

M e m o r a n d u m***PRELIMINARY DRAFT – FOR DISCUSSION PURPOSES ONLY***

To: Honorable Betty T. Yee, Chairwoman
Honorable Judy Chu, Vice-Chair
Honorable Bill Leonard, Second District
Honorable Michelle Steel, Third District
Honorable John Chiang, Controller

Date: July 6, 2007

From: Kristine Cazadd
Chief Counsel 

Subject: **Petition for Amendment of Property Tax Rule 325**
Notice and Clarification of Decision
July 17, 2007 Board Meeting – Chief Counsel Matters – Item J – Rulemaking

On July 5, 2007, the Board received Mr. Stephen Bennett's petition, pursuant to Government Code section 11340.6, to amend Property Tax Rule¹ 325, *Notice and Clarification of Decision*. In his petition, Mr. Bennett seeks to amend Rule 325 to specify that the failure of a local Assessment Appeals Board to rule within 120 days of the conclusion of a hearing will result in the deemed approval of the taxpayer's application.

This matter is scheduled for the Board's consideration at the July 17, 2007 meeting² on the Chief Counsel Matters Agenda. On July 17, the Board may: (1) deny the petition; (2) grant the petition in part or in whole and commence the official rulemaking process by ordering publication of the notice pursuant to Government Code section 11346.5; (3) direct staff to commence an interested parties process to consider the requested amendment in part or in whole; or (4) to take any other action as it may determine to be warranted by the petition.

In this case, staff recommends that the Board take other action; specifically, that the Board defer consideration of the petition until the August 14, 2007 Board meeting to afford staff adequate time to conduct appropriate research for the Board's consideration of the petition. Prior to making a recommendation to the Board on this petition, staff needs time to review the petition for consistency with the Revenue and Taxation Code, as well as review local ordinances, AAB rules and practices, Rule 325's regulatory history, and relevant judicial opinions. Staff also needs time to consider and present to the Board the potential effect of the proposed rulemaking on local assessment appeals boards and to consider any potential problem areas or possible

¹ All "Property Tax Rule" or "Rule" references are to title 18 of the California Code of Regulations.

² Under Government Code section 11340.7, the Board has 30 days from receipt to deny the petition in whole or in part, indicating the reasons why, or to initiate the rulemaking process, or to take any other action as it may determine to be warranted. Petitioner refused Staff's request that he waive the 30-day deadline to provide Staff with adequate review time.

deficiencies in the proposed regulatory language, such as its failure to address situations in which the appellant has waived time and/or the appellant has itself, by its own actions, caused the delay. Therefore, we request that the Board defer consideration of the petition until the August 14, 2007 Board meeting.

If you would like any information or have any questions, please contact Acting Assistant Chief Counsel Robert Lambert at (916) 324-6593.

Approved:



Ramon J. Hirsig
Executive Director

KEC:RM:

Prop/Rules/Rile 325 Petition
Chief Counsel/Final/Rule 325.0717/07 Mtg.

cc: Mr. Ramon Hirsig, MIC: 73
Mr. David Gau, MIC: 63
Mr. Robert Lambert, MIC: 82
Mr. Dean Kinnee, MIC: 64
Mr. Todd Gilman, MIC: 70