal department; your office must investigate matters brought to your attention. Taxpayers are an implicit early warning system: I alerted the TRA in October 2002 of the initial disregard of the County Record by the Humboldt County Assessor. This RTC§405(a)-violation was subsequently condoned by BOE Annotation 220.0148 in December 2002. This assessor's reliance on this flawed (and now depublicated) annotation allowed 14 years of uncollectible property tax revenue to accrue as a result of the assessor's disregard of change-in-ownership/rebuttal of deed presumption⁷; a rebuttal the assessor never achieved⁸. And in 2015 County Counsel continues their dominion over this assessor and revenue-and-taxation in Humboldt County with confidence, continuously underwritten by sympathetic BOE legal opinions. Had the TRA referred my 2002 request to my District Office, and had my District Office investigated this violation of the RTC in 2002 and enforced the Code, both revenue-and-taxation and taxpayers would have been much better served.

This protracted and documented assessment fiasco presents a unique opportunity for the Board to both improve taxpayer advocacy and affirm to all assessors their fiduciary duty⁹ and liability¹⁰ under the Code. I encourage the Board to capitalize this opportunity.

Respectfully,



Thomas P. Crandall

Note: There is no mention of the Humboldt County Assessor's disregard of the County Record (2000-2015) in the Assessment Practices Survey Reports of 2003 (Migden), 2008 (Yee), or 2014 (Yee). The 2014 survey is conspicuous in that it was conducted after the August 2013 Superior Court ruling which directed the assessor to assess deeds as recorded.

⁴ Gau letter to Crandall dated 9/12/14

⁵ GOV § 12423

⁶ RTC § 169

⁷ CIV § 1105, EVID § 662

⁸ EVID § 662, § 500, § 115

⁹ RTC § 405(a): Annually, the assessor shall assess all the taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date.

¹⁰ RTC § 1361: The assessor and his sureties are liable on his official bond for all taxes on property which is unassessed through his wilful failure or neglect.