SANTA CLARA COUNTY ASSESSMENT PRACTICES SURVEY

MARCH 2014

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March 21, 2014

No. 2014/015

TO COUNTY ASSESSORS:

SANTA CLARA COUNTY
ASSESSMENT PRACTICES SURVEY

A copy of the Santa Clara 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 Lawrence E. Stone, Santa Clara County Assessor, 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 Santa Clara 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 March through June 2012. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Stone 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/ Dean R. Kinnee for

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 Santa Clara County Assessor's Office.

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 Santa Clara 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 Lawrence E. Stone, Santa Clara County Assessor, 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.

SCOPE OF ASSESSMENT PRACTICES SURVEYS

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our 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 Code[1] 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 Santa Clara County Assessor'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 Santa Clara 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.

[1] 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.

EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office. However, it also identifies program elements that we found particularly effective and describes areas of improvement since our last assessment practices survey.

The assessor continues to improve the overall operation of the office. Some efficiencies developed and implemented by the assessor include:

- E-filing program for accepting business property statements.
- Improved electronic processing system for identifying and valuing properties having experienced a decline in value.

Many of our recommendations concern portions of programs which are currently effective, but need improvement. For example, we found the assessor's exemption program to be strong and effective, even though we noted an area for improvement in administering the disabled veterans' portion of the exemptions program. 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 the assessor has effective programs for handling staffing, workload, appraiser certification, staff property and activities, and assessment appeals. However, we found an area where improvement is needed in the assessor's exemptions program.

In the area of real property assessment, the assessor has an effective program for declines in value. However, we found areas where improvement is needed in the assessor's change in ownership, new construction, California Land Conservation Act (CLCA) property, taxable possessory interests, and mineral property programs.

In the area of personal property and fixtures assessment, the assessor has effective programs for conducting audits, as well as assessing manufactured homes, aircraft, and vessels. However, we found areas where improvement is needed in the business property statement and business equipment valuation programs.

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

The Santa Clara 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 99.94 percent, and the sum of the absolute differences from the required assessment level was 0.17 percent. Accordingly, the BOE certifies that Santa Clara 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: Improve the administration of the disabled veterans' exemption program by properly applying the provisions of section 276 for disabled veterans' exemption claims that are not filed timely.....16

RECOMMENDATION 2: Value properties subject to improvement bonds in accordance with section 110(b). 24

RECOMMENDATION 3: Improve the new construction program by: (1) obtaining copies of permits from the environmental health department, and (2) obtaining required information prior to granting new construction exclusions. 26

RECOMMENDATION 4: Improve the CLCA program by: (1) classifying and enrolling living improvements as improvements, (2) using an appropriate income stream for capitalizing restricted tree and vine income, and (3) limiting the exemption period for grapevines to three years after the season of planting. 30

RECOMMENDATION 5: Improve the taxable possessory interest program by: (1) assessing all taxable possessory interests, and (2) issuing supplemental assessments for taxable possessory interests.....33

RECOMMENDATION 6: Improve the assessment of mining property by: (1) determining the current market value of the mineral appraisal unit for all properties, (2) measuring declines in value for mineral properties using the entire appraisal unit as required by Rule 469, and (3) treating settling ponds as a separate appraisal unit. 34

RECOMMENDATION 7: Improve the business property statement (BPS) program by: (1) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS, (2) applying a section 463 penalty assessment in accordance with Rule 172 when a BPS is received without an authorized signature, and (3) improving the discovery process for the BPS program.....40

RECOMMENDATION 8: Correctly classify machinery and equipment reported on business property statements (BPS).....42

RECOMMENDATION 9: Apply the mobile construction and agricultural percent good factors prescribed in Tables 5 and 6 of AH 581 when applicable. 43

OVERVIEW OF SANTA CLARA COUNTY

Santa Clara County is located south of the San Francisco Bay. The county encompasses a total area of 1,304 square miles, which consists of 1,290 square miles of land and 14 square miles of water. It is bordered on the north by Alameda County, on the east by Stanislaus and Merced Counties, on the south by San Benito County, and on the west by San Mateo and Santa Cruz Counties.

Santa Clara County was one of the 27 original counties of California and was created at the time of statehood in 1850. There are 15 incorporated cities in Santa Clara County. The county seat is San Jose. As of 2011, the county had a population of 1,809,378.

Santa Clara County is home to the "Silicon Valley," which refers to the high concentration of companies involved in the semiconductor and computer industries located in this region. Some of those companies include Apple, Hewlett-Packard, Intel, Oracle, Cisco Systems, eBay, and Google.

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

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	$140,557,480,395
	Improvements	$145,311,273,676
	Fixtures	$1,339,464,474
	Personal Property	$4,133,739,979
	Total Secured	$291,341,958,524
Unsecured Roll	Land	$982,181,941
	Improvements	$3,538,796,303
	Fixtures	$3,557,540,958
	Personal Property	$16,006,333,033
	Total Unsecured	$24,084,852,235
Exemptions[2]		($16,330,077,401)
	Total Assessment Roll	$299,096,733,358

The next table summarizes the changes in assessed values over recent years:[3]

YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2011-12	$299,096,733,000	0.9%	0.1%
2010-11	$296,474,111,000	-2.4%	-1.9%
2009-10	$303,856,221,000	0.2%	-2.4%
2008-09	$303,314,231,000	7.0%	4.7%
2007-08	$283,512,919,000	8.2%	9.6%

[2] The value of the Homeowners' Exemption is excluded from the exemptions total.
[3] 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, appraiser certification, staff property and activities, assessment appeals, and exemptions.

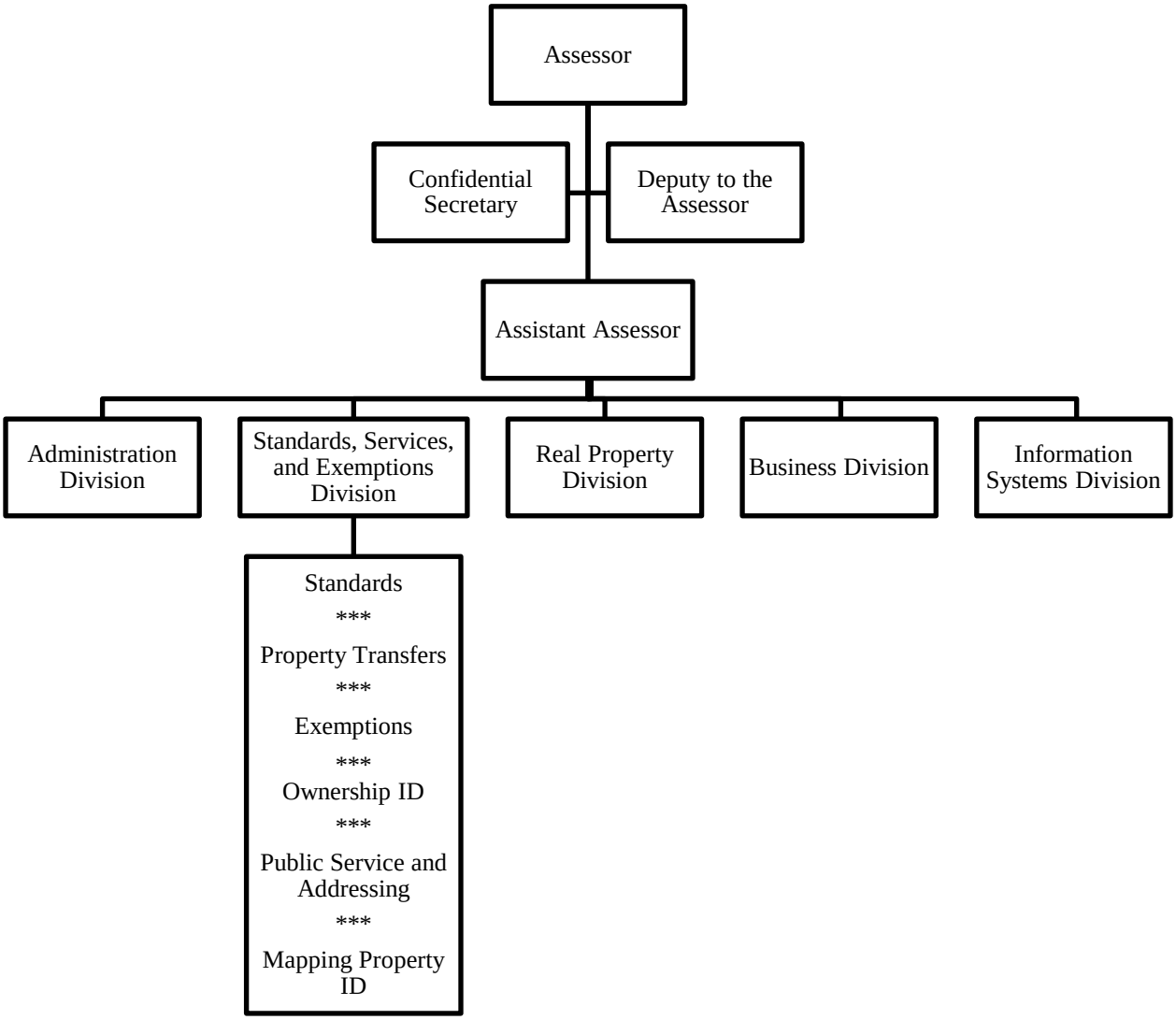
Budget and Staffing

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

BUDGET YEAR	GROSS BUDGET	CHANGE	PERMANENT STAFF
2011-12	$28,474,524	-1.8%	240
2010-11	$28,989,392	-2.1%	242
2009-10	$29,626,887	5.2%	242
2008-09	$28,155,008	7.6%	242
2007-08	$26,156,831	8.5%	279

The assessor's budgeted permanent staff positions consist of the assessor, assistant assessor, deputy to the assessor, 8 managers, 70 real property appraisers, 43 auditor-appraisers, 7 cadastral draftspersons, 16 computer analysts, 21 other technical/professional staff, and 72 support staff.

The following is an organizational chart for the Santa Clara Assessor's Office:



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 prior tables, the total roll value has increased four of the past five years, most recently showing a slight increase, while the gross budget has increased three of the past five years, with the two most recent years reflecting a decrease. During this same time period, the majority of the assessor's workload has been increasing. While the assessor's staff has remained fairly constant in recent years, from the 2007-08 to the 2011-12 budget years there was a total loss of 39 budgeted permanent staff positions. Meanwhile, the number of reappraisable transfers due to changes in ownership has increased three of the past four years, and the number of decline-in-value assessments has increased each of the past four years. The number of new construction assessments has decreased three of the last four years, with the most recent year reflecting an increase. The number of assessment appeals being filed had increased significantly before peaking in 2009-10, recently showing a decrease for the past two years.

These trends are shown in the following table:

WORKLOAD DESCRIPTION	2011-12	2010-11	2009-10	2008-09	2007-08
Reappraisable Transfers	29,024	28,174	28,400	27,692	26,503
New Construction Assessments	4,557	3,869	4,490	8,017	9,083
Decline-In-Value Assessments	136,559	124,148	118,690	90,836	41,914
Assessment Appeals Filed	8,544	9,142	11,421	5,720	3,527

Appraiser Certification

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless he or she holds a valid appraiser's certificate issued by the BOE. At the time of our survey, there were a total of 121 certified appraisers on staff, including the assessor; 86 held advanced appraiser's certificates. We found that the assessor and his staff possessed the required appraiser's certificates. Additionally, we found that the auditor-appraisers performing audits met the requirements referenced in section 670(d). The assessor does not currently use contract appraisers.

In Santa Clara County, the supervising appraisal data coordinator of the Standards Department oversees the training and certification program for the appraisers in the assessor's office. As training coordinator, some of the duties performed by the supervising appraisal data coordinator include:

- Tracking staff training hours to ensure they have the requisite training each year to maintain their appraisal certification.
- Arranging for staff to attend a variety of training opportunities each year.
- Tracking the progress of newly hired appraisal staff to ensure they complete the BOE's certification program within the one-year timeframe.

The assessor offers a 2 percent pay incentive for appraisers to obtain an advanced certificate. At the time of our survey, all certified staff at the assessor's office were current in their annual training requirements. We found no problems with the assessor's appraiser certification program.

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.

All employees at the assessor's office are provided ethics training and receive a copy of the *Santa Clara County Assessor's Office Conflict of Interest Policy*. The assessor's written conflict of interest policy addresses conflicts of interest, financial disclosure, outside employment, and employee property reporting requirements. The conflict of interest policy and related training materials are available to all staff on the assessor's computer system.

The assessor's chief of the Standards, Services, and Exemptions (SSE) Division maintains a list of all property owned by employees of the assessor's office. Employees are required to file a *Property Ownership Record* annually, disclosing all real property and/or business entity interests owned by the employee. In addition, employees are required to file a *Property Ownership Record* whenever there is a change in ownership, new construction, assessment appeal, or request for an informal assessment review of their property. It is the assessor's policy that appraisers are not allowed to reappraise their own property. Supervisors will assign employee-owned property to an appraiser other than the owner of the property to be reappraised, and the appraisal process is tracked, reviewed, and documented by the supervising appraiser and division chief. Properties owned by a division chief are reviewed by the assistant assessor.

In order to avoid conflicts of interest, all outside employment by an assessor's staff member must be approved by the department head prior to acceptance of the position. Employees must sign a *Santa Clara County Outside Employment/Incompatible Activity Form* annually, informing the assessor of any outside employment activities. Employees are required to notify the assessor of any changes in their outside employment status.

The assessor coordinates with the clerk of the board of supervisors (clerk) to ensure compliance with Form 700 filing requirements as cited in section 672. The assessor provides electronic forms and instructions to all certified staff, including information on the consequences of noncompliance. All Form 700s are collected from employees via the Intranet and sent to the clerk, who verifies that all filings have been received. Upon confirmation by the clerk that all employees are in compliance, notification is sent to the BOE.

We reviewed several employee-owned property records and found no problems. The assessor has an efficient program in place for staff property and activities, and we have no recommendations for this program.

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.

Santa Clara County has three assessment appeals boards (AAB). Each board consists of three members appointed by the board of supervisors. Pursuant to section 1624.01, all members of the AAB have completed the required training as provided in section 1624.02. The filing period for assessment appeals in Santa Clara County is July 2 through September 15. Electronically filed assessment appeal applications are not accepted at this time.

Santa Clara County uses two types of hearing officers to conduct hearings on behalf of the AABs: value hearing officers and legal hearing officers. Two value hearing officers conduct hearings in accordance with section 1637, solely to determine the value of real property. Two attorneys serve as the legal hearing officers, and conduct hearings solely on the issue of whether a change in ownership or new construction has occurred, with regard to real property, causing a reassessment of the property for property tax purposes.

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. Once an application is received, the clerk date and time-stamps it; reviews it for

completeness and accuracy; and determines if it is valid and timely filed. The clerk then enters the necessary data from the application into the clerk's database, where the pending application awaits activation. The applications are then scanned and imported into the assessor's database on a nightly basis.

The assessor's supervising appraisal data coordinator (coordinator) in the Standards Department is responsible for verifying and tracking assessment appeals applications that are entered into the database by the clerk. Once the coordinator activates a pending application, it is assigned to the appropriate appraiser in either the Real Property Division and/or the Business Division. A report containing a list of activated appeals is generated, printed, and distributed to the appropriate division. The coordinator and the clerk work together to track the status of each assessment appeal to ensure that no assessment appeal is held for more than two years without an extension or waiver being filed.

The following table summarizes the assessment appeals workload for recent years:

YEAR	2011-12	2010-11	2009-10	2008-09	2007-08
Appeals Filed	8,544	9,142	11,421	5,720	3,527
Appeals Carried Over From Prior Year	11,327[4]	10,454	5,361	3,505	3,549
Total Appeals Workload	**19,871**	**19,596**	**16,782**	**9,225**	**7,076**
Resolution:					
Withdrawn	2,267	2,936	3,028	2,339	2,223
Stipulation	4,339	4,198	2,244	1,073	879
Appeals Reduced	255	87	48	27	48
Appeals Upheld	156	107	66	42	39
Appeals Increased	8	0	0	0	1
Other Determination*	2,778	3,131	942	383	381
Total Resolved	**9,803**	**10,459**	**6,328**	**3,864**	**3,571**
To Be Carried Over**	10,068	9,137	10,454	5,361	3,505

* 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.

Once an appraiser is assigned an appeal, the appraiser contacts the applicant in an attempt to resolve any discrepancies. If an applicant decides to withdraw an appeal or agrees to a stipulated value, the assessor sends a letter with an attached withdrawal or stipulation form to be returned

[4] The assessor incorrectly reported the number of "Appeals Carried Over From Prior Year" in *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for 2011-12. The assessor reported 11,327; however, the number should be 9,137, as indicated by the number "To Be Carried Over" from 2010-11, based on the numbers reported by the assessor.

with the applicant's signature. If no agreement is reached, a hearing is scheduled. The assessor reviews each assessment appeals case prior to staff presentation at the hearing.

Overall, we found the assessor's assessment appeals program to be efficient and well administered. During our survey, we were able to attend an assessment appeals hearing. We found the cases to be well prepared and presented. In addition, we reviewed several assessment appeals files and found them to be concise and well documented. The assessor's staff handling the assessment appeals are experienced and well prepared. We also found that the clerk and the assessor work effectively together as a team.

We have no recommendations for the assessment appeals program.

Exemptions

The administration of property tax exemptions in Santa Clara is noteworthy. The staff is well informed regarding property tax law and makes frequent use of resources available on BOE's website, such as applicable Revenue and Taxation Code sections; Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions* (AH 267); Publication 48, *Property Tax Exemptions for Religious Organizations*; and Letters To Assessors. In problematic cases, staff consults county counsel.

Every first-filing claim is thoroughly reviewed to ensure that it is complete and accurate. All first-filings, including those for personal property, receive a field inspection to make certain of exempt use of the property. Claims are subjected to a checklist that provides an extra measure of certainty that all areas have been reviewed and addressed. The assessor's use of a property use report also speaks to their comprehensive administrative efforts. Finally, an assessor's finding sheet is sent to the claimant regarding the status of the claim, a copy of which is placed in the file. Of particular note is the county's effort to re-inspect all properties every four years.

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	681	$761,435,804	78	$69,135,713
2010-11	701	$759,713,961	82	$70,082,738
2009-10	692	$754,091,923	88	$70,222,501
2008-09	699	$719,477,107	88	$66,046,039
2007-08	696	$642,453,559	97	$79,492,250

We reviewed a number of church and religious exemption claims in Santa Clara County and found the program to be well administered. Claims are date stamped, claim year is circled, parcel and business account numbers are double checked, and extensive notes are made. The quality of the assessor's church and religious exemption program is such that we have no recommendations in this area.

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	1,712	$7,763,378,803
2010-11	1,622	$7,598,995,476
2009-10	1,574	$6,645,797,661
2008-09	1,529	$5,810,812,954
2007-08	1,549	$5,532,217,212

As with the church and religious exemption program, the assessor's welfare exemption program reflects an overall informed, careful, and focused approach to its administration. The same checks and balances evidenced with church and religious exemptions are applied to welfare exemptions. The welfare claims that we reviewed showed the assessor's diligence. Every discrepancy in a claim is noted and resolved, and extensive notes are applied to each file. We commend the assessor for his approach to this very important program and have no recommendations in this area.

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 assessor processed 707 disabled veterans' exemption claims for the 2011-12 roll year with an average exempt value per property of $102,550. The number of claims filed has increased approximately 13 percent over the past five years. Due to annual disabled veterans' exemption indexing and the increased number of filings, exempted values have increased 24 percent during the same period.

The following table shows disabled veterans' exemption data for the past five years:

YEAR	DISABLED VETERANS' EXEMPTIONS	EXEMPTED VALUE
2011-12	707	$72,504,676
2010-11	673	$67,881,959
2009-10	658	$65,987,724
2008-09	653	$63,268,699
2007-08	624	$58,440,068

We found that the assessor has a good understanding of the disabled veterans' exemption and the program is generally well administered. Exemptions are prorated as of the date of eligibility and appropriate late-filing provisions are applied to prior years when claims are not filed timely. The assessor also requires the appropriate documents to support a claimant's eligibility: proof of discharge, disability rating letter from the Department of Veterans Affairs, marriage and death certificate if the claimant is an unmarried surviving spouse, and a household income worksheet when the low-income exemption is being claimed. However, in reviewing samples of disabled veterans' exemption claims, we found an area in need of improvement.

RECOMMENDATION 1: Improve the administration of the disabled veterans' exemption program by properly applying the provisions of section 276 for disabled veterans' exemption claims that are not filed timely.

While the assessor properly applies late-filing provisions for initial claims that are filed late, we found that the assessor does not apply late-filing provisions on annual claims that are filed late for the low-income provision of the disabled veterans' exemption.

After the low-income provision of the disabled veterans' exemption has been established, an annual claim must be filed on or before February 15 in order to receive the full amount of the eligible exemption. Annual claims filed after 5 p.m. on February 15, but on or before the following December 10, are eligible for 100 percent of the basic disabled veterans' exemption amount plus 90 percent of the exemption that exceeds the basic exemption amount. Claims filed after December 10 are allowed 85 percent of the amount that exceeds the basic exemption amount.

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." In addition, section 276(a) provides that 90 percent of the appropriate exemption is available if the claim is filed after February 15 and 85 percent is available if the claim is filed after December 10.

By not imposing late-filing provisions and allowing the full amount of the eligible exemption when a claim is not filed timely, the assessor may be granting property tax exemptions that are greater than what is allowed by statute.

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, taxable possessory interests, and mineral property.

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's primary means of discovering properties that have changed ownership is through the analysis of deeds and other documents recorded at the recorder's office. The following table shows the total number of recorded documents received and the total number of reappraisable transfers processed in Santa Clara County in recent years.

YEAR	RECORDED DOCUMENTS RECEIVED	REAPPRAISABLE TRANSFERS
2011-12	80,716	29,024
2010-11	76,941	28,174
2009-10	75,382	28,400
2008-09	75,315	27,692
2007-08	N/A	26,503

The recorder requires a BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), to accompany documents submitted for recording that transfer ownership of real property. If a document is received without a PCOR, the recorder adds a $20 charge to the recording fee.

PCORs are available at both the assessor's and recorder's offices. The assessor does not currently utilize BOE-502-AH, *Change in Ownership Statement* (COS), when a PCOR is not received. The county does not currently have a local ordinance in place that requires an assessor's parcel number (APN) on all recorded documents involving real property; however, the recorder makes a diligent effort to make sure the APN is noted on every document being recorded that transfers real property.

Recorded documents are initially screened and then scanned by the recorder's office before they are sent electronically to the assessor's office. The recorder's office sends the original PCORs to the assessor's office, where they are scanned into the assessor's database. The supervisor of the Ownership ID Unit transfers assignments electronically to the assessment clerks' workload queues. Each assignment has a workload list that guides and tracks transfer processing and allows multiple staff to access the file simultaneously. The assessment clerk reviews the documents and corresponding PCORs in order to identify the property being transferred and to verify that the property being transferred is owned by the grantor as specified on the deed. Discrepancies are investigated and addressed accordingly. The assessment clerk scans requested transfer documents upon receipt. Documents requiring mapping adjustments are forwarded electronically to the Mapping Property ID Unit by the assessment clerk.

Following a change in ownership, homeowners' exemption applications are mailed to transferees who may qualify. The assessment clerk also deletes existing homeowners' exemptions when appropriate. If a transfer may be eligible for a possible exclusion, it is forwarded to the Property Transfer Unit for processing. The Property Transfer Unit sends out any necessary forms to the interested parties. Applications and information regarding exemptions and exclusions are available to the public at the assessor's office.

After processing, simple transfers are routed to the Standards Division for review. The Standards Division requests additional documentation when necessary. If the transfer is determined to be a non-appraisable event or qualifies for an exclusion from reassessment, it is considered fully processed and sent to the Standards Division for review. Once the transfer is approved by the Standards Division, transfers involving reappraisable events are forwarded to the Real Property Division electronically for valuation purposes. The transfer is then assigned to the appraiser of the geographical area the property is located within.

We examined several recorded documents and found that the assessor has an effective program for the discovery and determination of reappraisable events.

Transfer Lists

Pursuant to section 408.1(a), the assessor maintains a two-year transfer list for public use. The transfer list is available to the public for review at a charge of $10. In compliance with 408.1(b), the transfer list is divided into geographical areas by APN. The transfer list is updated quarterly. In compliance with section 408.1(c), the transfer list contains the names of the transferor and transferee, the APN, the situs address, the date of recording, the date of transfer, the recorded document number, and the consideration paid. The assessor observes the confidentiality provisions of section 481, which precludes the disclosure of information on a PCOR or COS.

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.[5] 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.

The assessor discovers potential changes in control or changes in ownership of legal entities from business property statements, recorded documents, regional business journals, and monthly LEOP reports from the BOE.

A property transfer examiner reviews the monthly LEOP reports to determine if any changes in control or ownership have occurred within Santa Clara County. Parcels located within the county are identified and reviewed. The property transfer examiner also performs a name search to ensure that all of the entity's real property is reassessed. All properties owned by a legal entity identified as having undergone a change in control or ownership are reviewed by the supervisor of the Property Transfer Unit.

Our review of several records shows the assessor is properly reviewing LEOP reports and reassessing all property interests identified on BOE-100-Bs. The assessor also reviews any additional properties owned by the entity not reported on the form. In addition, the assessor properly applies penalties for late-filings of BOE-100-Bs when appropriate.

[5] 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.

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.

The following table sets forth section 63.1 claims granted in recent years:

YEAR	SECTION 63.1 CLAIMS GRANTED
2011-12	2,933
2010-11	2,491
2009-10	2,369
2008-09	2,100
2007-08	2,412

The assessor is proactive regarding public awareness of potential change in ownership exclusions. If a PCOR indicates that 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, the assessor sends a claim form and cover letter to the taxpayer advising of a possible exclusion from reassessment. While the initial cover letter requests a response within 15 days, the assessor allows the taxpayer 30 days to respond before sending a second and final claim form. If after an additional 15 days there is still no response, the transfer is processed and the property is reappraised.

The assessor reviews all section 63.1 applications and determines if the exclusion will be granted or denied. When a claim form is accepted or denied, the taxpayer is notified in writing.

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 report is reviewed to determine if property in Santa Clara County has exceeded the limit. If multiple properties transfer, the assessor allows the property owner or representative to determine which properties to exclude and which to reassess. If parcels exceeding the limit are in counties other than Santa Clara County, the assessor contacts the property owner to determine how they would like to have

the excess allocated and reassessed. If necessary, contact is made with other counties to determine which property to exclude and which to reappraise.

Pursuant to section 63.1(i), the assessor protects confidential information furnished on claim forms by keeping all claim forms in a secure file not accessible to the public.

We reviewed several section 63.1 claim forms and found them to be properly handled.

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 sets forth section 69.5 claims filed and granted in recent years:

YEAR	SECTION 69.5 CLAIMS FILED	SECTION 69.5 CLAIMS GRANTED
2011-12	365	245
2010-11	344	237
2009-10	321	216
2008-09	328	286
2007-08	377	N/A

Santa Clara County accepts base year value transfers from other counties. If a PCOR indicates that a transfer may involve a base year value exclusion, the assessor sends interested parties a claim form along with a letter explaining the exclusion. An appraisal aide reviews all submitted claim forms for initial approval. Approved claim forms are forwarded to appraisers to determine the fair market value of both the replacement and original properties, and to determine whether the property values meet the exclusion requirements before accepting or denying the claim. A supervising appraiser reviews all claims upon completion of valuation, regardless of whether they are accepted or denied. When a claim form is accepted or denied, the taxpayer is notified in writing.

The assessor submits required quarterly reports to the BOE listing approved section 69.5 exclusions. To avoid duplicate filings of a section 69.5 claim, the assessor's office reviews the

Duplicate SSN Report from the BOE to determine if any claims made in Santa Clara County duplicate any claims made in another county.

Pursuant to section 69.5(n), the assessor protects confidential information furnished on the claim forms by keeping them in a secure file not accessible to the public.

We reviewed several 69.5 claims and found them to be properly reviewed and processed.

Valuation

Once a transfer has been determined to be a reappraisable event, the information is sent to an appraiser for valuation. Every reappraisable transfer is reviewed to determine if the reported sale price reflects market value; the sale price is not automatically enrolled. Residential properties experiencing a change in ownership are valued primarily using the comparative sales approach, while commercial properties are valued using the income approach with secondary consideration given to the comparative sales approach. If the property is unique, the cost approach may be considered, as well. Field inspections are conducted at the appraiser's discretion.

We reviewed several property records having recently experienced a change in ownership. We found that the assessor's office is following proper procedures for valuation and has an efficient valuation program in place for reappraising properties having undergone a change in ownership.

Direct Enrollment Program

Direct enrollment allows the assessor's office to process the assessment of properties meeting certain criteria with minimal appraiser involvement. Santa Clara County has a direct enrollment program for single-family residences and condominiums.

In order to qualify for the direct enrollment program, single-family residences and condominium sales must meet certain criteria. Sales that have confirmed sale prices verified by a secondary source, such as a PCOR or sales verification letter, are included in the program. The size of the improvements must be over 300 square feet and the land or lot size cannot exceed 3.0 acres. Currently, single-family residence sales over $2,000,000, single-family residence sales under $250,000, and condominium sales under $150,000 are excluded from the program.

We reviewed several properties and found the assessor's direct enrollment program to be sufficient and well administered.

Improvement Bonds

Improvement bonds are instruments used to finance construction of public improvements, including sewers, sidewalks, lighting, and water lines. Such public improvements generally enhance the land value of privately owned real property. Land directly benefiting from such improvements is pledged as security for payment of the construction loan. The improvement bond is a lien that runs with the land and binds the owner and all successors in interest in accordance with the 1911 or 1915 Bond Acts.

Section 110(b) provides a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration paid for a property exclusive of the lien amount. An assessor can overcome this presumption by a preponderance of evidence that all or a portion of the value of those improvements is not reflected in that consideration.

Santa Clara County has several properties encumbered by improvement bonds. The assessor is notified on an annual basis by several government agencies of the outstanding bond amounts and the parcels involved. We reviewed several properties encumbered by improvement bonds and have the following recommendation:

RECOMMENDATION 2: Value properties subject to improvement bonds in accordance with section 110(b).

We found several properties in which the assessor added value to the purchase price paid for bond improvements when establishing a base year value. The assessor does not have a study or other documentation to establish by a preponderance of the evidence that all or a portion of the value of the improvement bond is not already reflected in the consideration paid for the property.

Section 110(b) provides that there is a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration, exclusive of that lien amount, involved in the transaction. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of those improvements is not reflected in that consideration.

The assessor's practice of adding the bond amount to the purchase price paid for these properties without evidence to prove the bond amount is not already included in the purchase price is contrary to statute and could result in overassessments.

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 procedures, policies, and forms for discovering and assessing new construction. Most new construction activity is discovered by reviewing building permits. The assessor receives building permits from 16 permit-issuing agencies. Other methods used to discover new construction include building violation reports, newspaper articles, and field canvassing. In addition, the assessor receives building plans and notices of completion from the different agencies.

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

YEAR	BUILDING PERMITS RECEIVED	NEW CONSTRUCTION ASSESSMENTS
2011-12	27,705	4,557
2010-11	24,296	3,869
2009-10	22,940	4,490
2008-09	29,526	8,017
2007-08	31,647	9,083

Permit Processing

The assessor receives permits on a weekly or monthly basis, electronically or in hard-copy format, depending on the issuing agency. All permits received, both electronic and hard-copies, are transmitted to the assessor for review. Clerical staff review all hard-copy permits received and cull those that are not considered to be assessable new construction. Permits received electronically are automatically culled by the computer system, which is programmed to recognize certain permits as nonassessable new construction. Permits that are not entered into the system are permits that are strictly for mechanical, plumbing, or electrical work. All assessable permits are downloaded into the assessor's database and appear in the appraisers' work queues.

Construction in Progress

On each lien date, section 71 requires the assessor to enroll construction in progress at its fair market value. The appraiser must determine the completion status of new construction on each lien date and attribute a value based upon the percent complete. On subsequent lien dates, if the new construction is still incomplete, the appraiser must enroll the construction in progress 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 value new construction at its full value as of the date of completion. An appraiser confirms completion of new construction through field inspections, information provided by permit-issuing agencies, and new construction cost questionnaires. The assessor's computer

system shows those permits that have been completed or partially completed, as well as those permits for which no value was added.

The appraisers rely primarily on the cost and comparative sales approaches to value new construction; however, the income approach may also be used when appropriate. A variety of sources are used to develop cost indicators of value for new construction. These sources include Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), *National Building Cost Manual*, the owner's reported costs, and *Marshall Valuation Service*. Unit cost factors and the source of the costs are documented on the property record. Supplemental assessments are created and issued based on the date of completion.

Summary

We reviewed several residential and commercial properties that involved new construction and found several areas in need of improvement.

RECOMMENDATION 3: Improve the new construction program by: (1) obtaining copies of permits from the environmental health department, and (2) obtaining required information prior to granting new construction exclusions.

Obtain copies of permits from the environmental health department.

The assessor does not receive copies of permits issued by the Santa Clara County Department of Environmental Health. Permits from the environmental health department are issued for septic systems and water wells used for both agricultural and domestic purposes. During our review, we found a number of new wells that escaped assessment. We contacted the Santa Clara Valley Water District, which signs off on wells that have been installed, and found that there is data available to the assessor on the status of these well permits.

Section 72 requires county or city agencies to furnish copies of building permits to the assessor. To ensure the assessor discovers all qualifying new construction, a copy of every approved building permit must be received. Well and septic system permits can indicate further development and assist the assessor in discovering new construction that might otherwise go undetected. By not obtaining these permits from the environmental health department, the assessor may be missing potential new construction, which may result in escaped assessments.

Obtain required information prior to granting new construction exclusions.

We found several examples where the assessor had granted an exclusion from assessment for new construction of seismic retrofitting components without requiring the necessary claim form or documentation. Currently, when the assessor receives a building permit for the addition of seismic retrofitting components to an existing building or structure, he simply closes out the permit as nonassessable new construction.

Section 74.5 provides for a new construction exclusion for the addition of any seismic retrofitting components to existing buildings and structures. In order to receive this new construction exclusion, the property owner must notify the county assessor prior to, or within

30 days of, completion of the project. Additionally, all documents needed to support the claim must be filed no later than six months after completion of the project. It is the responsibility of the property owner, contractor, engineer, or architect to certify to the building department which portions of the project are for seismic retrofitting components. Upon completion of the project, the building department is to report to the county assessor the costs of those portions of the project designated for seismic retrofitting components. Section 74.5(d) requires that the BOE prescribe the manner and form for claiming the exclusion. The property owner must file BOE-64, *Claim For Seismic Safety Construction Exclusion From Assessment,* along with any necessary supporting documentation, in order to qualify for the exclusion.

The assessor's practice of excluding seismic retrofitting components from assessment without obtaining the required claim forms and collecting supporting documentation is not in compliance with statute, and may result in the assessor granting exclusions for new construction that would otherwise be assessable.

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 for recent years:

YEAR	DECLINE-IN-VALUE ASSESSMENTS
2011-12	136,559
2010-11	124,148
2009-10	118,690
2008-09	90,836
2007-08	41,914

Due to unfavorable economic conditions, Santa Clara County, like many other counties, has experienced a notable decline in property values. Consequently, there has been a significant increase in the total number of properties eligible for decline-in-value assessment. As shown in the previous table, the number of decline-in-value assessments has increased dramatically over the last four years, causing 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 uses an automated computer program to aid in identifying certain residential properties for potential declines in value. Other methods of discovery used to identify potential declines in value are taxpayer requests for an informal

review, assessment appeals, and appraiser familiarity with market conditions in their assigned geographic areas.

The assessor's automated computer program aids in the declines in value program by determining current market values for all condominiums and those single-family residences constructed in 1995 or later. The program uses recent comparable sales to calculate an estimated current market value for a subject property. The comparable sales used in this process must be the same use code as the subject property's use code, and must have sold between September 1 and March 31 of the following year. If possible, the comparable sales should be located within a two-mile radius of the subject property, or at least within the same region. The program identifies properties in need of adjustment by comparing the computer-generated current market value to a property's FBYV. If the computer-generated value is lower than the FBYV, the assessor enrolls the lower value and places the property in a decline-in-value status.

For properties that do not meet the criteria for an automated review, appraisers perform manual decline-in-value reviews for the properties assigned to their specific geographical areas. Appraisers rely primarily on the comparative sales and cost approaches when valuing residential and rural properties, while commercial and industrial properties are valued using the comparative sales and income approaches.

A taxpayer can initiate an informal assessment review by filling out a *Request for Valuation Review* form, which can be obtained from the assessor's office or on the assessor's website. The assessor accepts requests for informal reviews through August 1.

Each year the assessor sends value notices by mail or email to property owners when their assessed value has been temporarily reduced due to a decline in value, when a reduced value remains unchanged on the roll for the current assessment year, or when their FBYV has been fully or partially restored. A value notice is sent each year until the FBYV has been fully restored and the property is no longer in a decline-in-value status. Value notices include a statement of the assessment appeals filing period, a notification of hearings by the assessment appeals board, and the FBYV of the property as required by section 619. In addition, the value notice informs taxpayers how to access the assessor's website, which allows the taxpayer to view the market data used in the value determination process.

The assessor properly reviews and adjusts properties experiencing a decline in value pursuant to section 51. Each decline-in-value assessment is coded to prevent the assessor's computer program from automatically applying the annual inflation factor to the prior year's taxable value and to ensure that the decline-in-value assessment is annually reviewed.

We reviewed several decline-in-value assessments and found that the assessor's declines in value program is effective and well administered. We have no recommendations for this program.

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, Santa Clara County had 3,158 parcels totaling approximately 253,700 acres restricted by CLCA contracts. The total assessed value was approximately $741,280,000. Roughly 51,600 acres of the total restricted acreage were in nonrenewal status; an unknown number of contracts have also been cancelled since our prior survey. We found that both nonrenewal and cancellation procedures were compliant with statutory provisions and recommended practices. The assessor has not adopted the provision of section 423.3, which provides that the assessed value of CLCA property shall not exceed a specified percentage of its factored base year value.

In Santa Clara County, the gross value of agricultural production for 2011 was $247,699,800. This was a decrease of 7 percent from the 2010 value of $266,141,100. Santa Clara County's top three crops in 2011 were nursery crops, mushrooms, and bell peppers. Late spring rains and an unseasonably cool summer negatively affected a number of crops in 2011. Most notably was the rainfall during the cherry harvest, which caused a 53 percent decrease in yield per acre compared to the 2010 cherry crop.

The valuation of CLCA properties in Santa Clara County is the responsibility of a real property appraiser and a supervising appraiser. Income and expense data is gathered from a variety of sources, including annual open-space questionnaires, annual crop and crush reports, information from other counties, and interviews with property owners and farm managers. This data is used to determine income and expense rates to be used in the valuation process.

The assessor utilizes an automated computer system to value restricted properties in the county. Income and expense data is entered into the computer system, which then calculates the restricted values. In accordance with section 423, restricted values are determined by capitalizing the net agricultural income using a capitalization rate developed in the manner described by statute. The assessor properly compares the restricted value to the factored base year value and the current market value, enrolling the lower of the three values.

The assessor correctly treats homesites and related homesite improvements as separate appraisal units when reviewing for declines in value and enrolls the lower of factored base year value or current market value in accordance with section 428.

The assessor properly issues supplemental assessments on unrestricted portions of CLCA properties that undergo changes in ownership and for any completed new construction. Pursuant

to sections 75.14 and 52(a), supplemental assessments are not issued for restricted land or living improvements.

We reviewed several CLCA properties and found several areas where improvement is needed in the assessor's CLCA program.

RECOMMENDATION 4: Improve the CLCA program by: (1) classifying and enrolling living improvements as improvements, (2) using an appropriate income stream for capitalizing restricted tree and vine income, and (3) limiting the exemption period for grapevines to three years after the season of planting.

Classify and enroll living improvements as improvements.

We reviewed several vineyard properties under CLCA contracts and found that the assessor is incorrectly classifying and enrolling grapevines, which are living improvements, as land.

Section 105(b) provides that improvements include all fruit, nut bearing, or ornamental trees and vines. In addition, Rule 122 provides that improvements consist of planted fruit, nut trees, and vines that are taxable.

Misclassification of living improvements can have significant consequences. For example, special assessments may be imposed on land only. Enrolling living improvements as land may result in the improper levy of special assessments on living improvements and is contrary to statute.

Use an appropriate income stream for capitalizing restricted tree and vine income.

We found that the assessor uses a straight-line declining income premise when appraising vineyards and orchards in all stages of production. This premise assumes that net income declines in equal increments year after year.

AH 521 describes the procedure for capitalizing tree and vine income. The appropriate method depends primarily on the shape of the anticipated income stream. The shape of the income stream of all living improvements is similar: (1) a period of development during which production rises, (2) a period of maturity during which production remains relatively stable, and (3) a period of decline during which production drops as the trees or vines near the end of their economic lives. In any particular case, the shape of the estimated future income stream depends on the age of the trees or vines on the valuation date. If the trees or vines are young, the estimated future income stream would likely include all three stages; if the trees or vines are mature, the estimated future income stream would likely include only the latter two stages.

Since the probable future income stream is irregular, the most accurate method of valuing living improvements is to estimate the present worth of each future year of (irregular) income by using the discounted cash flow method. The capitalization rate to be used should be composed of the same three elements that are included in the rate developed for the valuation of open land: interest, risk, and property taxes. In addition, trees and vines are a wasting asset and an

amortization component is also required when capitalizing tree and vine income. When using the discounted cash flow method, the amortization component is contained in the present value factors.

Not recognizing the shape of the income stream may result in the underassessment of trees and vines in early to mid-life and the overassessment of trees and vines in late-life.

Limit the exemption period for grapevines to three years after the season of planting.

We found that the assessor incorrectly grants a fourth year of exemption for grapevines planted in vineyard form, which is contrary to article XIII, section 3(i) of the California Constitution and Rule 131.

Article XIII, section 3(i) provides that grapevines are exempt from property taxation until three years after the season in which they were planted in vineyard form. Rule 131(b) further provides that the exemption ceases on the fourth lien date after the season of planting in vineyard form. For example, grapevines planted in vineyard form in the 2010 planting season become assessable on the 2014 lien date.

The assessor's practice of allowing an additional year of exemption is contrary to statute and may cause unequal treatment of taxpayers.

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.

In Santa Clara County, the assessor enrolled 1,610 taxable possessory interests, with a total assessed value of $1,959,388,917 for both land and improvements, for the 2011-12 roll year. These 1,610 taxable possessory interests were located on real property owned by 51 different public agencies in Santa Clara County. Some of the uses on these publicly owned properties included airplane tie downs and hangars at publicly owned airfields, concessionaires and private users of the county fairground and convention center, and cable television franchises. Taxable possessory interests are assessed on the unsecured roll. The assessment roll correctly shows the name of the specific local, state, or federal agency that holds title to the real property where the taxable possessory interest is situated. A senior auditor-appraiser is responsible for the assessment of the taxable possessory interests in Santa Clara County.

Discovery

Each year, the senior auditor-appraiser sends out Board-prescribed form BOE-502-P, *Possessory Interests Annual Usage Report*, to approximately 90 public agencies owning real property in the county and to 16 municipalities having cable television franchises in the county, seeking information on any new tenants, lease terms, rents, and expenses, as well as information on

existing tenants that have either renewed or vacated occupancy. The public agencies typically provide information to the assessor on a spreadsheet that they maintain on all of their taxable possessory interest tenants. The assessor assigns each public agency owning real property in the county a distinct identification code. All information received from the public agency is maintained in a folder under its specific identification code in the assessor's computer database.

Changes In Ownership

We found that the assessor correctly reassessed taxable possessory interests for changes in ownership upon creation, renewal, extension, or assignment of the taxable possessory interest in accordance with section 61(b). For taxable possessory interests where a renewal or extension occurred within the reasonably anticipated term of possession used by the assessor when establishing the base year value, the assessor followed section 61(b)(2) and only reassessed these interests upon the termination of the reasonably anticipated term of possession used to establish the base year value. The assessor uses a spreadsheet to track the remaining reasonably anticipated term of possession in order to properly reassess those interests for a change in ownership at the end of the term.

Valuation

The primary method of valuation used by the assessor to value taxable possessory interests is the income approach-direct method. In the direct method, the value of the taxable possessory interest is determined by discounting the estimated future market rent over the reasonably anticipated term of possession.

We reviewed several taxable possessory interest assessments where the assessor utilized the income approach-direct method and found that the assessor correctly does the following:

- Uses market rents in the value calculations.
- Deducts from gross rents an allowance for property related expenses incurred by the public owner.
- Uses the stated term of possession, plus options if applicable, as the reasonably anticipated term of possession when the taxable possessory interest is encumbered by a lease or contract, and annually reviews these taxable possessory interests for possible declines in value using a declining term of possession.
- Estimates a reasonably anticipated term of possession for taxable possessory interests that do not have stated terms of possession or have month-to-month tenancies based on historical usage and occupancy of similar types of possessory interests.
- Uses a discount rate that does not include a property tax component, unless the property taxes are paid by the public owner, as in the case of property owned by the California Department of Transportation (CalTrans).

We also reviewed taxable possessory interest assessments where the assessor utilized the income approach-indirect method and found that the assessor correctly valued those taxable possessory interests.

Overall, the assessor has an effective program for the discovery, tracking, and assessment of taxable possessory interests located in Santa Clara County. However, we did note areas in need of improvement.

RECOMMENDATION 5: Improve the taxable possessory interest program by:
(1) assessing all taxable possessory interests, and
(2) issuing supplemental assessments for taxable possessory interests.

Assess all taxable possessory interests.

The assessor is incorrectly exempting from assessment certain low-value taxable possessory interests. We found a number of taxable possessory interests at the Santa Clara County Fairgrounds that the assessor exempted because the assessed value was $5,000 or less.

The Santa Clara County Board of Supervisors adopted Ordinance NS-220, exempting low-value personal property from taxation. On May 5, 1998, the board of supervisors adopted Ordinance NS-221, which amended the original ordinance by raising the maximum exempt value for personal property from $2,000 to $5,000. Taxable possessory interests are classified as real property. Under the county's current low-value ordinance, real property is not included in the low-value property exemption and, therefore, the assessor should be assessing all taxable possessory interests in the county.

By applying the county's low-value ordinance to a class of property that is not qualified for the exemption, the assessor is improperly allowing certain taxable possessory interests to escape assessment.

Issue supplemental assessments for taxable possessory interests.

We found that the assessor is not consistently issuing supplemental assessments for taxable possessory interests that are reassessed for a change in ownership due to a creation, renewal, extension, or assignment. It is currently the assessor's practice to issue supplemental assessments for changes in ownership only when the new assessed value is $1 million or more.

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. Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), advises that 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.

The assessor's failure to issue supplemental assessments for all qualified taxable possessory interests is contrary to statute, and results in a loss of revenue and inconsistent treatment of taxpayers.

Mineral Property

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.

Santa Clara County has one petroleum property and several mining properties. There are no assessable high temperature geothermal properties in Santa Clara County.

Petroleum Property

Santa Clara County has one petroleum property. While it had been previously assessed, we found that at some point the petroleum property had been dropped from the assessment roll. Discussions with the chief appraiser indicated that he believed the property was no longer producing. We checked the California Department of Conservation's website and determined that this petroleum property has been in continuous production since 1980.

Mining Property

Santa Clara County has several sand and gravel quarries, which are valued by a supervising appraiser. These properties are valued using either the royalty method or a full discounted cash flow analysis.

RECOMMENDATION 6: Improve the assessment of mining property by: (1) determining the current market value of the mineral appraisal unit for all properties, (2) measuring declines in value for mineral properties using the entire appraisal unit as required by Rule 469, and (3) treating settling ponds as a separate appraisal unit.

Determine the current market value of the mineral appraisal unit for all properties.

We found that for those mineral properties valued using the royalty method, the assessor did not make an estimate of the current market value of the total mineral property. The assessor estimated the current market value only for those mineral properties valued using the full discounted cash flow analysis.

Proper appraisal procedure for mineral properties is to estimate the current market value of the total mineral property each year and the quantity of proved reserves to be produced over the time period for the value estimate. Once the current market value of the total property has been estimated, the current market value of the mineral rights (proved reserves) is estimated by segregating the current market value of land, improvements, fixtures and equipment, and personal property from the total property value.

Once the current market value of the mineral rights has been estimated, it is possible to make adjustments to base year values to account for depletion and other changes to reserves.

If annual estimates of the current market value of the total mineral property are not made, it is impossible to make the adjustments necessary for a proper accounting of changes in the base year value of proved reserves for mineral properties.

Measure declines in value for mineral properties using the entire appraisal unit as required by Rule 469.

Santa Clara County uses the royalty method to determine the base year value of the leased fee mineral rights for most mineral properties. The royalty method capitalizes the payments made to the mineral right owner to estimate the value of the leasehold mineral interest. We found that the assessor erroneously measures the decline in value of the leasehold mineral interest separately from the decline in value of the other components of the mineral property unit.

Under article XIII A, all real property receives a base year value and, on each lien date, the taxable value of the real property unit should be the lesser of its adjusted base year value or current market value. Section 105 defines fixtures as a type of improvement and, hence, as real property.

For most properties, fixtures are treated as a separate appraisal unit for the purpose of determining a decline in value. Mineral properties, however, are treated differently. Rule 469(e)(2)(C) specifically defines the appraisal unit of a mineral property to include land, improvements including fixtures, and reserves. The assessor should use this unit for the purpose of measuring a possible decline in value.

Failure to properly determine the decline in value of a mineral property using the entire mineral property appraisal unit could result in an underassessment of the fixtures and equipment or an overassessment of the mineral rights.

Treat settling ponds as a separate appraisal unit.

We found that the assessor does not determine a separate value for settling ponds on mineral properties as required by Section 53.5.

Most mining operations will include some area designated as a location for waste material produced by the mining operation. These settling ponds and tailings facilities are typically used to collect water used for washing the gravel to provide a clean product that meets the customer's specifications and needs. The wash water is then collected to allow the small particulate matter to settle before the water is recycled. Site inspections, use permit application reviews, or reviews of satellite photos of the mineral property can easily determine the existence of settling ponds. An acceptable method to value these components would be the following: (1) determine the cost to construct the improvement and establish a base year value, and (2) each year thereafter, value each settling pond based upon the remaining capacity of the improvement to dispose of waste material.

Section 53.5 provides that the assessor shall establish a base year value for each settling pond, leach pad, and tailing facility, and that each settling pond, leach pad, and tailing facility shall be considered a separate appraisal unit for purposes of determining its taxable value on each lien date subsequent to the lien date upon which the initial base year value was determined.

The assessor's failure to treat settling ponds as a separate appraisal unit is contrary to statute and may result in incorrect assessments.

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 audit, business property statement, business equipment valuation, manufactured homes, aircraft, and vessels programs.

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 Santa Clara County, the assessor's audit section is comprised of a chief auditor, an assistant chief auditor, 5 supervising auditors, 36 auditor-appraisers, 4 accountant assistants, 2 appraisal data coordinators, 7 assessment clerks, and 6 office specialists.

The following table shows the assessor's audit workload and production over recent years:

YEAR	2010-11	2009-10	2008-09	2007-08
Audits Scheduled	1,004	1,031	1,025	1,072
Audits Carried Over from Prior Year	16	3	5	2
Total Audit Workload	**1,020**	**1,034**	**1,030**	**1,074**
Audits Completed	1,003	1,018	1,027	1,069
Audits Carried Forward	**17**	**16**	**3**	**5**

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 675 audits per year. The assessor completed 1,018 audits for the 2009-10 roll year and 1,003 for 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.

As a rule, the assessor requests 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 audits, as well as the assessor's policy and procedures, for enforcement of section 532 and 532.1, and found that the assessor is in compliance.

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 sampled several recently completed audits and found that the assessor performs change in control (ownership) reviews, verifies leased equipment, enrolls construction in progress, accounts for supplies, properly classifies equipment, conducts field inspections, properly

enforces the county's personal property low-value ordinance, and performs assessment roll changes to reflect audit findings. We found the audits were accurate, well documented, and supported by a comprehensive audit checklist defining the areas of investigation.

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.

General Statement Processing

Newly submitted BPSs are first reviewed by appraisal support staff for completeness and the inclusion of an authorized signature. Incomplete BPSs and statements submitted without an authorized signature are copied and returned to the property owner, along with a letter indicating the reason for the rejection of the BPS. Completed BPSs are date stamped and submission dates are entered into the mainframe to reflect timely submission. The assessor's computer system automatically applies a section 463 penalty to all accounts where BPSs were submitted subsequent to the statutory deadline of May 7. The assessor also has an e-filing program in place in order to receive and accept BPSs through the Internet.

Cost data appearing on submitted BPSs are entered into the computer system by appraisal support staff. Under certain circumstances, such as newly declared accounts or when a change in ownership has occurred, property statements are forwarded to accountant assistants, who are assigned the task of making the appropriate changes in the computer system. Certified appraisal staff review and process all business accounts of larger assessments, and only spot-check and review a sampling of business accounts of smaller assessments.

Discovery

The majority of the assessor's business personal property is discovered through annual field canvassing in the county. Other discovery sources include taxpayer self-reporting, business directory services, real property appraiser referrals, and BOE notifications.

Direct Billing

Many assessors utilize an assessment procedure known as "direct billing" or "direct assessment." It is a method of assessing qualified lower-value business accounts without the annual filing of a BPS. An assessor establishes an initial value for the business property and continues the value for several years. Property statement filings or field reviews are required periodically. Examples of businesses suitable for direct billing include apartments, barbershops, beauty parlors, coin-operated launderettes, small cafes, restaurants, and professional firms with small equipment holdings.

The direct billing program is beneficial to the taxpayer and to the assessor. It results in a reduction of paperwork for taxpayers and fewer BPSs that must be processed annually by the assessor's staff thereby increasing time available for the auditor-appraisers to perform other required duties.

In Santa Clara County, the assessor maintains a narrowly scoped direct billing program that is limited to apartment house assessments having 16 to 50 units. Although the program is small, it is well regulated and appropriate controls are in place to reduce the chance of escape assessments.

Summary

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 that all BPSs sampled and accepted by the assessor evidenced the proper usage of Board-prescribed forms and were completed in sufficient detail. However, we found some areas in need of improvement.

RECOMMENDATION 7: Improve the business property statement (BPS) program by: (1) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS, (2) applying a section 463 penalty assessment in accordance with Rule 172 when a BPS is received without an authorized signature, and (3) improving the discovery process for the BPS program.

Value taxable business property in accordance with section 501 when a taxpayer fails to file a BPS.

When a completed BPS is submitted late, the assessor correctly calculates the current market value of reported taxable business property owned and controlled by the property owner and applies the statutorily-defined 10 percent penalty. However, we found that when the business owner fails to file a BPS, the assessor applies a pre-determined escalation rate of 10 percent to the previous year's enrollment. A 10 percent penalty is then applied to this escalated assessment. In addition, we found that the assessor sets no formal limits on the number of consecutive years a business property owner may fail to file a BPS before the assessor either visits the location of the taxable property or conducts an audit.

Section 441(b) provides that a penalty shall apply if a BPS is not filed by May 7. If an assessee does not file a property statement by May 7, section 501 provides that the assessor shall estimate a value based on available information and add a 10 percent penalty to that estimated assessed value. By escalating the previous year's enrollment by a pre-determined rate, the assessor is enrolling an arbitrarily determined value with no supporting basis. Any estimated assessment should be supported by available information in conformance with section 501. If a BPS was received during the previous year, it is usually reasonable to use the reported cost data as a basis for estimating the current year's value. However, when allowing estimated assessments to

continue for several years without any new information, the values become increasingly susceptible to error.

The assessor's current calculation methodology, as applied to non-filing accounts, likely leads to erroneous value conclusions and leads to improper application of the late or non-filing penalty provided for in section 463.

Apply a section 463 penalty assessment in accordance with Rule 172 when a BPS is received without an authorized signature.

We found that the assessor appropriately copies and returns submitted BPSs that are lacking an authorized signature. However, the assessor does not apply a section 463 penalty assessment as required by Rule 172(e) when these BPSs are not timely returned with an authorized signature.

Rule 172(d) prohibits the assessor from knowingly accepting any signed property statements that are not executed in accordance with the requirements of section 441. Rule 172(e) further provides that an unsigned property statement does not constitute a valid filing and the penalty imposed by section 463 for failure to file shall be applicable to unsigned property statements.

The legal implication of an unsigned BPS is that no one has attested to the authenticity of the facts reported on the statement or acknowledges any associated penalty for failure to comply with the filing requirements. By not applying late-filing penalty provisions to BPSs submitted without an authorized signature, the assessor is not in compliance with statute and may be treating taxpayers unequally.

Improve the discovery process for the BPS program.

One of the assessor's ongoing responsibilities is the discovery of new businesses, relocation of existing businesses, and new tenant improvements occurring within his jurisdiction. We found that the assessor relies too heavily upon county-wide canvassing held once a year for the discovery process. There are other productive discovery tools not being utilized by the assessor, such as reviewing fictitious business name filings, city/county business license applications, sales tax permit applications, and landlord reports of tenants. Though a periodic field canvass can be an effective tool for updating and discovering businesses operating within the county, other available resources should be utilized, as well.

Timely discovery of taxable property is one of the basic functions of any county assessor. Due to the frequent changes in the business community, it takes a substantial effort to maintain an accurate, all-inclusive listing of assessable business properties. Therefore, it is essential to take advantage of every available tool to have an effective discovery program. By not utilizing all discovery methods available to the assessor, there may be taxable business property in the county escaping assessment.

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).

The assessor classifies business property accounts by industry type. Business class codes have been established to standardize equipment lives assigned to particular industries for valuation purposes. 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

For assessment purposes, machinery and equipment costs reported on Schedule A of the business property statement (BPS) may represent either personal property or fixtures, or both. A fixture is an item of tangible property that was originally personal property, but is now classified as real property for property tax purposes because it has become physically or constructively annexed to real property with the intent that it remain annexed indefinitely. The assessor prorates reported machinery and equipment to fixtures and personal property based upon standardized ratios included in the business class code listing maintained by the office. We reviewed a number of valuation calculations and found fixture allocations were consistently made. However, we found instances where no allocation was made to fixtures.

RECOMMENDATION 8: Correctly classify machinery and equipment reported on business property statements (BPS).

We found that the assessor is not classifying a portion of machinery and equipment reported in bulk as fixed machinery and equipment when processing BPSs filed for service stations.

When machinery and equipment is reported in bulk, there is often some percentage of assets that meet the criteria for fixtures. Service station related fixtures (such as fuel pumps, dispensers, piping, hoists, island curbing, built-in freezers, and other retail fixtures) are often reported with machinery and equipment. Letter To Assessors (LTA) No. 92/27 provides assessors guidance in making classification decisions when enrolling service station business equipment.

Classification is an important element of the local assessment function for several reasons. Principally, it is important because property tax law requires the assessment roll to show separate values for land, improvements (including fixtures), and personal property. It is also significant because of the assessment differences between real property and personal property. Those differences include: (1) only real property receives special assessments, (2) personal property is appraised annually at market value, while fixtures are assessed at the lower of current market value or factored base year value, and (3) fixtures are a separate appraisal unit when measuring declines in value.

The assessor should make a concerted effort to prorate machinery and equipment costs reported on Schedule A of the BPS between personal property and fixtures, particularly when enrolling taxable property related to industries that are likely to mix fixtures and personal property in reported cost data. The assessor's current proration practice may be consistent, but likely leads to inaccurate fixture allocations in specific industry settings.

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), which the CAA recommends should not be trended. We reviewed the assessor's valuation tables and a number of processed BPSs. Observed valuation calculations enrolled by the assessor indicate both consistent and appropriate application of Board-recommended tables.

Mobile Construction and Agricultural Equipment Valuation Factors

The assessor maintains separate factor tables for new and used mobile construction and agricultural equipment in accordance with the instructions for Table 5 and Table 6 in AH 581. We reviewed the assessor's factor tables and found the Board-recommended cost index and depreciation tables to be correctly compiled. However, we found a problem with the utilization of the mobile construction and agricultural equipment factors.

RECOMMENDATION 9: Apply the mobile construction and agricultural percent good factors prescribed in Tables 5 and 6 of AH 581 when applicable.

We sampled a number of assessments involving mobile construction and agricultural equipment. In each case observed, value calculations were derived using valuation tables that did not include mobile construction and agricultural equipment percent good factors in their compilation. The percent good factors indicated in AH 581 are based upon an exclusive set of market parameters. Accurate assessments depend on the proper application of these tables. The assessor's use of valuation tables derived with generic percent good factors to value mobile construction and agricultural equipment may result in inaccurate value conclusions.

Manufactured Homes

A "manufactured home" is defined in Health and Safety Code section 18007, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

Santa Clara County had 10,369 manufactured homes enrolled for the 2011-12 roll year, with a total assessed value of $501,027,730. There are 90 mobilehome parks in Santa Clara County, two

of which are resident-owned parks. All manufactured homes are valued by a supervising auditor, with the assistance of an assessment clerk, an appraisal aide, and an accountant assistant.

The assessor classifies manufactured homes as personal property and enrolls them on the secured roll. Flat rate special assessments and ad valorem bonds are properly excluded. Manufactured homes are identified on the roll by the assignment of a business property code of AS034 or AS041, depending on whether the manufactured home is located on leased land or land owned in fee. If the home is situated on an approved permanent foundation system, it is reclassified as real property and assigned to the appraiser responsible for all residential property in that geographic location.

The assessor discovers assessable manufactured homes through information received from the Department of Housing and Community Development (HCD), dealer reports of sale, Multiple Listing Service (MLS), mobilehome tax clearance certificates, building permits, correspondence from the public, and field canvassing.

The assessor uses Assessors' Handbook Section 531.35, *Manufactured Housing* (AH 531.35), to value manufactured homes. The assessor takes into consideration the condition of the manufactured home and includes value for accessories, such as awnings, porches, and skirting, as part of the valuation process.

Section 5813 requires that manufactured homes be assessed at the lesser of the factored base year value or current market value. Although not required to reappraise all properties each year, the assessor has developed a program to annually review the assessments of manufactured homes to ensure that declines in value are recognized accurately and consistently. The current market value determined for each manufactured home is compared to its factored base year value, and the lower of the two values is enrolled.

We reviewed a number of manufactured home assessments, including transfers, supplemental assessments, accessories, new construction, and new installations. We also reviewed assessments of manufactured homes in resident-owned parks. We found that the assessor is correctly valuing manufactured homes using a recognized value guide and is properly issuing supplemental assessments when appropriate. Transfers involving residents' interests or shares in land and common structures in resident-owned parks are being properly assessed by determining the improvement value, and then assigning the remainder of the purchase price to the interest in the park. This method of allocation ensures that the market value attributable to the space being transferred is recognized.

Overall, the assessor has an effective program in place for the discovery and assessment of manufactured homes. We have no recommendations for this program.

Aircraft

General Aircraft

General aircraft are privately owned aircraft that are used for pleasure or business, but that are not authorized to carry passengers, mail, or freight on a commercial basis. Section 5363 requires

the assessor to determine the market value of all aircraft according to standards and guidelines prescribed by the BOE. Section 5364 requires the BOE to establish such standards. On January 10, 1997, the BOE approved the *Aircraft Bluebook-Price Digest* (*Bluebook*) as the primary guide for valuing aircraft with the *Vref Aircraft Value Reference (Vref)* as an alternative guide for aircraft not listed in the *Bluebook*.

In Santa Clara County, the assessor enrolled 973 aircraft assessments with a total assessed value of $731,990,868. This included 949 general aircraft assessments, 18 certificated aircraft assessments, and 6 fractionally owned aircraft assessments.

Aircraft are discovered through airport operators' reports, referrals from other counties, BOE sales tax inquiries, section 469 audits, and Federal Aviation Administration (FAA) reports, and field canvassing.

Each year, the assessor mails BOE-577, *Aircraft Property Statement*, to the known aircraft owners in the county requesting current information on all aircraft. The form requests the owner to report engine information, air hours since the last major overhaul, airframe time, avionics equipment, overall condition, current situs information, and transfer information if applicable. The aircraft statement indicates a filing due date of April 1, and the assessor imposes a 10 percent penalty for failure to file and late-filings.

The assessor uses *Bluebook* as the primary guide for valuing general aircraft. *Bluebook* values are adjusted for average condition, engine hours, added equipment, and sales tax.

We reviewed several general aircraft records for valuation methodology, legal signatures, and the application of late or failure to file penalties pursuant to section 5367. We found that the assessor's procedures for the discovery, valuation, and assessment of general aircraft conform to statutory provisions and guidelines set forth in the Assessors' Handbook Section 577, *Assessment of General Aircraft* (AH 577), and Letter To Assessors (LTA) No. 97/03.

Fractionally Owned Aircraft

Fractionally owned aircraft are fleets of aircraft managed and maintained by an operating company where ownership is distributed on a fractional basis similar to a timeshare in real property. The management company handles all operating requirements of the aircraft, including availability, maintenance, billings, shareowner usage, training, and flight crews.

Pursuant to section 1161, fractionally owned aircraft are assessed on a fleet-wide basis to the manager in control of the fleet. Like certificated aircraft, fractionally owned aircraft are assessed on an allocated basis using an "allocation factor." This allocation factor is a fraction, the numerator of which is the total number of landings and departures made by the fleet type in the county during the previous calendar year, and the denominator of which is the total number of landings and departures made by the fleet type worldwide during the previous calendar year.

Section 1162 contains a provision for the appointment of a lead county assessor's office to facilitate property reporting, allocation calculations, the transmittal of allocated values to other jurisdictions where situs has been established, and provide for coordinated multi-county audits.

Fractionally owned aircraft has situs in California if an aircraft within the fleet makes a landing in this state per section 1161(b). A lead county will be designated for each manager in control of a fleet of fractionally owned aircraft that has situs in this state. The lead county is responsible for obtaining a property statement from each manager and calculating the allocation factor. This information is then transmitted electronically to each county in which the fleet of fractionally owned aircraft has situs. Santa Clara County does not serve as a lead county to any fractionally owned fleets.

We reviewed several fractionally owned aircraft files and the assessor's procedures for the valuation of fractionally owned aircraft. We found that the allocated value was accurately calculated on the basis of arrivals and departures in the county in accordance with section 1161.

Certificated Aircraft

Certificated aircraft are aircraft operated by air carriers (including air taxis that are operated in scheduled air taxi operation). Unlike general aircraft, which are normally assessed at the place where they are "habitually located" on the lien date, the assessments of certificated aircraft are allocated among taxing jurisdictions based upon ground and flight time, and the number of arrivals and departures during a representative period (designated by the BOE). Certificated aircraft are assessed in accordance with the methods described in section 401.17.

The supervising auditor is responsible for certificated aircraft appraisal functions. The supervising auditor reviews the business property statements and calculates the taxable value for each aircraft according to the certificated aircraft allocation formula pursuant to section 1152 and Rule 202. Santa Clara County is not a lead county for certificated aircraft.

We reviewed the assessor's certificated aircraft appraisal procedures and a sample of processed air carrier business property statements. We have no recommendations for certificated aircraft.

Historical Aircraft

Aircraft of historical significance can be exempted from taxation if they meet certain requirements. Section 220.5 defines "aircraft of historical significance" as: (1) an aircraft that is an original, restored, or replica of a heavier than air powered aircraft 35 years or older; or (2) any aircraft of a type or model of which there are fewer than five such aircraft known to exist worldwide.

The historical aircraft exemption is not automatic. Each year, the owner of a historical aircraft must submit an affidavit on or before 5:00 p.m., February 15, paying a filing fee of $35 upon the initial application for exemption. Along with these requirements, aircraft of historical significance are exempt only if the following conditions are met: (1) the assessee is an individual owner who does not hold the aircraft primarily for purposes of sale; (2) the assessee does not use the aircraft for commercial purposes or general transportation; and (3) the aircraft was available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

For the 2011-12 roll year, Santa Clara County had 40 historical aircraft with a total value of $1,172,446.

We reviewed several historical aircraft assessments and exemption claims. We found that the assessor properly granted the exemption when legal requirements were met. The assessor properly obtained signed affidavits in Board-prescribed format and certification of attendance pursuant to section 220.5.

We have no recommendations for the historical aircraft program.

Vessels

The primary sources used for the discovery of assessable vessels include reports from the State Department of Motor Vehicles (DMV), referrals from other counties, information provided by the vessel owners themselves, certificates of documentation issued by the United States Coast Guard, harbormasters' reports, and field canvassing.

The following table shows the number and value of vessels assessed in Santa Clara County over recent years:

YEAR	NO. PLEASURE VESSELS	ASSESSED VALUE	NO. DOCUMENTED VESSELS	ASSESSED VALUE
2011-12	3,547	$51,443,470	2	$13,093
2010-11	3,607	$49,038,734	4	$82,846
2009-10	3,890	$59,343,105	3	$81,518
2008-09	3,829	$59,940,964	2	$17,396
2007-08	3,712	$57,079,627	2	$18,313

It is the responsibility of the assessor's auditor-appraisers to process vessel property statements and perform vessel assessment duties. The supervising auditor reviews all vessel values to be enrolled. In Santa Clara County, the assessor's primary sources of discovery for vessels are DMV reports, referrals from other counties, and information from vessel owners themselves.

Valuation

Vessels include every description of watercraft used for pleasure, transportation, scientific research, and commercial activities. For purposes of California property taxation, vessels are valued at their fair market value every year as of the January 1 lien date. Sections 401 and 401.3 require the assessor to value boats at market value each year.

The assessor primarily uses the *BUC Used Boat Price Guide* (BUC) and, if needed, the National Automobile Dealers Association *Marine Appraisal Guide* (NADA) to value vessels. If current or reliable information is not available in one of the published value guides, the assessor uses the values of similar vessels from website sources found on the Internet to obtain current, comparable sales data. For vessels not new to the county, values are derived using the BOE vessel valuation factors.

In a sample of vessel statements reviewed, we found that appropriate valuation methods were employed, including adding sales tax and delivery charges when using one of the value guides. Adjustments for condition and additional equipment were also made. Values for the samples reviewed were found to be reasonable.

Vessel Property Statements

The assessor sends BOE-576-D, *Vessel Property Statements*, annually to all registered owners of vessels in the county. When a timely submission is not made, the assessor correctly applies a 10 percent penalty in accordance with section 463.

Vessels Qualifying for the 96 Percent Exemption

Certain commercial vessels may qualify for a 96 percent exemption if they meet the requirements in section 227. In order for vessel owners to qualify for the exemption, they must file BOE-576-E, *Affidavit For 4 Percent Assessment Of Certain Vessels*. If the taxpayer files an affidavit by February 15, a 96 percent exemption may be granted. When filed after February 15, but on or before August 1, the county assessor may still grant a reduced exemption of 76.8 percent (80 percent of the 96 percent exemption). However, no exemption may be granted for those taxpayers filing an affidavit after August 1.

Several partially exempt vessels were reviewed. We found that the exemption forms were sufficiently completed and exemptions were appropriately granted when the qualifications stipulated in section 227 were met.

Findings

We reviewed several vessel assessments and found the files to be well documented and complete. We have no recommendations for the vessels program.

APPENDIXES

A. County-Assessed Properties Division Survey Group

Santa Clara County

Chief

Dean Kinnee

Survey Program Director:

Mike Harris	Manager, Property Taxes

Survey Team Supervisor:

David Dodson	Supervisor, Property Taxes

Survey Team Leader:

Ronald Louie	Supervisor, Property Taxes

Survey Team:

James McCarthy	Senior Petroleum and Mining Appraisal Engineer
Michael Ash	Associate Property Appraiser
Robert Marr	Associate Property Appraiser
Jay Price	Associate Property Appraiser
Jennifer Prince	Associate Property Appraiser
Brian Salmon	Associate Property Appraiser
Jeff Arthur	Associate Property Auditor-Appraiser
Alan Dannen	Associate Property Auditor-Appraiser
Ardeshir Noroozkhani	Associate Property Auditor-Appraiser
Hilary Si	Associate Property Auditor-Appraiser
Dany Lunetta	Associate Governmental Program Analyst

B. Assessment Sampling Program

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing[6] 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.)[7]

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.

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[6] 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.

[7] 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 Santa Clara County Assessor's response begins on the next page.

Section 15645 also allows the Board to include in the report comments regarding the assessor's response. Our comments follow the assessor's response.

Office of the Assessor
County of Santa Clara

County Government Center, East Wing
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OCT 21 2013
County-Assessed Properties Division
State Board of Equalization

Lawrence E. Stone, Assessor

October 15, 2013

Dean Kinnee, Chief
County-Assessed Properties Division
Property and Special Taxes Department
State Board of Equalization
450 N. Street
Sacramento, CA 94279

Dear Mr. Kinnee:

Thank you for this opportunity to respond to the recommendations contained in the September 2013 Santa Clara County Assessment Practices Survey. Pursuant to Section 15645 of the California Government Code, enclosed is my written response to your findings and recommendations. Also enclosed is a copy of my December 31, 2012 letter to you that addressed the significant accomplishments of this office; I request that both be included in the published survey.

I strongly believe that the independent audit conducted by the SBE provides a critical, professional examination of the appraisal practice and assessment procedures in an assessor's office, and is designed not only to protect the integrity of the property tax system, but to encourage standardization in assessment procedures among county assessors. In addition, failure to meet these standards carries severe financial consequences.

I wish to express my appreciation to the SBE survey team led by David Dodson for the professional manner in which the survey was conducted. Their cooperative and professional attitude throughout the process was acknowledged by all members of my management team. Their constructive comments regarding our assessment practices are much appreciated.

I also want to acknowledge and thank the employees of the Santa Clara County Assessor's Office for their dedication and commitment to excellence. Throughout the survey, comments by the SBE audit team about the efficiency of our assessment programs and our overall operation is a direct testament to the professionalism and performance of our employees.

Sincerely,

Lawrence E. Stone
Assessor

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Assessor's Office Mission: To produce an annual assessment roll including all assessable property in accordance with legal mandates in a timely, accurate, and efficient manner; and provide current assessment-related information to the public and to governmental agencies in a timely and responsive way.

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SANTA CLARA COUNTY ASSESSOR'S OFFICE
RESPONSE TO RECOMMENDATIONS

RECOMMENDATION 1:	Improve the administration of the disabled veterans' exemption program by properly applying the provisions of section 276 for disabled veterans' exemption claims that are not filed timely.
RESPONSE:	We agree with this recommendation. Starting with the 2012/2013 roll year, we significantly improved our processing procedures to ensure proper application of the late-filing provisions.
RECOMMENDATION 2:	Value properties subject to improvement bonds in accordance with section 110(b).
RESPONSE:	We agree with this recommendation, and have commenced implementing this recommendation.
RECOMMENDATION 3:	Improve the new construction program by: (1) obtaining copies of permits from the environmental health department, and (2) obtaining required information prior to granting new construction exclusions.
RESPONSE:	1) We agree with item one and have begun the process of obtaining copies of permits from the Environmental Health Department. 2) We agree with item two and will implement procedures to ensure proper forms have been filed before granting new construction exclusions for seismic retrofitting.
RECOMMENDATION 4:	Improve the CLCA program by: (1) classifying and enrolling living improvements as improvements, (2) using an appropriate income stream for capitalizing restricted tree and vine income, and (3) limiting the exemption period for grapevines to three years after the season of planting.
RESPONSE:	We agree and will implement your recommendations as time and resources become available.
RECOMMENDATION 5:	Improve the taxable possessory interest program by: (1) assessing all taxable possessory interests, and (2) issuing supplemental assessments for taxable possessory interests.
RESPONSE 5:	We agree with items one and two and will implement your recommendation as time and resources become available.
RECOMMENDATION 6:	Improve the assessment of mining property by: (1) determining the current market value of the mineral appraisal unit for all properties, (2) measuring declines in value for mineral properties using the entire appraisal unit as required by Rule 469, and (3) treating settling ponds as a separate appraisal unit.
RESPONSE:	We agree with this recommendation and will implement your recommendation as time and resources become available.

RECOMMENDATION 7: Improve the business property statement (BPS) program by: (1) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS, (2) applying a section 463 penalty assessment in accordance with Rule 172 when a BPS is received without an authorized signature, and (3) improving the discovery process for the BPS program.

RESPONSE: We agree with this recommendation and have begun the process of implementing your recommendations.

RECOMMENDATION 8: Correctly classify machinery and equipment reported on business property statements (BPS).

RESPONSE: We agree with this recommendation and will implement your recommendation as time and resources become available.

RECOMMENDATION 9: Apply the mobile construction and agricultural percent good factors prescribed in Tables 5 and 6 of AH 581 when applicable.

RESPONSE: We agree with this recommendation and will implement your recommendation as time and resources become available.

BOE COMMENTS TO ASSESSOR'S RESPONSE

Included in Mr. Stone's response is a letter dated December 31, 2012. While we acknowledge having received this letter as part of the assessor's response, we have elected not to include this letter in the survey report since it is outside the scope of Government Code section 15645(b).