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September 18, 1986

Mr. Stephen R. Sara
Chief, Appraisal Division
Office of Assessor, County of Alameda
Administration Building
1221 Oak Street, Room 145
Oakland, CA 94612

RE: Facts Supporting a Stipulated Reduction

Dear Mr. Sara:

Please excuse the delay in responding to your letter of August 6, 1986, to Richard H. Ochsner, Assistant Chief Counsel, because I have been unable to find any direct authority that bears on your question. Initially, it should be noted that Property Tax Rule 316(a) in pertinent part merely repeats the stipulation provision of the statute, Revenue and Taxation Code section 1607. This part of the rule provides no additional amplification of the statutory language.

Your question refers to the clause "which stipulation sets forth the facts upon which the reduction in value is premised" and you ask our opinion as to the minimum description of facts. As you are aware, because of the variety of appraisals that support the assessed value, it would be impossible to specify a certain set of facts that would apply to all stipulations. Nevertheless, consistency would dictate that in most instances the stipulated facts must relate to the original method of appraisal. Having said that, I would also caution that it would not apply if the assessor decided that the prior method was incorrect and based the stipulation on a completely new method. This would obviously require a much more extensive stipulation.

It seems to me that the legislative purpose behind the stipulation provision is to insure that proposed reductions are recommended to the board with due care and a reasonable set of agreed facts that will support the reduction. You will recall that Revenue and Taxation Code section 616 requires the assessor to make and subscribe an affidavit on the roll which states that he has assessed property, according to the best of his judgment, at its value as required by law. By stipulating

to a reduction the assessor is now overruling his prior judgment and in so doing he must set forth the basis for the difference between his prior and new value conclusions. As a double check you will note that section 1607 also requires the county legal officer to sign the stipulation on behalf of the county.

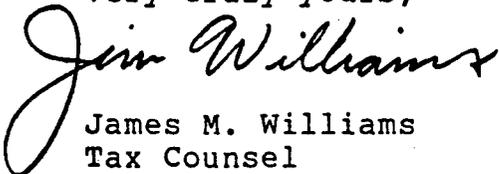
Since the new value may ultimately be accepted by the board and as such becomes its value by adoption it would be well to look to similar requirements that are made of the board. Revenue and Taxation Code section 1611.5 directs that:

The written findings of fact shall fairly disclose the board's determination of all material points raised by the party in his or her petition and at the hearing, including a statement of the method or methods of valuation used in appraising the property.

This is the legislative directive to the board which specifies what must appear by way of explanation for the value conclusions that are reached in the normal conduct of their duties. It would therefore seem appropriate to adopt a similar standard for the stipulation. In so doing it should state all material points that result in a value reduction. In the case of the cost approach it may be a change in the trend factors; for the income approach a change in the capitalization rate or income stream. If the method of appraisal were completely changed then this plus a statement of the new method should be included.

The stipulation should be material to the reduction. It may be brief and need not be lengthy. It should fairly explain the basis for the amount of the reduction. That should be sufficient to meet the scrutiny of the Board of Supervisors in the conduct of their oversight duties, and it would satisfy any public request to ascertain the appropriateness of such reductions of property tax.

Very truly yours,



James M. Williams
Tax Counsel

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