

MONTEREY COUNTY ASSESSMENT PRACTICES SURVEY

OCTOBER 2013

CALIFORNIA STATE BOARD OF EQUALIZATION

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STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
1-916-274-3350 • FAX 1-916-285-0134
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

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No. 2013/051

October 31, 2013

TO COUNTY ASSESSORS:

**MONTEREY COUNTY
ASSESSMENT PRACTICES SURVEY**

A copy of the Monterey County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Stephen L. Vagnini, Monterey County Assessor-County Clerk-Recorder, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Monterey County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from October through November 2011. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Vagnini and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ Louie E. Feletto

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:dcl
Enclosure

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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office. This report reflects the BOE's findings in its current survey of the Monterey County Assessor-County Clerk-Recorder's Office.¹

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Monterey County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Stephen L. Vagnini, Monterey County Assessor-County Clerk-Recorder, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys* at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

¹ This review covers only the assessment functions of the office.

SCOPE OF ASSESSMENT PRACTICES SURVEYS

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, a survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code² section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix C.

Our survey of the Monterey County Assessor-County Clerk-Recorder's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contact with officials in other public agencies in Monterey County that provided information relevant to the property tax assessment program. This survey also included an assessment sample of the 2011-12 assessment roll to determine the average level (ratio) of assessment for all properties and the disparity among assessments within the sample. The ideal assessment ratio is 100 percent, and the minimum acceptable ratio is 95 percent. Disparity among assessments is measured by the sum of absolute differences found in the sample; the ideal sum of absolute differences is 0 percent and the maximum acceptable number is 7.5 percent. If the assessment roll meets the minimum standards for ratio and disparity, the county is eligible to continue to recover the administrative cost of processing supplemental assessments. The sampling program is described in detail in Appendix B.

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

Government Code section 15643 requires the BOE to repeat or supplement each survey of a county's assessment practices at least once in five years. Our last full survey of Monterey County was conducted in 2007, and published in 2008. The current survey will serve to supplement the work done during the last survey by: (1) revisiting the issues about which we then made

² Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code and all rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

recommendations for improvement, (2) evaluating anew certain major areas of the assessor's operation, and (3) determining, for purposes of Revenue and Taxation Code section 75.60, whether Monterey County continues to be eligible to recover the costs associated with administering supplemental assessments.

EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office.

Many of our recommendations concern portions of programs which are currently effective, but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

In the area of administration, we found that the assessor is properly handling the staffing, workload, and assessment appeals programs. However, we noted that the staff property and activities program and the exemptions program are in need of improvement.

In the area of real property assessment, we noted a need for improvement in the following programs: change in ownership, new construction, declines in value, California Land Conservation Act (CLCA) property, and taxable possessory interests.

In the area of personal property and fixtures assessment, we found that the assessor has an effective program for valuing business equipment. However, we found that the audit and business property statement programs are in need of improvement.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

The Monterey County assessment roll meets the requirements for assessment quality established by section 75.60. Our sample of the 2011-12 assessment roll indicated an average assessment ratio of 100.06 percent, and the sum of the absolute differences from the required assessment level was 0.53 percent. Accordingly, the BOE certifies that Monterey County is eligible to receive reimbursement of costs associated with administering supplemental assessments.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

| | | |
|--------------------------|--|----|
| RECOMMENDATION 1: | Develop written procedures that address the assessment of staff-owned property. | 14 |
| RECOMMENDATION 2: | Improve the administration of the disabled veterans' exemption by correctly calculating the amount of an exemption to be granted for a late-filed claim on the low-income provision of the disabled veterans' exemption..... | 20 |
| RECOMMENDATION 3: | Correctly implement the penalty process in accordance with section 482(a)..... | 24 |
| RECOMMENDATION 4: | Properly apply the provisions of section 63.1(j) when processing section 63.1 claims for exclusion..... | 27 |

RECOMMENDATION 5: Improve the new construction program by: (1) substantiating new construction discounts on residential swimming pools, and (2) valuing construction in progress (CIP) at current market value as of the lien date pursuant to section 71.33

RECOMMENDATION 6: Improve the declines in value program by: (1) including documentation in the property record to support market value conclusions for properties experiencing a decline in value, and (2) annually reviewing all properties in a decline-in-value status pursuant to section 51(e).....36

RECOMMENDATION 7: Improve the CLCA property program by using current well replacement costs when deriving a charge for recapture.38

RECOMMENDATION 8: Improve the taxable possessory interest program by: (1) obtaining current copies of all lease agreements or permits for taxable possessory interests, (2) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (3) reappraising taxable possessory interests in compliance with section 61, and (4) properly issuing supplemental assessments for taxable possessory interests.39

RECOMMENDATION 9: Improve the audit program by: (1) requiring a situs inspection as a standard component of the audit process, and (2) sending a *Notice of Proposed Escape Assessment* as required by section 531.8.44

RECOMMENDATION 10: Ensure leased equipment reported by the lessee is cross-checked against lessor enrollments during processing.46

PRIOR SURVEY RECOMMENDATIONS, RESPONSES, AND CURRENT STATUS

Following are the recommendations included in the BOE's May 2008 Assessment Practices Survey Report and the assessor's response to each recommendation. After each recommendation, we report the current status of the assessor's effort to implement the recommendation as noted during our survey fieldwork.

Exemptions

RECOMMENDATION 1: Grant exemption to low-income housing property owned and operated by a limited partnership only when it holds a valid Board-issued SCC.

Assessor's Response:

We concur. We have corrected this error.

Current Status:

This recommendation has been implemented.

California Land Conservation Act Property

RECOMMENDATION 2: Improve the California Land Conservation Act (CLCA) program by: (1) using current well replacement costs when deriving a charge for recapture, and (2) using the correct land charge when valuing living improvements on CLCA properties.

Assessor's Response:

(1) We concur. We are currently migrating our agriculture property data base into our Megabyte Property management system which will enable us to use current well replacement costs.

(2) We concur. As a result of this migration to Megabyte we will be able to use the correct land charges when valuing living improvements on CLCA properties.

Current Status:

The assessor has implemented part 2 of this recommendation; however, the assessor has not implemented part 1. The assessor is using a fixed recapture charge for all irrigation wells in vineyards and orchards to be deducted from the income stream being capitalized.

Taxable Government-Owned Properties

RECOMMENDATION 3: Establish base year values for taxable government-owned properties according to Board guidelines.

Assessor's Response:

We respectfully disagree with this recommendation. We believe that we have correctly determined the base year value for these properties in accordance with Section 110 of the Revenue and Taxation Code.

Current Status:

The assessor has not implemented this recommendation.

Taxable Possessory Interests

RECOMMENDATION 4: Improve the taxable possessory interest program by:
(1) assessing all taxable possessory interests, and
(2) reappraising taxable possessory interest properties pursuant to Rule 21.

Assessor's Response:

- (1) We concur. We acknowledge the need to assess all possessory interests including those with extremely low values and will do so in subsequent years.*
- (2) We concur. This recommendation was implemented for 2006-2007.*

Current Status:

The assessor has implemented part 1 of this recommendation and is assessing taxable possessory interests found at the county fairgrounds. However, the assessor has not implemented part 2 of this recommendation. The assessor does not periodically review all taxable possessory interests with stated terms of possession for possible declines in value as of the lien date.

Leasehold Improvements

RECOMMENDATION 5: Properly classify leasehold improvements.

Assessor's Response:

We concur. The classification of leasehold improvements is taken into account when computing value and making supplemental assessments. Improvement values have been combined on the tax roll in order to depreciate both tenant structures and fixtures. We will explore the possibility of making separate classifications between structures and fixtures on the Unsecured Roll with our software vendor. We will also review our mandatory audit lists to remove accounts which may have become mandatory because structural values have been included with fixture values.

Current Status:

The assessor has not implemented this recommendation.

Mineral Properties

RECOMMENDATION 6: Determine declines in value based on the full appraisal unit of mineral properties according to Rule 469(e)(2)(C).

Assessor's Response:

We concur. We will make sure that the entire appraisal unit is evaluated for declines in value and not the individual components.

Current Status:

The assessor has implemented this recommendation.

Audit Program

RECOMMENDATION 7: Timely audit the books and records of professions, trades, and businesses pursuant to section 469.

Assessor's Response:

We concur. After several years of being understaffed in our Business Property Section, we have had a steady and productive staff the last two years. Our average 4 year mandatory audit load is 450 accounts. For 2006-2007 we audited 154 accounts, and this year we are on pace to exceed that number. With our current staff level, and with the addition of another Auditor Appraiser later this year, we should be able to achieve "current" status by the end of the 2008-2009 audit season.

Current Status:

The assessor has implemented this recommendation. In recent years, the assessor has exceeded the minimum number of audits required as defined by section 469.

Vessels

RECOMMENDATION 8: Send owners of vessels having an aggregate cost of \$100,000 or more a *Vessel Property Statement*.

Assessor's Response:

We concur. We will implement this immediately. We have already created a search for boats with \$100,000 or more in value. We will send a Vessel Property Statement to all vessel owners with an aggregate vessel cost of \$100,000 or more.

Current Status:

The assessor has implemented this recommendation and sends *Vessel Property Statements* to all vessel owners with an aggregate vessel cost of \$100,000 or more.

OVERVIEW OF MONTEREY COUNTY

Monterey County is located along the central coast of California, with almost 100 miles of coastline. The county encompasses an area of 3,772 square miles, which consists of 3,281 square miles of land area and 491 square miles of water area. Created in 1850, Monterey County was one of California's original 27 counties. Monterey County is bordered to the north by Santa Cruz County; to the east by San Benito, Fresno, and Kings Counties; to the south by San Luis Obispo County; and to the west by the Pacific Ocean.

As of 2011, Monterey County had a population of 421,898. Monterey County has 12 incorporated cities: Carmel-by-the-Sea, Del Rey Oaks, Gonzales, Greenfield, King City, Marina, Monterey, Pacific Grove, Salinas, Sand City, Seaside, and Soledad. The county seat is Salinas. Monterey County's two largest industries are agriculture, with crop values exceeding \$4 billion in 2010, and tourism, with 8 million visitors annually who generate \$2 billion in spending.



The following table displays information pertinent to the 2011-12 assessment roll:

| | PROPERTY TYPE | ENROLLED VALUE |
|-------------------------------|------------------------------|-----------------------|
| Secured Roll | Land | \$22,322,905,186 |
| | Improvements | \$24,886,638,941 |
| | Personal Property | \$455,615,310 |
| | Total Secured | \$47,665,159,437 |
| Unsecured Roll | Land | \$117,801,127 |
| | Improvements | \$943,393,353 |
| | Personal Property | \$1,040,964,644 |
| | Total Unsecured | \$2,102,159,124 |
| Exemptions³ | | (\$1,856,776,225) |
| | Total Assessment Roll | \$47,910,542,336 |

The next table summarizes the change in assessed values over recent years:⁴

| ROLL YEAR | TOTAL ROLL VALUE | CHANGE | STATEWIDE CHANGE |
|------------------|-------------------------|---------------|-------------------------|
| 2011-12 | \$47,910,542,000 | 0.2% | 0.1% |
| 2010-11 | \$47,820,531,000 | -4.2% | -1.9% |
| 2009-10 | \$49,940,481,000 | -3.4% | -2.4% |
| 2008-09 | \$51,718,134,000 | 2.2% | 4.7% |
| 2007-08 | \$50,587,632,000 | 9.5% | 9.6% |

³ The value of the Homeowners' Exemption is excluded from the exemptions total.

⁴ State Board of Equalization Annual Report, Table 7.

ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, workload, staff property and activities, assessment appeals, and exemptions.

Budget and Staffing

The following table shows the assessor's budget and staffing over recent years:

| BUDGET YEAR | GROSS BUDGET | CHANGE | PERMANENT STAFF |
|-------------|--------------|--------|-----------------|
| 2011-12 | \$4,974,805 | -8.9% | 50 |
| 2010-11 | \$5,460,983 | 9.4% | 55 |
| 2009-10 | \$4,991,405 | -8.3% | 54 |
| 2008-09 | \$5,445,999 | 8.1% | 57 |
| 2007-08 | \$5,035,962 | 21.0% | 61 |

At the time of our survey, the Monterey County Assessor's Office consisted of 50 full-time budgeted positions. Those positions included the assessor, assistant assessor, 1 administrative services officer, 1 supervising appraiser, 1 auditor-appraiser manager, 17 appraisers, 5 auditor-appraisers, 1 department information systems manager, 1 business technology analyst, 1 senior map drafting technician, 1 senior personnel analyst, and 19 support staff.

Workload

Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. In order to accomplish this task, the assessor reviews recorded documents and building permits to discover assessable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

In addition, for most real property, the assessor is required to annually enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has impacted the taxable value of the property for that year. In certain economic times, this decline may greatly impact the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

As shown in the prior tables, the total roll value has increased three of the past five years, most recently reflecting a slight increase. The gross budget has also increased three of the past five

years; however, the gross budget most recently reflects a decrease. During this same time period, the assessor's workload has been fluctuating. The number of reappraisable transfers due to changes in ownership, the number of new construction assessments, and the number of assessment appeals being filed have all decreased the last two of the past four years. In contrast, the number of decline-in-value assessments has increased three of the past four years; however, the most recent year also reflects a decrease.

These trends are shown in the following table:

| WORKLOAD DESCRIPTION | 2011-12 | 2010-11 | 2009-10 | 2008-09 | 2007-08 |
|------------------------------|----------------|----------------|----------------|----------------|----------------|
| Reappraisable Transfers | 10,693 | 10,878 | 13,040 | 9,489 | 5,632 |
| New Construction Assessments | 51 | 775 | N/A | 1,316 | 1,556 |
| Decline-In-Value Assessments | 34,135 | 35,421 | 34,318 | 31,536 | 14,732 |
| Assessment Appeals Filed | 891 | 1,103 | 1,265 | 650 | 369 |

Staff Property and Activities

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

The assessor becomes aware of employee-owned property through name recognition when a recorded deed is received in the office, through self-declaration by the employee acquiring the property, and from the annual filing of the California Fair Political Practices Commission Form 700, Statement of Economic Interests (Form 700), which requests information regarding employee ownership in any real property, other than their primary residence, as well as ownership interest in any business entity.

In Monterey County, all certified appraisers in the assessor's office are required to annually submit Form 700. The forms are submitted to and maintained by the administrative services officer. Annually, the assessor certifies to the BOE that he and his staff have complied with the requirements of section 672 by disclosing their financial interests.

We reviewed the assessor's practice for the assessment of staff-owned property. The assessor does not have any written policies or procedures for staff-owned property; however, the current practice is that staff-owned property in need of valuation is assigned to the appraiser responsible for the geographic area in which the staff-owned property is located. Once the appraisal is completed, it is reviewed by the supervising appraiser and either the assistant assessor or the assessor before the value is enrolled. If the appraiser of the area is also the owner of the staff-owned property in need of valuation, then the property is assigned directly to the supervising appraiser. The assistant assessor reviews all escape assessments and roll corrections prepared for staff-owned property prior to enrollment.

The assessor has written procedures addressing conflicts of interest. Employees are given a copy of the Monterey County Personnel Policies and Practices Resolution No. 98-394 at the time of employment. In addition, employees are required to file a *Declaration of Outside Employment or Conflicting Activity* upon hiring and periodically throughout their employment with the county. The assessor's policy clearly states that violation of the policy regarding conflicts of interest may subject that employee to disciplinary action up to and including dismissal.

We reviewed several property records and assessments for staff-owned properties. We found that the assessor is properly handling assessments of staff-owned property and we found no evidence that any staff was directly involved in the assessment of their own property. However, we did note an area where improvement is needed.

RECOMMENDATION 1: Develop written procedures that address the assessment of staff-owned property.

The assessor has only informal policies and no written procedures in place to address the assessment of staff-owned properties. While we did not find any problems with the assessor's handling of staff-owned properties, the assessor should have written procedures in place to fully address the assessment of real and personal property in which staff in the assessor's office holds an interest.

Conversion of the informal policies to written procedures to formalize existing policies is good business practice. Written procedures are preferred because they are more easily tracked and can be referenced when questions arise; their existence commonly results in a greater degree of compliance. Letter To Assessors No. 2008/058 was issued as a guide to assist assessors in establishing procedures relative to the assessment of staff-owned property.

The procedures for the assessment of staff-owned property need not be lengthy or complicated, but should be formalized in a written format and provided to all staff. The procedures adopted by the assessor should:

- Clearly define the assessor's policies and procedures,
- Establish staff's responsibilities,
- Create a file or listing of all staff-owned property in the county,
- Contain well-defined review procedures, and
- Accurately track and document all events with potential assessment implications.

Written procedures for the assessment of staff-owned property that include these bulleted practices and expand upon the assessor's existing informal procedures are recommended. These procedures should be clearly established, and should include the practice of obtaining acknowledgements of receipt of the procedures from staff and creating a tracking system to ensure staff is in compliance. Development of written procedures for the assessment of staff-owned property will help ensure that staff is aware of and follows office policy.

Assessment Appeals

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct

and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application for reduction by the same taxpayer.

Monterey County has one assessment appeals board (AAB) consisting of three regular members and two alternate members appointed by the Monterey County Board of Supervisors. The clerk notifies all members of upcoming hearings. The regular members are selected to attend the hearing to act as a three-member panel for the AAB. The alternate members have the same authority to act in the temporary absence of a regular member. The county does not have hearing officers. The filing period for assessment appeals in Monterey County is July 2 through November 30.

The clerk is responsible for providing applications for changed assessment to the public, receiving the completed applications, and providing copies of the completed applications to the assessor. BOE-305-AH, *Application for Changed Assessment*, is available at the clerk's and assessor's offices, as well as the county's website. Monterey County does not currently accept electronically submitted applications for changed assessments.

Once an application is received, the clerk date stamps it, reviews it for completeness, and determines if it is timely filed. The applications are then scanned and posted into a shared drive in the computer system, where the assessor has read-only access and may obtain copies of the applications. The clerk then enters necessary information from the application into a spreadsheet for tracking purposes. The clerk schedules the appeals for hearing and sends a letter to the applicant with notification of the time, date, and place of the hearing.

The clerk and the assistant assessor both track the progress of assessment appeals in an effort to resolve all appeals within the two-year time period. No appeal filed in the last five years has gone unresolved for more than two years without a timely filed extension.

The following table sets forth the appeal workload over recent years:

| YEAR | 2011-12 | 2010-11 | 2009-10 | 2008-09 | 2007-08 |
|--------------------------------------|----------------|----------------|------------------|------------|------------|
| Appeals Filed | 891 | 1,103 | 1,265 | 650 | 369 |
| Appeals Carried Over From Prior Year | 7 ⁵ | 0 ⁶ | 148 ⁷ | 120 | 132 |
| Total Appeals Workload | 898 | 1,103 | 1,413 | 770 | 501 |
| Resolution: | | | | | |
| Withdrawn | 310 | 466 | 453 | 333 | 263 |
| Stipulation | 328 | 356 | 575 | 165 | 69 |
| Appeals Reduced | 21 | 12 | 31 | 6 | 5 |
| Appeals Upheld | 0 | 4 | 6 | 1 | 10 |
| Appeals Increased | 0 | 0 | 0 | 0 | 0 |
| Other Determination* | 140 | 74 | 105 | 100 | 34 |
| Total Resolved | 799 | 912 | 1,170 | 605 | 381 |
| To Be Carried Over** | 99 | 191 | 243 | 165 | 120 |

* Note: Includes, but not limited to late-filed appeals, applicants' failure to appear and board denied applications.

**Note: "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

The assistant assessor reviews a copy of each assessment appeal application received from the clerk and assigns the appeal to the appropriate appraiser. The assigned appraiser attempts to contact each applicant prior to the scheduled hearing to explain the assessment, understand the applicant's concerns, and try to come to an agreement. If the appraiser and the applicant agree that the current assessed value is correct and no value change is necessary, the applicant submits a withdrawal request with the clerk. Once the clerk receives the withdrawal request, it is reviewed and placed on the agenda for approval at the next scheduled hearing. If the appraiser and the applicant agree to a value different from the current assessed value, the appraiser prepares a stipulation outlining the details of the requested change to the current assessed value. The stipulation is reviewed by the supervising appraiser and the assistant assessor before being mailed to the applicant. The applicant signs and returns the stipulation, so it can be added to the assessment appeals agenda and presented to the AAB for approval. If no agreement can be reached, the assessment appeals process continues and the scheduled hearing takes place.

⁵ The assessor incorrectly reported the number of "Appeals Carried Over From Prior Year" for 2011-12. The assessor reported 7; however, the number should be 191, as indicated by the number "To Be Carried Over" from 2010-11, based on the numbers previously reported by the assessor.

⁶ The assessor incorrectly reported the number of "Appeals Carried Over From Prior Year" for 2010-11. The assessor reported 0; however, the number should be 243, as indicated by the number "To Be Carried Over" from 2009-10, based on the numbers previously reported by the assessor.

⁷ The assessor incorrectly reported the number of "Appeals Carried Over From Prior Year" for 2009-10. The assessor reported 148; however, the number should be 165, as indicated by the number "To Be Carried Over" from 2008-09, based on the numbers previously reported by the assessor.

Assessment appeals hearings are held once a month. While the appraiser assigned to the appeal prepares the appeal for hearing, both the assigned appraiser and the assistant assessor present the appeal before the AAB. During our survey we were able to attend an AAB hearing. The assessor's staff was well prepared and presented the assessment appeals sufficiently. We found the assessor's assessment appeals program to be well administered and we have no recommendations for this program.

Exemptions

For the exemptions portion of the Monterey County survey, we reviewed all church exemptions and a sampling of religious, welfare, and disabled veterans' exemptions. The exemptions program is administered by a senior assessment clerk and an assessment clerk, who are under the direction of the administrative services officer. For guidance, the assessor's staff relies on internal policies and procedures for the administration of the exemptions program, as well as Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions* (AH 267).

Church and Religious Exemptions

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts buildings, the land on which they are situated, and equipment used exclusively for religious worship when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution, provided that the property is not used for commercial purposes. The church parking exemption is available for owned or leased property meeting the requirements of section 206.1. The Legislature has also implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for both religious worship and school purposes (excluding property used solely for schools of collegiate grade).

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

The following table shows religious and church exemption data for recent years:

| YEAR | RELIGIOUS EXEMPTIONS | EXEMPTED VALUE | CHURCH EXEMPTIONS | EXEMPTED VALUE |
|---------|----------------------|----------------|-------------------|----------------|
| 2011-12 | 215 | \$146,065,331 | 8 | \$2,554,582 |
| 2010-11 | 213 | \$149,072,260 | 8 | \$3,501,368 |
| 2009-10 | 213 | \$151,146,395 | 3 | \$1,365,836 |
| 2008-09 | 228 | \$156,362,050 | 3 | \$815,515 |
| 2007-08 | 226 | \$151,680,252 | 3 | \$1,074,069 |

In general, the church and religious exemptions are well administered and claimants are required to file the proper forms in order to receive the appropriate exemption. We have no recommendations for the church and religious exemptions program.

Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital, or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors. The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing either *Organizational Clearance Certificates* (OCCs) to qualified organizations or *Supplemental Clearance Certificates* (SCCs) to limited partnerships, which have a qualified organization as the managing general partner, that own and operate low-income housing. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE or a valid SCC issued by the BOE if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner. The assessor may, however, deny an exemption claim based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The following table shows welfare exemption data for recent years:

| YEAR | WELFARE EXEMPTIONS | EXEMPTED VALUE |
|-------------|---------------------------|-----------------------|
| 2011-12 | 469 | \$1,567,027,544 |
| 2010-11 | 446 | \$1,477,404,760 |
| 2009-10 | 433 | \$1,386,577,069 |
| 2008-09 | 416 | \$1,314,226,967 |
| 2007-08 | 406 | \$1,227,398,738 |

In Monterey County, we reviewed a variety of welfare exemption claims, including first-time filings and annual filings. In addition, we inspected claims for low-income housing property, including properties owned by a limited partnership holding an SCC. We found that the assessor obtains an OCC from each claimant that requests a welfare exemption, reviews each claim and any supporting documents before granting an exemption, appropriately examines an organization's property holding a valid SCC, and correctly allocates exemption values and taxable values of properties receiving partial exemptions. Overall, we found that the assessor is properly administering the welfare exemption and we have no recommendations.

Disabled Veterans' Exemption

The disabled veterans' exemption is authorized by article XIII, section 4(a) of the California Constitution. This constitutional provision, implemented by section 205.5, exempts a specified amount of the value of a dwelling when occupied as a principal place of residence by a qualified disabled veteran (or the veteran's unmarried surviving spouse). The property must be owned by the veteran, the veteran's spouse, or the veteran and the veteran's spouse jointly. The amount of exemption is \$100,000 or, for qualifying low-income claimants, \$150,000. Both of these amounts are adjusted annually by a cost of living index.

The disabled veterans' exemption at the \$100,000 basis requires a one-time filing, while the low-income exemption at the \$150,000 level requires annual filings to ensure the claimant continues to meet the household low-income restriction.

The following table shows disabled veterans' exemption data for recent years:

| YEAR | DISABLED VETERANS' EXEMPTIONS | EXEMPTED VALUE |
|---------|-------------------------------|----------------|
| 2011-12 | 929 | \$87,427,084 |
| 2010-11 | 896 | \$82,626,361 |
| 2009-10 | 902 | \$81,724,695 |
| 2008-09 | 891 | \$78,837,810 |
| 2007-08 | 838 | \$70,023,934 |

We reviewed several disabled veterans' exemption files, including new claims filed. Staff's responses to our questions regarding the provisions of the disabled veterans' exemption displayed a basic understanding and knowledge of the statute. However, while reviewing the disabled veterans' exemption claims, we found an area in need of improvement.

RECOMMENDATION 2: Improve the administration of the disabled veterans' exemption by correctly calculating the amount of an exemption to be granted for a late-filed claim on the low-income provision of the disabled veterans' exemption.

When applying late-filing provisions for a late-filed claim on the low-income provision of the disabled veterans' exemption, we found that the assessor incorrectly calculates the amount of the partial exemption to be granted for the property. The assessor calculates the partial exemption based on the entire amount of the eligible exemption rather than only the portion that is over the basic exemption.

Section 276(b) states, "If a late-filed claim for the one-hundred-fifty-thousand-dollar (\$150,000) exemption is filed in conjunction with a timely filed claim for the one-hundred-thousand-dollar (\$100,000) exemption, the amount of any exemption allowed under the late-filed claim under subdivision (a) shall be determined on the basis of that portion of the exemption amount, otherwise available under subdivision (a), that exceeds one hundred thousand dollars (\$100,000)."

The basic disabled veterans' exemption only requires a one-time filing. However, a claimant for the low-income disabled veteran's exemption must annually file for any amount over the basic amount and it is that amount on which the partial exemption is to be calculated when a claim is filed late.

Calculating the amount of the exemption to be granted for the property based on the entire exemption amount rather than the amount exceeding the basic level does not afford the claimant the correct exemption amount for which they are eligible. For example, using the 2011 disabled veterans' exemption amounts of \$116,845 and \$175,269 for the basic and low-income amounts, respectively, a claimant filing for the maximum exemption and receiving a 90 percent late-filing provision should receive 90 percent of the amount over \$116,845; an exemption of \$169,427. A partial exemption due to late-filing calculated on the entire amount yields an exemption of

\$157,742 – a difference of \$11,685. The assessor should adjust his procedures to grant the claimant the proper amount of the exemption.

ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts and taxable possessory interests.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed 2 percent.

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of change in ownership for property tax purposes. Section 50 requires the assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of change in ownership.

Document Processing

The assessor maintains written policies and procedures to be used by staff when processing changes in ownership.

The assessor's primary source of discovering properties that have changed ownership is by reviewing deeds and other recorded documents from the county recorder's office. The recorder's office requires BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), to accompany documents submitted for recording that transfer ownership of real property. If a transfer document is received without a PCOR, the recorder's office will apply a \$20 charge to the recording fee. PCORs are available at both the assessor's and recorder's offices, as well as on the assessor's website.

The following table sets forth the total number of recorded documents received and the total number of reappraisable transfers processed in Monterey County in recent years:

| YEAR | RECORDED DOCUMENTS RECEIVED | REAPPRAISABLE TRANSFERS |
|-------------|------------------------------------|--------------------------------|
| 2011-12 | 16,005 | 10,693 |
| 2010-11 | 16,549 | 10,878 |
| 2009-10 | 18,009 | 13,040 |
| 2008-09 | 17,505 | 9,489 |
| 2007-08 | N/A | 5,632 |

The Monterey County Assessor also functions as the county clerk and the recorder. The recorder's office electronically scans all documents and places preselected documents into a shared database that the assessor can access. These preselected documents are sent to the Property Transfer Section and assigned to a property transfer clerk for processing. The property transfer clerks review each assigned document and determine the type of document, assign a transfer code, and enter transfer information into the computer system. If the document involves a 100 percent reappraisable transfer, it is placed in an appraiser's work queue for valuation. All other documents are placed in the Change of Ownership Section's (COO) work queue. The COO researches all other documents and makes a determination for the percentage of interest being transferred, whether the transfer results in a reappraisable event, and updates any necessary information in the computer system. Documents resulting in reappraisable events are transferred electronically to an appraiser's work queue for valuation. An account clerk in the COO reviews all PCORs and scans them into the computer system on a daily basis.

The assessor also discovers potential changes in ownership through change of address requests, field checks by appraisers, and correspondence from transferors, transferees, attorneys, or family members. For deaths occurring within the county, the assessor discovers potential changes in ownership by reviewing a list of deceased persons received monthly from the county health department. For subsequent changes in ownership resulting from the death of a property owner, the assessor properly uses the date of death as the event date.

We examined several recorded documents and found the assessor conducts a proper and thorough review for reappraisable events.

Leases

The assessor typically discovers lease transactions through recorded documents. The COO initially processes all long and short term lease transactions. The assessor attempts to obtain copies of all long term leases. Once lease documents have been processed and determined to be reappraisable events, the information is sent to an appraiser for valuation.

We reviewed several files involving leases and found all were properly handled in accordance with section 61(c).

Penalties

When a recorded document is received without a PCOR or the PCOR is incomplete, a BOE-502-AH, *Change in Ownership Statement* (COS), is sent to the property owner. The appraiser in the COO monitors the COS request on an electronic calendar, allowing the property owner 45 days to respond.⁸ If, however, the property owner fails to respond to the assessor's request to file a COS, it is the assessor's practice not to apply a penalty in accordance with section 482(a). Monterey County has not adopted an ordinance pursuant to section 483(b), allowing the assessor to automatically abate penalties.

RECOMMENDATION 3: Correctly implement the penalty process in accordance with section 482(a).

It is the assessor's current practice not to apply penalties when a property owner fails to return a COS or fails to return the COS timely.

At the time of our survey, section 482(a) provided that if a person or legal entity required to file a statement described in section 480 failed to do so within 45 days (90 days effective 1/1/2012) from the date of a written request by the assessor, a specific penalty would be applied. When the property owner fails to return the COS timely, the assessor should notify the property owner of the penalty being applied and inform them of the abatement process as described in section 483(a).

The information contained in a properly completed COS is important because it assists the assessor in making an accurate assessment of a property. The assessor's current practice of not applying penalties to property owners who fail to file a COS by the filing deadline is contrary to statute and results in an unequal treatment of taxpayers.

Transfer Lists

Pursuant to section 408.1(a), the assessor maintains a two-year transfer list for public use. The public is able to access information from computers in the lobby of the assessor's office. As required by section 408.1(b), the transfer list is revised close to the 30th day of each calendar quarter, and it is divided into geographical areas. While the transfer list is divided into geographical areas by assessor's parcel number (APN), it is also sorted by the date of event. Pursuant to section 408.1(c), the transfer list contains the transferor, transferee, APN, address of the property, date of recording, recording reference number, and consideration paid. The assessor observes the confidentiality provisions of section 481, which preclude the disclosure of information on a PCOR or COS.

⁸ During the time of our survey, section 482(a) allowed property owners 45 days to return a completed COS when requested by the assessor before penalties were applicable. Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amended section 482(a) to allow property owners 90 days to return a completed COS when requested by the assessor before penalties are applicable.

Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under section 64(d). A change in ownership statement must be filed with the BOE within 90 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) provides for application of a penalty if a person or legal entity required to file a statement under sections 480.1 and 480.2 does not do so within 90 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE.⁹ The BOE advises county assessors of entities that are subject to penalty, so they can impose the applicable penalty to the entity's real property.

In Monterey County, the assessor discovers changes in control or ownership of legal entities by reviewing monthly LEOP reports from the BOE, newspaper articles, business property statements, internet, staff's personal knowledge, and public inquiries.

When the assessor receives the monthly LEOP reports, the appraiser in the COO reviews the report for the effective date and any changes that have occurred. The appraiser identifies and reviews all parcels located within the county. A name search is also performed to ensure that all of the entity's real property is reassessed. Once a change in control or ownership of a legal entity has been confirmed and processed for a reappraisable event, the parcels involved are assigned to an appraiser for valuation.

Our review of several records shows that the assessor does a thorough job in reviewing LEOP reports and reassessing all property interests identified on BOE-100-Bs. The assessor also reviews any additional properties owned by the entity that were not reported on the BOE-100-B. The assessor has not had any late-filings of BOE-100-Bs in recent years and, therefore, has not

⁹ Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends the filing requirement in section 482(b) from 45 days to 90 days for a person or legal entity to report a change in control or change in ownership, or to comply with a written request from the BOE, whichever occurs earlier.

applied any penalties for late-filings. We found the assessor's LEOP program to be well administered.

Change in Ownership Exclusions – Section 63.1

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first \$1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the \$1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. However, if an assessor opts not to report quarterly to the BOE, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have exceeded their \$1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Applications and information regarding exclusions are available to the public at the assessor's office and on the assessor's website.

The following table represents the number of section 63.1 claims filed and granted in recent years:

| YEAR | SECTION 63.1 CLAIMS FILED | SECTION 63.1 CLAIMS GRANTED |
|-------------|----------------------------------|------------------------------------|
| 2011-12 | 1,617 | 1,614 |
| 2010-11 | 1,454 | 1,444 |
| 2009-10 | 959 | 951 |
| 2008-09 | 800 | 795 |
| 2007-08 | 1,449 | N/A |

If a section 63.1 claim form is submitted with the PCOR at the time of recording, a property transfer clerk in the COO will review the application and determine if the exclusion will be accepted or denied. The assessor notifies the property owner by telephone or in person; however, no other notification is sent to the property owner regardless of whether the exclusion is accepted or denied.

Monterey County Ordinance No. 4224 allows the assessor to implement a \$50 processing fee to the property owner if the section 63.1 claim form is not submitted at the time the document is recorded. Before the assessor will process the claim form, the property owner must submit the \$50 fee, along with the completed claim form. In addition, the Monterey County Board of Supervisors also passed and adopted a board order allowing a one-time processing fee of \$175 to

recover costs incurred by the assessor due to failure of an eligible transferee to file a section 63.1 claim after two written requests.

The property transfer clerk in the COO reviews all section 63.1 applications and determines if the exclusion will be accepted or denied. If a PCOR indicates a transfer may be between a parent(s) and child(ren) or from grandparent(s) to grandchild(ren) and a claim form was not submitted at the time of recording, a claim form is sent to the property owner along with an invoice for a \$50 processing fee. The COO tracks the status of the claim forms on a spreadsheet. The assessor allows 45 days for a response. If no response after 45 days, the assessor sends a second claim form indicating that a reassessment of the property will commence if the claim is not filed within 60 days from the date of the notice. The assessor does not apply both fees to the property owner. If the claim form is returned before a second notice is sent or within 60 days of the second notice being sent, the \$50.00 fee is applied pursuant to the county's ordinance. However, if the claim form is received after 60 days from the date of the second notice, the assessor applies the \$175.00 processing fee in accordance with section 63.1(j)(2) and the county's board order. According to the assessor, if the applicant is determined to be ineligible to receive the exclusion, any processing fees that were charged are refunded to the applicant.

The assessor is proactive regarding public awareness of potential change in ownership exclusions. The assessor and/or his staff attend several estate planning seminars to speak to property owners and attorneys, and advise them of the different claim forms that need to be filed at the time of recording certain types of documents. These meetings help to reduce the amount of claim forms the assessor sends out and may reduce the number of property owners required to pay fees due to not filing the necessary claim forms at the time of recording a document.

The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. When the assessor receives a *Report of Transferors Exceeding \$1,000,000* from the BOE, the COO ensures that the dates are correct, reviews the total value of transfers, disallows exclusions made after the limit is exceeded, and notifies appraisers of any reappraisable percentage. If necessary, contact is made with other counties to determine which property to exclude and which to reappraise.

Pursuant to section 63.1(i), to protect property owner confidentiality, claim forms are scanned and kept on a secured computer server. Paper copies are kept in a secure location before eventually being destroyed.

We reviewed several accepted and denied section 63.1 claim forms and found them to be properly handled. However, we did find an area in need of improvement.

RECOMMENDATION 4: Properly apply the provisions of section 63.1(j) when processing section 63.1 claims for exclusion.

In accordance with Monterey County Ordinance No. 4224, it is the assessor's current practice to charge a \$50 processing fee if a property owner does not submit a section 63.1 claim form at the same time a document is recorded that may qualify for the exclusion. In addition, Monterey County has passed and adopted a board order allowing the assessor to charge a \$175 processing fee if a transferee fails to return a certified claim for exclusion pursuant to section 63.1(j)(2). The

assessor's second notice does not inform the transferee that this one-time processing fee will be charged if the claim for exclusion is received after 60 days from the date of the second notice. Further, even though the board order adopted by the board of supervisors authorizes the assessor to charge fees pursuant to section 63.1(j)(2), the assessor's website indicates that the \$175 fee will be charged if the taxpayer does not complete and submit the claim form within the 105-day statutory period, which is inconsistent with section 63.1(j)(2).

Section 63.1(j)(1) states that if the assessor notifies the transferee in writing of a potential eligibility for exclusion from change in ownership, a certified claim for exclusion shall be filed within 45 days of the date of the notice. If the transferee fails to file within 45 days, the assessor may send a second notice allowing the transferee 60 days from the date of the second notice to file the certified claim for exclusion. The second notice shall indicate whether a certified claim for exclusion that is not filed within 60 days will be subject to a processing fee as provided for in section 63.1(j)(2).

Section 63.1(j)(2) states that if a certified claim for exclusion is not filed within 60 days of the date of the second notice and the transferee subsequently files a claim after the 60 days and qualifies for the exclusion, the assessor may, upon authorization by the county board of supervisors, require the transferee to pay a one-time processing fee. The assessor shall collect the fee at the time the claim is submitted, and shall reimburse the fee to the transferee if the claim is determined to be ineligible. The fee shall not exceed the amount of the actual and reasonable costs incurred by the assessor for reassessment work done due to the transferee's failure to file the claim for exclusion or \$175, whichever is less.

As stated previously, the board of supervisors adopted and passed a board order allowing the assessor to charge a \$175 processing fee as provided in section 63.1(j)(2). The \$50 processing fee as allowed by Monterey County's Ordinance No. 4224 is in direct conflict with section 63.1(j)(2). According to *People ex rel. Deukmejian v. County of Mendocino* (1984) 36 Cal.3d 476, 484, if a local ordinance duplicates or enters an area fully occupied by state law, the local ordinance is in conflict and, therefore, is void.¹⁰

In addition, since the county's board order allows the assessor to charge a processing fee for section 63.1 claims for exclusion pursuant to section 63.1(j)(2), the assessor is required to send a second notice indicating that this processing fee will be charged if the claim is received after 60 days from the date of the second notice. The assessor should properly apply the provisions of section 63.1(j)(2) and only charge a \$175 processing fee if a transferee fails to return a certified claim for exclusion 60 days from the date of the second notice, and properly notify the transferee that this processing fee may be charged.

The assessor's practice of charging a \$50 processing fee if a claim is not filed at the same time a document is recorded is contrary to statute and should be discontinued. In addition, by failing to notify the transferee of the \$175 processing fee the assessor is allowed to charge pursuant to section 63.1(j)(2), the assessor is not in compliance with statute and the transferee is not being properly notified of all potential fees associated with filing the claim late. Further, since the

¹⁰ See BOE Legal Department's Memorandum, Assignment No. 13-046, from Daniel Paul, Tax Counsel III (Supervisor). Also see *People ex rel. Deukmejian v. County of Mendocino* (1984) 36 Cal.3d 476, 484.

county's board order is enacted under the authority of section 63.1(j)(2), the assessor's website should accurately reflect this statute and remove any incorrect language that refers to a 105-day statutory deadline or indicates that the transferee will be charged this fee for not submitting the form when the fee should only be charged if the claim form is submitted after the 60-day deadline stated in the second notice to the taxpayer.

Change in Ownership Exclusions – Section 69.5

Section 69.5 generally allows persons 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

The following table represents the number of section 69.5 claims filed and granted in recent years:

| YEAR | SECTION 69.5 CLAIMS FILED | SECTION 69.5 CLAIMS GRANTED |
|-------------|----------------------------------|------------------------------------|
| 2011-12 | 34 | 34 |
| 2010-11 | 13 | 12 |
| 2009-10 | 19 | 18 |
| 2008-09 | 30 | 28 |
| 2007-08 | 65 | N/A |

Monterey County does not accept base year value transfers from other counties. Section 69.5 information and applications are available to the public at the assessor's office and website. If a PCOR indicates a transfer may involve a base year value exclusion and a claim form has not been submitted, the COO sends a claim form to the property owner and allows 30 days for the property owner to respond.

Submitted claim forms are first reviewed by an account clerk in the COO. The account clerk makes a preliminary determination as to whether the transfer may qualify for a section 69.5 exclusion before forwarding the claim to an appraiser for valuation. The appraiser verifies the sale price, and determines the fair market value of the original and replacement properties. Once values have been determined, claims are routed back to the appraiser in the COO for a final decision as to whether the claim is accepted or denied. If a claim is denied, the property owner is notified in writing.

The assessor submits required quarterly reports to the BOE listing approved section 69.5 exclusions. When the assessor receives a *Duplicate SSN Report* from the BOE, the COO reviews the report to determine if any claims are duplicated within the county, have been made previously in another county, or qualify for a second section 69.5 exclusion due to a severe and permanent disability.

Pursuant to section 69.5(n), to protect property owner confidentiality, claim forms are scanned and kept on a secured computer server. Paper copies are kept in a secure location before eventually being destroyed.

We reviewed several accepted and denied section 69.5 claim forms and found them to be properly handled.

Valuation

Once a transfer has been determined to be a reappraisable event, the information is sent to an appraiser for valuation. Every transfer causing a reappraisable event is reviewed to confirm that the reported sale price accurately reflects market value. The sale price is not automatically enrolled and may be overridden when data is available to rebut the presumption stated in Rule 2.

For most reappraisable transfers, support staff will automatically send property owners a *Sales Questionnaire*, unless the appraiser requests otherwise. These questionnaires request information specific to the transfer, such as financing, income and expense data, and leasing information. This data collected from the questionnaires is utilized by the appraisers in the valuation process, in addition to data obtained from a PCOR or COS received.

Appraisers maintain in-house residential and commercial sales data to assist with the valuation process. Appraisers also have access to Multiple Listing Service (MLS) and ParcelQuest to obtain sales data. Residential properties experiencing a change in ownership are typically valued using the comparative sales or cost approaches, while commercial properties are valued using the comparative sales or income approaches. For partial interest transfers, the reappraisable portion is valued at market value and added to the factored base year value of the non-reappraisable portion. The partial interest is given a separate base year value and the correct inflation factor is applied.

We reviewed several property records and found that the assessor properly recognizes and values changes in ownership, and correctly processes supplemental assessments.

New Construction

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and

on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and the Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

Discovery

The assessor has written policies and procedures dealing with the discovery and assessment of new construction. The assessor's primary means of discovering new construction is through reviewing building permits. The assessor receives building permits from 13 permit-issuing agencies. Other methods used to discover new construction include field canvassing by appraisers, newspaper articles, fire reports, aerial-viewing software, and information received from taxpayers.

The following table shows the number of building permits received and the number of new construction assessments processed in recent years:

| YEAR | BUILDING PERMITS | NEW CONSTRUCTION ASSESSMENTS |
|-------------|-------------------------|-------------------------------------|
| 2011-12 | 9,139 | 51 |
| 2010-11 | 9,549 | 775 |
| 2009-10 | 11,486 | N/A |
| 2008-09 | 11,119 | 1,316 |
| 2007-08 | 8,210 | 1,556 |

Permit Processing

Building permits are received in hard-copy format from each of the permit-issuing agencies. In addition, the assessor receives copies of building permits electronically from the county building department and several other agencies on a monthly basis. The assessor receives notices of completion and building plans either in hard-copy format or electronic format, depending on the agency. There are some permit-issuing agencies that participate in a shared computer database with the assessor, which allows appraisers within the assessor's office to access inspection records and dates of completion for new construction projects.

Once the permits and final notices are received, an office assistant enters the information into the computer system. Although not required by ordinance, the assessor's parcel number (APN) is listed on each permit. The office assistant discards certain permits, such as temporary electrical service, power poles, and gas pressure tests. Other permits are entered in to the computer system, but are immediately inactivated, such as reroofs, replacement, or repairs and maintenance. The

principal office assistant and the supervising appraiser review all permits entered in to the system to confirm that the permit is correctly coded as either active or inactive status.

Any unpermitted new construction is enrolled as of the date of completion whenever possible. If the appraiser is unable to determine the date of completion, the unpermitted new construction is enrolled as of the date of discovery or as of the lien date being prepared. The assessor enrolls supplemental assessments, as allowed by law, for unpermitted new construction when discovered.

Construction in Progress (CIP)

On each lien date, section 71 requires the assessor to enroll CIP at its fair market value. The assessor values new construction by estimating the full value of new construction as of the date of completion. For CIP, the appraiser must determine the completion status of new construction on each lien date and estimate the fair market value. On subsequent lien dates, if the new construction is still incomplete, the assessor must again enroll the CIP at its fair market value. This process continues until the new construction is complete, at which time the new construction is assessed at its fair market value and a base year value is assigned.

Valuation

Appraisers typically value residential new construction using the comparative sales and/or cost approaches. The income approach, as well as the comparative sales and/or cost approaches, are used in determining the value of new construction for commercial, industrial, and agricultural properties. The assessor uses a variety of sources to develop a cost indicator of value for new construction, which include Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), Assessors' Handbook Section 534, *Rural Building Costs* (AH 534), the owner's reported costs, and *Marshall Valuation Service* for commercial and industrial properties. In addition, appraisers may utilize cost questionnaires to obtain historical costs from property owners. Unit cost factors and the source of the costs used to value the new construction are documented in the building record, and concise notes are entered in the computer system.

Appraisers send a *Cost Data Questionnaire* to gather historical cost information from the property owner to assist in the valuation of the new construction project. Once the cost questionnaire is returned, the appraiser compares the reported historical costs to the market value of the new construction as indicated by one or more of the three approaches to value. The appraiser will enroll the property owner's historical costs as market value only if they are within 5 percent of market value. The assessor performs field inspections on all permits resulting in assessable new construction. Supplemental assessments are created and issued based on the date of completion of the new construction.

Office assistants prepare diagrams for all newly constructed buildings using computer software. The diagrams are based on the building plans; however, if the building plans are not available or the appraiser notices inconsistencies during a field inspection, the appraiser prepares the diagram based on actual field measurements.

Exclusions

The assessor correctly excludes from new construction assessment fire sprinkler systems that are added to an existing building in accordance with section 74. Also, the assessor grants claims for exclusion from new construction assessment for disabled access improvements only when the claim is accompanied by a statement identifying why the construction is necessary to make the structure more accessible to a disabled person in accordance with sections 74.3 and 74.6. In addition, the assessor excludes from new construction assessment the replacement of a structure damaged or destroyed in the course of remediating environmental contamination of a site only if the property owner provides the assessor with federal or state proof of contamination within the statutory period in accordance with section 74.7. We found no problems with the assessor's handling of exclusions from new construction assessment.

Summary

We reviewed several new construction records and found the assessor's program for the assessment of new construction to be thorough and values reasonable. However, we found areas in need of improvement.

RECOMMENDATION 5: Improve the new construction program by: (1) substantiating new construction discounts on residential swimming pools, and (2) valuing construction in progress (CIP) at current market value as of the lien date pursuant to section 71.

Substantiate new construction discounts on residential swimming pools.

It is the assessor's policy to assess newly constructed residential swimming pools at a discounted percentage of historical cost. The assessor indicated that pool values vary depending on the region and that the assessed values of pools are based on market studies. However, the assessor does not have a current pool study or any market evidence listed in the property records to justify making these percentage adjustments.

Rule 4 provides that when reliable market data is available with respect to a given real property, the preferred method of valuation is by reference to sale prices. Rule 6(a) provides that the reproduction or replacement cost approach to value is used in conjunction with other approaches and is preferred when neither reliable sales data nor reliable income data are available and when the income from the property is not so regulated as to make such cost irrelevant. The reproduction or replacement cost approach is particularly appropriate for construction work in progress and for other property that has experienced relatively little physical deterioration, is not misplaced, is neither overimproved or underimproved, and is not affected by other forms of depreciation or obsolescence.

Absent any market evidence to the contrary, the typical economic costs of swimming pools may well represent market value. Any adjustment to reported historical costs should be based on a current study or market evidence. By applying a percentage discount to a taxpayer's reported historical costs without any supporting data for the adjustment may cause the assessor to enroll incorrect assessments.

Value construction in progress (CIP) at current market value as of the lien date pursuant to section 71.

We found that the assessor does not establish the fair market value of CIP on each lien date. Instead, the assessor first estimates the percentage of completion of the project at lien date and then multiplies that percentage by the value reported on the permit.

Section 71 requires that the enrolled value of CIP shall be its fair market value as of the lien date. Typically, the value reported on permits is based on published cost factors derived from a building journal and only reflects average costs throughout various regions in California; the values are not necessarily representative of construction costs in Monterey County. Moreover, these estimates cannot account for variations in construction costs resulting from differences in square footage, construction quality, or the complexity of each proposed project. Thus, the value reported on the permit is not likely to represent fair market value. In order to develop an accurate indicator of value for CIP, the assessor must determine its fair market value using the cost, market, and/or income approaches.

The assessor's current practice of enrolling a percentage of the permit value for CIP as of the lien date is not in compliance with section 71 and may result in inaccurate assessments.

Declines in Value

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.

The following table shows the number of decline-in-value assessments in Monterey County for recent years:

| YEAR | DECLINE-IN-VALUE ASSESSMENTS |
|---------|------------------------------|
| 2011-12 | 34,135 |
| 2010-11 | 35,421 |
| 2009-10 | 34,318 |
| 2008-09 | 31,536 |
| 2007-08 | 14,732 |

Monterey County has experienced notable decreases in property values in recent years. Consequently, there has been a significant increase in the total number of properties eligible for a decline-in-value assessment. While most recently the number of decline-in-value assessments has decreased from the prior year, the overall number of decline-in-value assessments has increased significantly over the last few years, going from 14,732 in 2007-08 to 34,135 in 2011-12. These numbers represent a major workload increase for the assessor and his staff.

Discovery and valuation of properties with declines in value are high priority for the assessor. The assessor has been proactive in discovering and adjusting the assessments of properties affected by declines in value. The assessor has a formal program in place to identify properties with a market value that is less than its FBYV. This program is used to review residential properties located in homogenous areas and rural residential properties. Other methods of discovery include taxpayer requests for review, assessment appeals, and appraisers' familiarity with their assigned geographical areas.

Residential properties located in homogenous areas are reviewed by the appraiser of the area. Each homogenous area is grouped and identified by a neighborhood code. Established neighborhood codes are reviewed by the appraiser each year and adjustments are made as necessary. Appraisers extract sales data from the database for each neighborhood code as of the applicable lien date. Comparable sales are analyzed in order to establish a median value for each square footage range. All properties in these homogeneous neighborhoods with a FBYV greater than the relevant median value are adjusted downward. Properties already in decline-in-value status are reviewed alongside these newly identified properties for possible adjustment. Properties that have construction in progress are adjusted individually.

Similarly, for rural residential properties, sales data is sorted by geographical area and living area. Using this data, appraisers establish a minimum market value for each area. A list is generated that includes properties already in decline-in-value status and properties with FBYVs greater than the established minimum market value. Properties on this list are reviewed individually using relevant sales data.

Once the appraisers have completed reviewing their areas for declines in value, the appraisers submit their suggested adjustments for each parcel on a spreadsheet for their supervisor to review and approve. Decline-in-value adjustments are documented with reference to a particular sale in the comments section of the appraiser's spreadsheet. After approval, the supervisor forwards the spreadsheet to the department information systems manager for mass updating.

The assessor discovers declines in value for commercial and industrial properties primarily through taxpayer requests for review and appraisers' knowledge of their areas. Taxpayers with income-producing property may request an informal review of their assessed value by submitting an *Informal Request for Review of Assessed Property Value*, which is available at the front counter of the assessor's office and on the assessor's website. The deadline to file an informal request for review is June 30. Taxpayers are notified of their rights to file an appeal if the assessor cannot process the review before the assessment appeals filing deadline.

For those properties reviewed on an individual basis, the assessor uses the comparative sales approach to value residential properties, while income-producing properties are valued using the income and comparative sales approaches. Decline-in-value adjustments for properties reviewed individually are documented with reference to a particular sale in the assessor's computer system.

Each decline-in-value property is identified and tracked by coding it with an "R1" use code in the computer system. The "R1" code prevents the annual inflation factor from being applied to these properties until the FBYV is restored. It also ensures that these decline-in-value properties are

annually reviewed until the indicated market value exceeds the FBV and the property is no longer in a decline-in-value status.

On February 1, 2011, the Monterey County Board of Supervisors adopted a resolution authorizing the assessor to use the county website to provide value notices pursuant to section 621. A value notice is posted on the assessor's website for a property owner when the assessed value has been temporarily reduced due to a decline-in-value. The value notice includes a statement of the assessment appeals filing period, a notification of hearings by the county's assessment appeals board, and the FBV of the property as required by section 619. In addition to the value notices on the assessor's website for declines in value, all property owners receive value notice information as part of the regular property tax mailing.

We reviewed several properties in decline-in-value status and found that the assessor's declines in value program is in need of improvement.

RECOMMENDATION 6: Improve the declines in value program by: (1) including documentation in the property record to support market value conclusions for properties experiencing a decline in value, and (2) annually reviewing all properties in a decline-in-value status pursuant to section 51(e).

Include documentation in the property record to support market value conclusions for properties experiencing a decline in value.

We found a large number of decline-in-value assessments that had no support for the value estimates determined and enrolled. Although the assessor maintains a main file containing comparable sales data, there was no data found in many of the appraisal records we reviewed to support the values enrolled. According to staff, each appraiser keeps documentation at their desk and the necessary information could be produced, if needed.

Documentation supporting the value conclusion is a necessary element of any appraisal. It is standard appraisal practice to document in the property record the data used to determine market value conclusions. Proper documentation not only facilitates appraisal review, but also provides the means with which to defend values. By not adequately documenting appraisal records, the assessor's value conclusions, even if correct, may not be fully understood by taxpayers or other appraisers.

Annually review all properties in a decline-in-value status pursuant to section 51(e).

We found a large number of properties in decline-in-value status that had not been reviewed in several years. Section 51(e) provides that it is not necessary for the assessor to make an annual reappraisal of all assessable property to determine if it qualifies for a decline-in-value assessment; however, section 51(e) does provide that once the base year value of real property is lowered to reflect a decline in value, it must be annually reappraised until its market value exceeds its FBV.

By not reviewing all properties in a decline-in-value status, the assessor is not in compliance with applicable statutes and may be assessing some properties at an amount that is other than the appropriate taxable value and that is neither the current market value nor the FBVY.

California Land Conservation Act Property

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon agricultural income-producing ability (including income derived from compatible uses, for example, hunting rights and communications facilities). Although such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

For the 2011-12 roll year, Monterey County had 3,387 parcels encumbered by CLCA or other types of open space contracts, encompassing approximately 784,000 acres. The total assessed value for land and improvements was \$1,334,307,075. Included in these statistics are 333 parcels totaling 52,268 acres that are under Farmland Security Zone (FSZ) contracts; the total assessed value for these properties was \$471,665,169. Monterey County has 91 parcels (representing 36 contracts) totaling 12,115 acres in nonrenewal status and 22 parcels (representing 11 contracts) totaling 3,133 acres of scenic restrictions. There have been no contracts cancelled in recent years.

Monterey County had approximately \$3.85 billion in gross production value of agricultural commodities in 2011, which reflected a 3.8 percent decrease from the 2010 production value. In 2011, the top five crops by value in Monterey County were leaf lettuce, strawberries, head lettuce, broccoli, and nursery crops.

The valuation of CLCA property in Monterey County is the responsibility of two appraisers. The CLCA assessment program is computerized, including the annual recalculation of nonrenewal values and the comparison between their current restricted values, factored base year values, and current market values. The assessor compares the total restricted value of the appraisal unit to the factored base year value of the same unit and the current market value as if unrestricted, enrolling the lower of the three values.

Market land rents in the county are updated in the computer system after the appraisers perform an extensive analysis of rental and expense data collected from agricultural questionnaires and information from the county's annual Crop Report. In developing the capitalization rate used in the valuation process, the assessor correctly includes the current interest component provided

annually by the BOE, a risk component, and a property tax component. The property tax component used is specific to the property's location.

In our review of the Monterey County CLCA property program, we noted a number of positive practices. We found that the assessor used an inclining-stable-declining method to value living improvements, properties in nonrenewal were valued correctly, properties under FSZ contracts were assessed pursuant to section 423.3, and homesites were correctly valued at the lesser of the factored base year value or the fair market value of a comparable homesite.

Overall, we found the assessor's CLCA program to be efficient and well managed. However, we found an area where improvement is needed.

RECOMMENDATION 7: Improve the CLCA property program by using current well replacement costs when deriving a charge for recapture.

The assessor uses a fixed replacement cost for all irrigation wells in vineyards and orchards when calculating the recapture charge of the well to be deducted from the income stream. In addition, the assessor fails to deduct a charge for maintenance expenses for the well that are incurred by the property owner.

Using a fixed replacement cost new for all wells does not appropriately account for the value of the irrigation wells. Using a standard charge does not reflect the value of the individual well. The recommended method for estimating the "return on" the investment in the well to be deducted from the income stream is to multiply the estimated replacement cost new of the subject well by the sinking fund factor (SFF) that corresponds to the economic life of the well and the appropriate rate of return or interest rate.

In addition, AH 521 provides that a property owner may incur certain expenses in the maintenance of improvements necessary to preserve the property's income stream. Maintenance expenses are a legitimate deduction from the income generated by the real property when they are incurred by the property owner. A well often requires maintenance to continually produce the volume of water necessary to grow the irrigated crops that maximize income. The appraiser should determine whether the property owner is responsible for the maintenance expense of the well and, if so, deduct a charge for well maintenance when such an expense is applicable.

The assessor's practice of using a fixed replacement cost for all wells and not deducting a charge for the well maintenance expense incurred by the property owner may cause the assessor to enroll incorrect assessments.

Taxable Possessory Interests

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly-owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

For the 2011-12 roll year, the assessor enrolled 1,842 taxable possessory interests with a total assessed value of \$339,627,099.

To assist in the discovery of taxable possessory interests, the assessor contacts 49 government agencies owning property in Monterey County annually. Examples of taxable possessory interests in Monterey County include cable television franchises, hangars and tie-downs at public airports, boat slips at public marinas, landing rights at public airports, concessionaires at county fairgrounds, grazing permits, mining claims, and cabins located on United States Forest Service lands. An auditor-appraiser is responsible for the assessment of all taxable possessory interests.

In our review of several taxable possessory interests, we found areas in need of improvement.

RECOMMENDATION 8: Improve the taxable possessory interest program by: (1) obtaining current copies of all lease agreements or permits for taxable possessory interests, (2) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (3) reappraising taxable possessory interests in compliance with section 61, and (4) properly issuing supplemental assessments for taxable possessory interests.

Obtain current copies of all lease agreements or permits for taxable possessory interests.

We found that the majority of the taxable possessory interest files we reviewed did not contain copies of leases for the interests being assessed. The assessor relies on tenant lists, historical information, information obtained from Monterey County, or information obtained on the BOE-502-P, *Possessory Interests Annual Usage Report* to value taxable possessory interests. Copies of leases are not typically requested. In addition, we found the files were lacking in documentation to support the economic rents and discount rates used in the appraisal process.

Rule 21 describes the various approaches to value and how to determine the term of possession for the valuation of taxable possessory interests. Rule 21(d)(1) explains that the stated term of possession is deemed to be the reasonably anticipated term of possession except in certain situations. Rule 21(e)(3)(C) explains how to determine the net operating income for capitalization purposes.

These steps in the valuation process cannot be completed if the contract conveying the taxable possessory interest is not reviewed. For example, the assessor may have some information relating to the initial lease term, but may not know of any renewal options contained in the lease or know the lessor/lessee expense allocations.

By not obtaining copies of current leases or permits, the assessor is unable to determine what terms were agreed to between the parties and, therefore, would be unable to accurately value the taxable possessory interests. Unconfirmed data may be inaccurate or incomplete and may lead to incorrect assessments.

Periodically review all taxable possessory interests with stated terms of possession for declines in value.

We reviewed several taxable possessory interests with stated terms of possession and found several instances where the assessor did not periodically review these taxable possessory interests for possible declines in value. Instead, the assessor either enrolled the factored base year value on the lien date or left the enrolled value unchanged on the roll for several years.

Rule 21(d)(1) states, in part, "The stated term of possession shall be deemed the reasonably anticipated term of possession unless it is demonstrated by clear and convincing evidence that the public owner and the private possessor have reached a mutual understanding or agreement, whether or not in writing, such that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. If so demonstrated, the term of possession shall be the stated term of possession as modified by the terms of the mutual understanding or agreement."

Rule 21(a)(6) defines the stated term of possession for a taxable possessory interest as of a specific date as "...the remaining period of possession as of that date as specified in the lease, agreement, deed, conveyance, permit, or other authorization or instrument that created, extended, or renewed the taxable possessory interest, including any option or options to renew or extend the specified period of possession if it is reasonable to assume that the option or options will be exercised." Therefore, the stated term of possession declines each year. This may or may not have a material effect on the market value of the possessory interest. Thus, absent clear and convincing evidence of a mutual understanding or agreement as to a shorter or longer term of possession, the assessor must estimate the current market value of the taxable possessory interest on lien date based on the remaining stated term of possession, compare this value to the factored base year value, and enroll the lower of the two values.

Although the assessor is not required to reappraise all properties each year, the assessor should develop a program to periodically review assessments of taxable possessory interests with stated terms of possession to ensure declines in value are consistently recognized. Failure to periodically review taxable possessory interests for possible declines in value may cause the assessor to overstate the taxable value of a taxable possessory interest.

Reappraise taxable possessory interests in compliance with section 61.

We found that the assessor does not consistently reappraise taxable possessory interests at the end of the reasonably anticipated term of possession used to value the taxable possessory interest.

Section 61(b) provides that a change in ownership, as defined in section 60, includes the creation, renewal, extension, or assignment of a taxable possessory interest in tax exempt real property for any term. Section 61(b)(2) provides that for renewals, the assessor shall, at the end of the initial term of possession used by the assessor, establish a new base year value based upon a new reasonably anticipated term of possession.

By not revaluing taxable possessory interests at the end of the reasonably anticipated term of possession, the assessor is not in compliance with statutory provisions and may enroll inaccurate assessments.

Properly issue supplemental assessments for taxable possessory interests.

We discovered several instances in which the assessor failed to issue a supplemental assessment upon a change in ownership of a taxable possessory interest. We also found several instances in which the assessor had incorrectly calculated the supplemental assessment upon a change in ownership of a taxable possessory interest by offsetting the fair market value against the prior value on the roll.

Section 61(b) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. Section 75.11 provides that there shall be a supplemental assessment following a change in ownership or completion of new construction. According to Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), when a supplemental assessment is issued due to a change in ownership, the supplemental assessment amount for the newly created taxable possessory interest should be based on its fair market value without offset for a prior value on the regular assessment roll when one taxable possessory interest is terminated during an assessment year and a second (but distinct) taxable possessory interest is created involving the same land and improvements during the same assessment year.

The assessor's failure to properly issue supplemental assessments is contrary to law and BOE guidance.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, and valuing business equipment.

Audit Program

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit at least once every four years the books and records of any taxpayer engaged in a profession, trade, or business if the taxpayer had assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below \$400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of property taxpayers with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of \$400,000 or more at least once every four years. Instead, the county assessor is required to annually audit a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually, assessors now have some flexibility in determining which accounts will comprise this mandated workload.

In Monterey County, the audit responsibility falls upon four auditor-appraisers, who are under the direction of an auditor-appraiser manager. The auditor-appraiser manager also contributes to audit production by handling the more complex accounts.

As previously noted, effective January 1, 2009, section 469 specifies a minimum audit workload equal to 75 percent of a statutorily defined base level. Rule 192 prescribes the computation establishing minimum required audit production and provides the basis for the audit selection process. According to Letter To Assessors No. 2009/049, the amended statute requires the assessor to complete 77 audits per year hereafter. The assessor completed 146 audits during the 2009-10 roll year and 121 audits during the 2010-11 roll year. Given recent and current audit production levels, the assessor has exceeded the minimum number of audits required as defined by section 469.

Statute of Limitations

Section 532 provides that when the assessor discovers through an audit that property has escaped assessment, an assessment of such property must be enrolled within four years after July 1 of the assessment year during which the property escaped assessment. If the assessor cannot complete an audit within the prescribed time period, the assessor may request, pursuant to section 532.1, a waiver of the statute of limitations from the taxpayer to extend the time for making an assessment.

The assessor requests signed waivers of the statute of limitations from taxpayers when he anticipates an audit will not be completed in a timely manner. We reviewed a number of waivers presented to property owners during recent years and found them to be adequately prepared and properly executed.

Audit Quality

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

We found that the assessor performs change in control (ownership) reviews, verifies leased equipment, accounts for supplies, and properly classifies equipment during the audit process. We sampled several recently completed audits and found that in all cases the audits were accurate and well documented. The assessor's audit quality is further enhanced by a standardized review process where every completed audit is reviewed by the auditor-appraiser manager. Furthermore, the assessor prepares roll corrections to be enrolled for each year in which the escape assessment took place pursuant to section 531. The board of supervisors adopted a resolution enacting the provisions of section 1605(c), which allows the assessor to use the tax bill as notification of enrollment of an escape assessment.

Overall, the assessor's audit program is effectively managed. However, we found areas in need of improvement.

RECOMMENDATION 9: Improve the audit program by: (1) requiring a situs inspection as a standard component of the audit process, and (2) sending a *Notice of Proposed Escape Assessment* as required by section 531.8.

Require a situs inspection as a standard component of the audit process.

For the majority of the audits we reviewed, the completed audit checklists included in the files indicated that no situs inspections had been conducted. According to the assessor's written procedures, situs inspections on businesses other than typical retail or office should be conducted only if the auditor-appraiser deems it necessary.

A situs inspection is an essential aspect of any complete audit. Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*, discusses the importance of physical inspections in an audit program. An inspection should be standard procedure, especially for audits involving large commercial and industrial operations or in situations involving excess capacity, functional obsolescence, idle plants, or other unusual circumstances.

By foregoing the physical inspection of the property, the assessor risks missing assets that have dropped from the books and he cannot gain a full appreciation of the overall condition of the taxable property. A physical inspection is a fundamental component of the audit process and can be a pivotal step in reaching an informed value conclusion.

Send a *Notice of Proposed Escape Assessment* as required by section 531.8.

We found that the assessor does not send taxpayers a *Notice of Proposed Escape Assessment* as required by section 531.8. Instead, the assessor sends an audit summary letter, along with a detailed schedule indicating the findings and the proposed changes in taxable value for the years affected. The letter contains incorrect information in regards to the appeal process, stating that the taxpayer may file an assessment appeal within 60 days of receipt of the letter when in fact the taxpayer has within 60 days from the date of the mailing printed on the tax bill or the postmark, whichever is later, to file an appeal on the escape assessment pursuant to section 534(c)(3). In addition, the letter does not contain the required heading as stated in section 531.8.

In Monterey County, the board of supervisors adopted Resolution No. 10-289 in accordance with section 1605(c), allowing the tax bill to suffice as notice of enrollment of an escape assessment. However, the assessor is still required to notify the taxpayer of the proposed escape assessment prior to enrollment in accordance with section 531.8. Section 531.8 provides that no escape assessment shall be enrolled before ten days after the assessor has mailed or otherwise delivered to the affected taxpayer a *Notice of Proposed Escape Assessment*. The notice must contain: (1) the heading "NOTICE OF PROPOSED ESCAPE ASSESSMENT" prominently displayed, (2) the amount of the proposed escape assessment for each tax year involved, and (3) the telephone number of the assessor's office to allow the taxpayer to contact the office regarding the proposed escape assessment.

The assessor's current audit findings notification process does not comply with section 531.8 and does not provide the taxpayer with proper notice of the escape assessment.

Business Property Statement Program

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

Workload

The following table displays the assessor's workload of secured and unsecured BPSs and assessments for the 2011-12 roll year:

| TYPE OF PROPERTY STATEMENTS | TOTAL | SECURED VALUE | UNSECURED VALUE | TOTAL ASSESSED VALUE |
|------------------------------------|---------------|------------------------|------------------------|-----------------------------|
| General Business | 10,251 | \$3,617,728,525 | \$1,122,275,396 | \$4,740,003,921 |
| Agricultural | 417 | \$178,047,095 | \$212,569,841 | \$390,616,936 |
| Apartments | 1,140 | \$948,469,826 | \$18,075 | \$948,487,901 |
| Service Station | 134 | \$50,636,369 | \$19,682,658 | \$70,319,027 |
| Leased Equipment | 1,034 | \$11,934,032 | \$170,324,540 | \$182,258,572 |
| Financial | 121 | \$19,111,542 | \$20,566,045 | \$39,677,587 |
| Totals | 13,097 | \$4,825,927,389 | \$1,545,436,555 | \$6,371,363,944 |

Discovery

The assessor utilizes a number of available resources for discovering taxable business property. In addition to taxpayer self-reporting and periodic field canvassing, the assessor reviews city and county business licenses, fictitious business name filings, business directory services, real property appraiser referrals, and BOE notifications. We found that the assessor employs a sufficiently diversified program for discovering business personal property.

General Statement Processing

Newly submitted BPSs are first reviewed by support staff for completeness and the inclusion of an authorized signature. Incomplete BPSs or those statements submitted without an authorized signature are returned to the property owner, along with a letter indicating the reason for the statement's rejection. Completed BPSs are date stamped and submission dates are entered into the computer system to reflect timely submission. Once screened and sorted, BPSs are scanned into the computer system and made available to the auditor-appraiser manager. The auditor-appraiser manager downloads the scanned BPSs and assigns individual processing workloads to each auditor-appraiser. The computer system automatically applies a section 463

penalty to all accounts reflecting statements that were either not submitted or were submitted subsequent to the statutory deadline of May 7.

Findings

We reviewed all major aspects of the assessor's BPS program, including processing procedures, use of Board-prescribed forms, application of penalties, coordination with the real property division, and record storage and retention. In addition, we reviewed several recently processed BPSs. We found in all cases observed that BPSs accepted by the assessor evidenced the proper usage of Board-prescribed forms, were completed in sufficient detail, and were properly signed. However, we did find an area in need of improvement.

RECOMMENDATION 10: Ensure leased equipment reported by the lessee is cross-checked against lessor enrollments during processing.

In Monterey County, the assessor has written procedures in place directing processing staff to cross-check leased equipment reported on the lessee's BPS against lessor enrollments and to make notations documenting their review. However, we examined several processed BPSs with leased equipment declared by lessees and found that in the vast majority of cases, no notations were present indicating that the reported leased equipment was reviewed to ensure proper enrollment.

One of the responsibilities of the assessor's personal property division is the discovery and assessment of leased equipment. Assesseees are required to report all leased property (taxable property in their possession, but belonging to others) on the BPS. Assesseees are required to provide the type of property, year of acquisition and manufacture, cost to purchase new, description and lease number or identification number, annual rent, and the lessor's name and mailing address. This type of property is one of the more difficult to assess correctly. Common problems include difficulty in establishing taxability and taxable situs, reporting errors by lessees and lessors, valuation (whether the value of the equipment should be the lessor's cost or the cost for the consumer purchasing the equipment), and double or escape assessments resulting from combined lessor and lessee reporting. Many of these problems can be remedied by cross-checking leased equipment reported by the lessee with data provided by the lessor.

Section 405(a) states that the assessor shall annually 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. The consistent practice of cross-checking leased equipment reported by lessees against the corresponding lessor's enrollment is an important function in meeting the obligations of this statute. This exercise allows the assessor to confirm the property is enrolled only once and at the proper trade level. Reported cost data can be compared to one another to help confirm reporting accuracy, and a cross-check can help to identify lessors that may be new to the county and not yet assigned an account number.

Business Equipment Valuation

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while

other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581).

Business property accounts are classified by industry type in the assessor's computer system. Standard equipment lives are assigned to each industry type. Appraisal personnel are given latitude to adjust default valuation tables to accommodate the individual business environments and characteristics of the property being appraised. We reviewed the written procedures and standardized valuation policies related to business equipment valuation and found them to be adequately compiled and sufficiently detailed.

Classification

Machinery and equipment must be classified as either personal property or fixtures (improvements) depending on whether the item is physically or constructively annexed to real property with the intent, as evidenced by outward appearance, that the item will remain annexed indefinitely. The assessor prorates reported machinery and equipment to fixtures and personal property based on appraisal knowledge of local business operations and previous audit findings. We reviewed a number of valuation calculations and found no problems with either fixture allocations or classification determinations between fixtures and personal property upon enrollment.

Application of Board-Recommended Index Factors

The assessor has adopted the price indices and percent good factors recommended by the California Assessors' Association (CAA). The indices and factors parallel those published in AH 581, with the exception of specific types of equipment (such as pagers, facsimile equipment, and high tech medical equipment) that the CAA recommends should not be trended. We reviewed the assessor's valuation tables and a number of processed BPSs. We found the assessor's application of Board-recommended valuation tables to be both consistently and accurately applied.

Mobile Construction and Agricultural Equipment Valuation Factors

The assessor currently utilizes separate and appropriate factor tables for new and used mobile construction and agricultural equipment in accordance with the instructions on Table 5 and Table 6 in AH 581. Section 401.16(a)(2) allows the assessor to average the new or used percent good factors for both mobile construction and mobile agricultural equipment when the taxpayer does not indicate on the property statement whether the equipment was first acquired new or used. When the condition is indicated, the assessor should use the "new" or "used" table. We reviewed the assessor's factor tables related to this issue and found the Board-recommended cost index and depreciation tables to be correctly compiled. In addition, we tested a sampling of the assessor's value calculations for mobile agricultural equipment and found the appropriate tables were applied in the prescribed manner.

APPENDIXES

A. County-Assessed Properties Division Survey Group

Monterey County

Chief

Dean Kinnee

Survey Program Director:

Mike Harris

Manager, Property Taxes

Survey Team Supervisor:

Ronald Louie

Supervisor, Property Taxes

Survey Team Leader:

Glenn Danley

Senior Specialist Property Appraiser

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Tammy Aguiar

Senior Specialist Property Appraiser

Angie Berry

Senior Specialist Property Appraiser

Julie Warren

Senior Specialist Property Appraiser

Jeffrey Arthur

Associate Property Auditor-Appraiser

Dany Lunetta

Associate Governmental Program Analyst

Paul Stueber

Tax Technician II

B. Assessment Sampling Program

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing¹¹ activities is very important in today's fiscally stringent times. The importance of compliance is twofold. First, the statewide maximum tax rate is set at one percent of taxable value. Therefore, a reduction of local revenues occurs in direct proportion to any undervaluation of property. (It is not legally allowable to raise the tax rate to compensate for increased revenue needs.) Secondly, with a major portion of every property tax dollar statewide going to public schools, a reduction in available local property tax revenues has a direct impact on the State's General Fund, which must backfill any property tax shortfall.

The BOE, in order to meet its constitutional and statutory obligations, focuses the assessment sampling program on a determination of the full value of locally taxable property and eventually its assessment level. The purpose of the BOE's assessment sampling program is to review a representative sampling of the assessments making up the local assessment rolls, both secured and unsecured, to determine how effectively the assessor is identifying those properties subject to revaluation and how well he/she is performing the valuation function.

The BOE's County-Assessed Properties Division (CAPD) conducts the assessment sampling program on a five-year cycle for the 11 largest counties and cities and counties and on either a random or as needed basis for the other 47 counties. This sampling program is described as follows:

A representative random sampling is drawn from both the secured and unsecured local assessment rolls for the counties to be surveyed.

These assessments are stratified into 18 value strata (nine secured and nine unsecured.)¹²

From each stratum a random sampling is drawn for field investigation, sufficient in size to reflect the assessment level within the county.

For purposes of analysis, after the sample is drawn, the items are identified and placed into one of the five categories listed below:

Base year properties. Those properties the county assessor has not reappraised for either an ownership change or new construction during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

¹¹ The term "assessing" as used here includes the actions of local assessment appeals boards, the boards of supervisors when acting as boards of equalization, and local officials who are directed by law to provide assessment-related information.

¹² The nine value strata are \$1 to \$99,999; \$100,000 to \$199,999; \$200,000 to \$499,999; \$500,000 to \$999,999; \$1,000,000 to \$1,999,999; \$2,000,000 to \$19,999,999; \$20,000,000 to \$99,999,999; \$100,000,000 to \$249,999,999; and \$250,000,000 and over.

Transferred properties. Those properties last reappraised because of an ownership change that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

New construction. Those properties last reappraised to reflect new construction that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

Non-Proposition 13 properties. Those properties not subject to the value restrictions of article XIII A, or those properties that have a unique treatment. Such properties include mineral-producing property, open-space property, Timberland Production Zone property, and taxable government-owned property.

Unsecured properties. Those properties on the unsecured roll.

From the assessment universe in each of these 18 value strata (nine strata on both secured and unsecured local rolls), a simple random sampling is drawn for field investigation that is sufficient in size to reflect the assessment practices within the county. A simple nonstratified random sampling would cause the sample items to be concentrated in those areas with the largest number of properties and might not adequately represent all assessments of various types and values. Because a separate sample is drawn from each stratum, the number of sample items from each category is not in the same proportion to the number of assessments in each category. This method of sample selection causes the raw sample, that is, the "unexpanded" sample, to over-represent some assessment types and underrepresent others. "Expanding" the sample data eliminates this apparent distortion in the raw sampling; that is, the sample data in each stratum are multiplied by the ratio of the number of assessments in the particular stratum to the number of sample items selected from the stratum. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices. This expansion further converts the sampling results into a magnitude representative of the total assessed value in the county.

The field investigation objectives are somewhat different in each category, for example:

Base year properties -- for those properties not reappraised during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: was the value properly factored forward (for the allowed inflation adjustment) to the roll being sampled? Was there a change in ownership? Was there new construction? Or, was there a decline in value?

Transferred properties -- for those properties where a change in ownership was the most recent assessment activity during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that a reappraisal was needed? Do we concur with the county assessor's new value? Was the base year value trended forward (for the allowed inflation adjustment)? Was there a subsequent ownership change? Was there subsequent new construction? Was there a decline in value?

New construction -- for those properties where the most recent assessment activity was new construction added during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that the construction caused a reappraisal? Do we concur with the value enrolled? Was the base year amount trended forward properly (for the allowed inflation adjustment)? Was there subsequent new construction? Or, was there a decline in value?

Non-Prop 13 properties -- for properties not covered by the value restrictions of article XIII A, or those properties that have a unique treatment, do we concur with the amount enrolled?

Unsecured properties -- for assessments enrolled on the unsecured roll, do we concur with the amount enrolled?

The results of the field investigations are reported to the county assessor, and conferences are held to review individual sample items whenever the county assessor disagrees with the conclusions.

The results of the sample are then expanded as described above. The expanded results are summarized according to the five assessment categories and by property type and are incorporated into the published assessment practices survey report.

The primary use of the assessment sampling is to determine an assessor's eligibility for the cost reimbursement authorized by section 75.60. During the course of the sampling activity, the assessment practices survey team may also discover recurring causes for the differences in the opinion of taxable value that arise between the assessor and the CAPD. These discoveries may lead to recommendations in the survey report that would not have otherwise been made.

C. Relevant Statutes and Regulations

Government Code

15640. Survey by board of county assessment procedures.

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

15641. Audit of records; appraisal data not public.

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

15642. Research by board employees.

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

15643. When surveys to be made.

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.
- (d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

15644. Recommendations by board.

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

15645. Survey report; final survey report; assessor's report.

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

15646. Copies of final survey reports to be filed with local officials.

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

Revenue and Taxation Code**75.60. Allocation for administration.**

- (a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.
- (b) For purposes of this section:
- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
 - (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
 - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
 - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).
 - (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

Title 18, California Code of Regulations

Rule 370. Random selection of counties for representative sampling.

(a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.

(b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.

(1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.

(2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

(3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS. If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) ADDITIONAL SURVEYS. This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

Rule 371. Significant assessment problems.

(a) For purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment

operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
- (2) the sum of all the differences between the Board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

- (1) Uniformity of treatment for all classes of property.
- (2) Discovering and assessing newly constructed property.
- (3) Discovering and assessing real property that has undergone a change in ownership.
- (4) Conducting audits in accordance with Revenue and Taxation Code section 469.
- (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code sections 421 et. seq.
- (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code sections 107 et. seq.
- (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
- (8) Discovering and assessing property that has suffered a decline in value.
- (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.

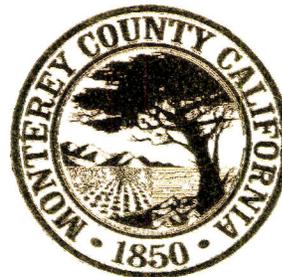
(c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendations in the survey report. The survey report, the assessor's response, and the BOE's comments on the assessor's response, if any, constitute the final survey report.

The Monterey County Assessor's response begins on the next page. The BOE has no comments on the response.

MONTEREY COUNTY



OFFICE OF THE ASSESSOR

(831) 755-5035 - P.O. BOX 570 - GOVERNMENT CENTER - SALINAS, CALIFORNIA 93902
(MONTEREY PENINSULA RESIDENTS MAY DIAL 647-7719)

STEPHEN L. VAGNINI
ASSESSOR

RECEIVED

OCT 03 2013

County-Assessed Properties Division
State Board of Equalization

September 30, 2013

Mr. Dean R. Kinnee, Chief
County-Assessed Properties Division
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0064

Dear Mr. Kinnee;

Pursuant to Section 15645 of the California Government Code, we are providing a written response to the findings and recommendations in the Monterey County 2013 Assessment Practices Survey for inclusion in the final report.

The assessment practices survey program is an invaluable tool and helps promote uniformity, fairness, equity and integrity in the property tax assessment process. The recommendations that have been made are constructive and in most cases have or will be implemented immediately.

I would like to take this opportunity to thank you and your entire staff for the professional manner in which the survey was conducted.

Finally, I would like to thank the employees of the Monterey County Assessor's Office for their professionalism and for their dedication to public service.

Sincerely,

Stephen L. Vagnini
Monterey County Assessor County Clerk Recorder
831-755-5803
vagninis@co.monterey.ca.us

RECOMMENDATION 1: Develop written procedures that address the assessment of staff-owned property.

RESPONSE: (1) We concur. We have developed written procedures that address staff-owned properties.

RECOMMENDATION 2: Improve the administration of the disabled veterans' exemption by correctly calculating the amount of an exemption to be granted for a late-filed claim on the low-income provision of the disabled veterans' exemption.

RESPONSE: (1) We concur. We have adjusted our procedures to grant the claimant the proper amount of the exemption.

RECOMMENDATION 3: Correctly implement the penalty process in accordance with section 482(a).

RESPONSE: (1) We concur. Our office does not currently send out Change of Ownership Statements, however, we do send out an "in house" Sales Questionnaire that meets the requirements under section 482(a); therefore, we did not see a need to implement the penalty process. We will implement a penalty process in accordance with section 482(a).

RECOMMENDATION 4: Properly apply the provisions of section 63.1(j) when processing section 63.1 claims for exclusion.

RESPONSE: (1) We concur. We have made corrections to our policies and have discontinued our \$50 processing fee as allowed by Monterey County's Ordinance No. 4224. This fee was enacted by Monterey County prior to the implementation of Section 63.1(j)(2) and has now been discontinued.

RECOMMENDATION 5: Improve the new construction program by: (1) substantiating new construction discounts on residential swimming pools, and (2) valuing construction in progress (CIP) at current market value as of the lien date pursuant to section 71.

RESPONSE: (1) We concur. We will substantiate new construction discounts on residential pools and (2) value construction in progress (CIP) at current market value as of the lien date pursuant to Section 71.

RECOMMENDATION 6: Improve the declines in value program by: (1) including documentation in the property record to support market

value conclusions for properties experiencing a decline in value, and (2) annually reviewing all properties in a decline-in-value status pursuant to section 51(e).

RESPONSE:

(1) We concur. Although Monterey County has always had the documentation to support market value conclusions for properties experiencing a decline in value we did not always have this information available in the actual property record. Through the implementation last year of a mass appraisal system we have now corrected this problem and backup information is now much more readily available.

(2) Monterey County has in the past made every attempt to annually review all properties in a decline-in-value status and will continue to do so.

RECOMMENDATION 7: Improve the CLCA property program by using current well replacement costs.

RESPONSE:

We respectively disagree. Monterey County uses a \$12/ac charge for the well when calculating for CLCA purposes. The Assessor also does not charge for maintenance expenses for the well that is incurred by the property owner. The majority of the irrigation wells throughout the county are tenant operated and all expenses are paid by the lessee. For owner-operated wells, the Assessor uses a fixed replacement cost new for all wells. The supposition is that a well has a definite life. Wells in this county have been known to produce long after a pre-determined life; therefore, routine maintenance is not considered and is not a charge (deduction) from the income stream. The prudent farmer is always mindful of the irrigation well and will continually provide the necessary maintenance to keep at maximum performance. As a result, the Assessor does not consider a new base value upon the replacement well. The Assessor respectfully contends the practice of using a fixed replacement cost for all wells is not a viable approach and would cause the Assessor to enroll incorrect assessments.

RECOMMENDATION 8: Improve the taxable possessory interest program by:
(1) Obtaining current copies of all lease agreements or permits for taxable possessory interests (2) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (3) reappraising taxable possessory interests in compliance with section 61, and (4) properly issuing supplemental assessments for taxable possessory interests.

RESPONSE:

We concur. (1) We have commenced efforts to obtain current copies of all lease agreements and permits for possessory interests (2) We will continue to periodically review all taxable possessory interests with stated terms of possessions for declines in value (3) and we will consistently appraise all possessory interests in compliance with section 61.

(4) We respectively disagree. We believe that the Board's recommendation pertaining to supplemental assessments when implemented results in double assessments of the same possessory interest in certain instances.

RECOMMENDATION 9: Improve the audit program by (1) requiring a situs inspection as a standard component of audit process, and (2) sending a Notice of Proposed Escaped Assessment as required by section 531.8.

RESPONSE:

We concur. (1) We will require a situs inspection as a standard component of our audit process. (2) We have always sent a Notice of Proposed Escaped Assessment as required by section 531.8 but discontinued the practice for only a short period of time in 2010 and subsequently corrected and enforced the practice in 2011.

RECOMMENDATION 10: Ensure leased equipment reported by the lessee is cross-checked against lessor enrollments during processing.

RESPONSE:

We concur. (1) We will ensure that all leased equipment is cross-checked against lessor enrollments during processing.