



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

(916) 445-3956

July 17, 1984

WILLIAM M. BENNETT
First District, Kentfield

CONWAY H COLLIS
Second District, Los Angeles

ERNEST J. DRONENBURG, JR
Third District, San Diego

RICHARD NEVINS
Fourth District, Pasadena

KENNETH CORY
Controller, Sacramento

DOUGLAS D BELL
Executive Secretary

No. 84/70

TO COUNTY ASSESSORS, COUNTY COUNSELS,
AND OTHER INTERESTED PARTIES:

PROPERTY TAX RULES 307 AND 309

Following a scheduled public hearing on July 26, 1983, the Board of Equalization adopted amendments to Property Tax Rule 307, Notice of Hearing. The amendments are effective as of June 8, 1984.

Following a scheduled public hearing on February 29, 1984, the Board of Equalization adopted amendments to Property Tax Rule 309, Hearing. The amendments are effective as of June 30, 1984.

Enclosed for your information is a final printed copy of rules 301 through 326.

Sincerely,

A handwritten signature in cursive script that reads "Douglas D. Bell".

Douglas D. Bell
Executive Secretary

DDB:ms
Enclosures

BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization – Property Tax
Subchapter 3. Local Equalization
Article 1. Hearing by County Board

Rule 301. DEFINITIONS AND GENERAL PROVISIONS

Reference: Sections 110, 110.5, 1601-1614, 1620-1630, Revenue and Taxation Code.

The provisions set forth in this section govern the construction of this subchapter.

- (a) "County" is the county wherein the property is located which is the subject of the proceedings under this subchapter.
- (b) "Assessor" is the assessor of the county.
- (c) "Auditor" is the auditor of the county.
- (d) "Board" is the board of equalization or assessment appeals board of the county.
- (e) "Chairman" is the chairman of the board.
- (f) "Clerk" is the clerk of the board.
- (g) "Person affected" is one who owns an interest in property which is the subject of the proceedings under this subchapter.
- (h) "Full cash value". Except as otherwise provided in Section 110.1 of the Revenue and Taxation Code "full cash value" and "market value" means the amount of cash or its equivalent the property would bring if exposed for sale in an open market.
- (i) Restricted value is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.
- (j) Full value is either the full cash value or the restricted value.
- (k) Taxable value is the base year full value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less.
- (l) "County legal advisor" is the county counsel or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco.

History Adopted May 11, 1967, effective June 11, 1967.
Amended July 27, 1982, effective December 30, 1982.

Rule 302. THE BOARD'S FUNCTION AND JURISDICTION

Reference: Sections 531.1, 1613, Revenue and Taxation Code.

The functions of the board are:

- (a) To increase after giving notice or to lower upon application, individual assessments in order to equalize assessments on the local tax assessment roll,
- (b) To review, equalize and adjust penal and escaped assessments on that roll except escaped assessments made pursuant to Revenue and Taxation Code section 531.1, and
- (c) To exercise the powers specified in section 1613 of the Revenue and Taxation Code.

The board acts in a judicial capacity and may act only on the basis of evidence. The board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.* The board has no legislative power.

*The failure of an assessee to request an allocation of claimed exempt and taxable values may result in a denial of judicial relief on the grounds of failure to exhaust administrative remedies.

History Adopted May 11, 1967, effective June 11, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 5, 1971, effective June 10, 1971.
Amended December 17, 1975, effective January 25, 1976.

Rule 304. LOCATION OF LOCAL ROLL FOR INSPECTION

Reference: Section 1602, Revenue and Taxation Code.

The local roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours of the officer having custody thereof. Copies may be made available for inspection at other places for the convenience of the public.

History: Adopted May 11, 1967, effective June 11, 1967.

Rule 305. APPLICATION

Reference: Sections 1603, 1605, Revenue and Taxation Code.

No change in an assessment sought by a person affected shall be made unless the following application procedure is followed:

(a) **WHO MAY FILE.** The application is made by a person affected or his agent. If the application is made by an agent other than an authorized attorney licensed to practice in this state, or a relative mentioned in section 320, written authorization to so act must be filed with the application. If the applicant is a corporation, the authorization must be signed by an officer of the corporation.

(b) **SIGNATURE AND VERIFICATION.** The application shall be in writing and signed by applicant or his agent with declaration under penalty of perjury that the statements made in the application are true. If the application is executed outside the State of California, it shall be sworn to before a notary public or other person authorized to administer oaths.

(c) **FORMS AND CONTENTS.** The county shall provide free of charge forms on which applications are to be made. The application shall show:

- (1) The name and address of the applicant,
- (2) The name and address of the applicant's agent, if any,
- (3) A description of the property which is the subject of the application sufficient to identify it on the assessment roll,
- (4) The applicant's opinion of the taxable value of the property on the valuation date of the assessment year in issue,
- (5) The taxable value on which the assessment of the property was based,
- (6) The facts relied upon to support the claim that the board should order a change in the assessed value or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.
- (7) A notice that a list of property transfers within the county, which have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee of ten dollars (\$10).
- (8) A notice that written findings of fact will be available upon request and an appropriate place for the applicant to make the request. (See sections 308 and 325 for other provisions regarding findings of fact.)

An application which does not show the foregoing items to be filled in by the applicant is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given. An application which shows the foregoing items is valid and no additional information shall be requested of the applicant on the application form. The application shall be in a form prescribed by the State Board of Equalization. If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which he may request his application be heard by such an officer.

(d) **TIME OF FILING.** The application shall be filed with the clerk beginning July 2 but no later than September 15. An application will be deemed to have been timely filed if it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on September 15 or earlier within such period.

Rule 305. APPLICATION (Cont.)

An application for a change of assessment made outside the regular assessment period must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment pursuant to section 1605 of the Revenue and Taxation Code. Except as provided in Revenue and Taxation Code sections 619.2, 620 and 620.5, the board has no jurisdiction to hear an application unless filed within the time specified. The regular assessment period is from March 1 to and including July 1 or to such later date for completion of the roll as may be authorized by the State Board of Equalization.

(e) **AMENDMENTS.** No application may be amended after 5:00 p.m. on the last day upon which it might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended December 11, 1967, effective January 13, 1968.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended April 14, 1972, effective May 14, 1972.
Amended June 13, 1974, effective June 14, 1974.
Amended April 7, 1977, effective May 22, 1977, applicable to 1977 assessment appeals.
Amended July 31, 1980, effective November 19, 1980.
Amended July 27, 1982, effective December 30, 1982.

Rule 305.1. EXCHANGE OF INFORMATION

Reference: Section 1606, Revenue and Taxation Code.

(a) **REQUEST FOR INFORMATION.** When the assessed value of the property involved, before deduction of any exemption accorded the property, is \$100,000 or less, the applicant may file a written request for an exchange of information with the assessor, and when the assessed value before deduction of any exemption exceeds \$100,000, either the applicant or the assessor may request such an exchange. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party at any time prior to 20 days before the commencement of the hearing. The clerk shall immediately forward any request filed with his office or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value and the following data:

(1) **COMPARABLE SALES DATA.** If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, the terms of sale (if known) and the zoning of the property.

(2) **INCOME DATA.** If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the expenses, and the capitalization method and rate or rates employed.

(3) **COST DATA.** If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:

(A) With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.

(B) With regard to machinery and equipment: the date of installation, replacement cost, and any history of extraordinary use.

(C) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

(b) **TRANSMITTAL OF DATA TO OTHER PARTY.** If the party requesting an exchange of data under the preceding subsection has submitted the data required therein within the specified time, the other party shall mail a response at least 10 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the assessor is the respondent, he shall mail his response to the address shown on the application for hearing.

Rule 305.1. EXCHANGE OF INFORMATION (Cont.)

(c) **PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE.** Whenever information has been exchanged pursuant to this section, the parties may introduce evidence only on matters so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

History: Adopted May 6, 1970, effective June 6, 1970.
Amended May 5, 1971, effective June 10, 1971.
Amended June 13, 1974, effective June 14, 1974.
Amended July 27, 1982, effective February 10, 1983.

Rule 305.5. BASE YEAR VALUE PRESUMPTION

Reference. Sections 80, 81, Revenue and Taxation Code

The appeals board decision that the fair market value is lower than the taxable value (as defined in Section 460(b) (6)) will not establish a new base year value, unless the base year value is the subject of the appeal.

Any base year value determined by a local board of equalization or by a court for any 1975 assessment shall be conclusively presumed to be the base year value for the property assessed.

The full value determined for the 1975 base year shall be conclusively presumed to be the base year value unless an equalization application is filed no later than September 15, 1980.

The full value determined for property which is purchased, is newly constructed, or changes ownership after the 1975 lien date, shall be conclusively presumed to be the base year value, unless an application for equalization is filed during the equalization period for the year in which the assessment is placed on the assessment roll, or is filed during the equalization period in any of the three succeeding years. Any determination of full cash value by a local board of equalization or by a court of law resulting from such filing shall be conclusively presumed to be the base year value beginning with the lien date of the assessment year in which the appeal is filed. An application for equalization made pursuant to sections 620 or 1605 of the Revenue and Taxation Code, when determined, shall be conclusively presumed to be the base year value.

History: Adopted November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970
Amended May 5, 1971, effective June 10, 1971.
Amended April 14, 1972, effective May 14, 1972.
Amended December 17, 1975, effective January 25, 1976.
Amended July 31, 1980, effective November 19, 1980.

Rule 306. COPY OF APPLICATION TO ASSESSOR

Reference: Sections 1603, 1606, Revenue and Taxation Code.

The clerk shall transmit to the assessor a copy of each application for a change in assessment received, and a reasonable time shall be allowed before hearing for the assessor to obtain information relative to the property and the assessment thereof.

History: Adopted May 11, 1967, effective June 11, 1967.

Rule 307. NOTICE OF HEARING

Reference Sections 50, 51, 1601, 1603, 1606, 1620, Revenue and Taxation Code.

(a) After the filing of an application for reduction of an assessment, the clerk shall set the matter for hearing and notify the applicant or his agent in writing by personal delivery or by depositing the notice in the United States mail directed to the address given in the application. The notice shall designate the time and place of the hearing. It shall also include a statement that the board is required to find the taxable value of the property from the evidence presented at the hearing and that the board can raise as well as lower or confirm the assessment being

Rule 307. NOTICE OF HEARING (Cont.)

appealed. The notice shall include a statement that an application for a reduction in the assessment of a portion of an improved real property (e.g., land only or improvements only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment) may result in an increase in the unprotected assessment of the other portion or portions of the property, which increase will offset, in whole or in part, any reduction in the protested assessment.

(b) The notice shall be given no less than thirty days prior to the hearing unless:

(1) the clerk has received a request for information pursuant to section 305.1, in which event the notice shall be given no less than twenty days prior to the hearing, or,

(2) the clerk has received a writing from the applicant which states that the applicant will not make a request for information, in which event the notice shall be given no less than five days prior to the hearing, or,

(3) a shorter notice has been stipulated to by the assessor and the applicant or his agent.

(c) The clerk shall notify the assessor and the county legal advisor of the time and place of the hearing.

(d) When proposing to raise an assessment on its own motion without an application for reduction pending before it, the board shall give notice of the hearing in the manner provided hereinbelow not less than 20 days prior to the hearing unless notice is waived by the assessee or his agent in writing in advance of the hearing or orally at the time of the hearing or a shorter notice is stipulated to by the assessor and assessee or his agent. The notice shall be given to the assessee as revealed by the latest assessment roll by depositing the notice in the United States mail directed to the assessee at the latest address of the assessee available to the assessor on file in the records in the assessor's office. It shall contain:

(1) A statement that a hearing will be held before the local board to determine whether or not the assessment shall be raised;

(2) The time and place of the hearing;

(3) The Assessor's parcel number or numbers of the property as shown on the local roll;

(4) A statement that the board is required to find the taxable value of the property from the evidence presented at the hearing;

(5) The amount by which it is proposed to raise the assessment.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended April 14, 1972, effective May 14, 1972.
Amended March 1, 1984, effective June 8, 1984.

Rule 308. REQUEST FOR FINDINGS

Reference Section 1611.5, Revenue and Taxation Code.

If an applicant or the assessor desires written findings of fact, his request must be in writing and submitted to the clerk before commencement of the hearing. The requesting party may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons his request at this time, the other party may orally or in writing renew the request. The county may impose a reasonable fee not to exceed ten dollars (\$10) per parcel or a total of fifty dollars (\$50) for findings covering applications on contiguous parcels or assessments on the roll involving the same issues and same owners. The county must provide findings within 45 days after the final determination of the board, and shall accompany them with a notice that a request for a transcript of the hearing must be made within 60 days after the determination. (See section 312 for other matters with regard to a transcript.)

Rule 308. REQUEST FOR FINDINGS (Cont.)

History Adopted May 11, 1967, effective June 11, 1967.
Amended November 20, 1968, effective November 22, 1968.
Amended April 14, 1972, effective May 14, 1972.
Amended June 23, 1981, effective September 19, 1981.

Rule 308.5. DISQUALIFICATION OF A BOARD MEMBER

Reference Section 1624.4, Revenue and Taxation Code.

(a) In those counties having assessment appeals boards, the party affected or his agent, or the assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the board. The statement shall set forth the facts constituting the ground of the disqualification of the member and shall be signed by the party affected or his agent, or by the assessor and shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground of the member's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the board member alleged to be disqualified. Within 10 days after filing of the statement or 10 days after service of it on him, whichever is later, the board member may file with the clerk a written answer:

(1) Consenting to the proceeding being heard by another member, in which event the clerk shall appoint a replacement member, or

(2) Denying his disqualification, which answer may admit or deny any or all of the facts alleged in the statement and set forth any additional facts relevant to his disqualifications.

The clerk shall forthwith transmit a copy of such answer to each party.

Every statement and answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure.

(b) No member shall hear or pass on the question of his own disqualification. Another member of the board shall hear and pass on the question and shall be selected as follows:

(1) All the parties who have appeared may agree on the member who shall hear and pass on the question provided agreement is reached within five days after expiration of the time allowed in subsection (a) for the challenged member to answer, or

(2) In the event an agreement is not reached within the time provided in subsection (b) (1), the clerk shall immediately notify the board of supervisors of that fact, and on receipt of notice the board of supervisors shall forthwith assign the member who shall hear and pass on the question.

Once the member has been selected pursuant to subsection (b) (1) or (2) that member shall determine the qualification of the challenged member.

History Adopted May 6, 1970, effective June 6, 1970.
Amended June 13, 1974, effective June 14, 1974.

Rule 308.6. APPLICATION FOR EQUALIZATION BY MEMBER OR ALTERNATE

Reference Section 1622.6, Revenue and Taxation Code.

An application for equalization filed pursuant to section 1603 by a member or alternate member of an assessment appeals board shall be heard before an assessment appeals board panel consisting of three special alternate assessment appeals board members appointed by order of the presiding judge of the superior court in the county in which the application is filed.

A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

Any person shall be eligible for appointment as a special alternate assessment appeals board member who is a resident of the county in which the application is filed and who is a person the presiding judge of the superior court has reason to believe is possessed of competent knowledge of property appraisal and taxation.

Rule 308.6. APPLICATION FOR EQUALIZATION BY MEMBER OR ALTERNATE (Cont.)

Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.

History: Adopted June 13, 1974, effective June 14, 1974.
Amended December 17, 1975, effective January 25, 1976.

Rule 309. HEARING

Reference: Sections 1604, 1606, Revenue and Taxation Code.

(a) In counties having a population in excess of 4,000,000 on the fourth Monday in September of each year, the board shall meet to equalize the assessment of property on the local roll and shall continue to meet for that purpose from time to time until the business of equalization is disposed of. In all other counties the board shall meet on the third Monday in July and shall continue to meet until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in this article. Nothing herein requires the board to conduct hearings prior to the final day for filing applications.

(b) For applications filed on or after January 1, 1983, the hearing must be held and a final determination made within two years of the timely filing of an application for reduction in assessments submitted pursuant to subdivision (a) of section 1603 of the Revenue and Taxation Code, unless the taxpayer and the county assessment appeals board mutually agree in writing to an extension of time.

(c) If the hearing is not held and a determination is not made within the time specified in part (b) of this section, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when:

- (1) The applicant has not filed a timely and complete application; or,
- (2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or,
- (3) The applicant has not complied fully with a request for the exchange of information under section 305.1 of this subchapter; or,
- (4) Controlling litigation is pending. "Controlling litigation" is litigation which is: (a) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and, (b) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing.

(d) The applicant shall not be denied a timely hearing and determination pursuant to part (b) of this section, by reason of any of the exceptions enumerated in parts (c) (1), (c) (2), (c) (3), or (c) (4) herein, unless, within two years of the date of the application, the Board gives the applicant written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his right to protest the denial at the time of the hearing on his application. When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, excluding the period of time between the notice of pending litigation and the date that the litigation becomes final.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended June 13, 1974, effective June 14, 1974.
Amended April 4, 1984, effective June 30, 1984.

Rule 310. SELECTION OF BOARD CHAIRMAN

Reference Section 1609, Revenue and Taxation Code.

The board shall select one of its members to act as chairman and preside over all hearings. This function may be rotated among board members. The chairman shall exercise such control over the hearings as is reasonable and necessary. He shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence.

History: Adopted May 11, 1967, effective June 11, 1967.

Rule 311. QUORUM AND VOTE REQUIRED

Reference Sections 1601, 1620, 1622.5, 1622.6, Revenue and Taxation Code.

No hearing before the board shall be held unless a quorum consisting of a majority of the board is present. Except as otherwise provided in section 310, no decision, determination or order shall be made by the board by less than a majority vote of all the members of the board who have been in attendance throughout the hearing. A hearing must be held before the full board if either party so demands. If a hearing takes place before a board consisting of an even number of members and they are unable to reach a majority decision, the application shall be reheard before the full board. In any case wherein the hearing takes place before less than the full board, the parties may stipulate that the absent member or members may read or otherwise familiarize himself or themselves with the record and participate in the vote on the decision.

History Adopted May 11, 1967, effective June 11, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended July 27, 1982, effective February 10, 1983.

Rule 312. HEARINGS RECORDED

Reference Section 1611, Revenue and Taxation Code.

All hearings of the board shall be recorded or reported. Any person may purchase a transcript of that portion of the hearings that is open to the public upon payment of a reasonable fee, provided the request to purchase has been made within 60 days after the final determination of the board. In a county which does not regularly employ a stenographic reporter, the applicant, at his own expense, may have the hearing reported by a stenographer. If the applicant desires the clerk to arrange for a stenographic reporter, he must ask the clerk to do so in writing at least two days before the hearing.

History Adopted May 11, 1967, effective June 11, 1967.
Amended April 14, 1972, effective May 14, 1972.
Amended June 13, 1974, effective June 14, 1974.

Rule 313. HEARING PROCEDURE

References Sections 167, 1605, 1605.4, 1607, 1609 and 1609.4, Revenue and Taxation Code.
Article XIII A, California Constitution.

Hearings on applications shall proceed as follows:

(a) The clerk shall announce the number of the application and the name of the applicant. The chairman shall then determine if the applicant or his agent is present. If neither is present, the chairman shall ascertain whether the clerk has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor his agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed, the board may postpone the hearing. If the notice has not been given, the hearing shall be postponed to a later date and the clerk directed to give proper notice thereof to the applicant.

Rule 313. HEARING PROCEDURE (Cont.)

(b) If the applicant or his agent is present the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the taxable value of the property.

(c) The chairman shall then require the applicant or his agent to present his case to the board, except when the hearing involves a penalty portion. If the applicant fails to present evidence of value of the property, the presumption set forth in section 321 (a) applies and the board shall not require the assessor to present his case.

(d) When a hearing involves the assessment of an owner-occupied single-family dwelling, and the applicant has complied with section 305 (c) and, if applicable, section 305.1, then the presumption in section 321 (b) applies. In such instances the chairman shall require the assessor to present appraisal data that supports the taxable value he has determined for the property subject of the hearing.

(e) When a hearing involves a penalty portion of an assessment, the assessor shall present his evidence notwithstanding the failure of the assessee or his agent to present evidence, to appear, or to request postponement of the hearing.

(f) All testimony shall be taken under oath or affirmation.

(g) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of evidence properly admitted into the record. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses, for argument, and for rebuttal.

(h) When the assessor requests the board find a higher assessed value than he placed on the roll and offers evidence to support the higher value, the chairman shall determine whether or not the assessor gave notice in writing to the applicant or his agent by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered has been supplied at least 10 days prior to the hearing the assessor may introduce such evidence at the hearing. The foregoing notice requirement shall not prohibit the board from a finding of a higher assessed value when it has not been requested by the assessor.

(i) Hearings shall be open except that

(1) Upon conclusion of the hearing, the board may take the matter under submission and deliberate in private in reaching a decision, and

(2) The board may grant a request by the applicant to close to the public a portion of the hearing relating to trade secrets. Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the applicant which relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the applicant.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended April 14, 1972, effective May 14, 1972.
Amended June 7, 1973, effective July 15, 1973.
Amended June 13, 1974, effective June 14, 1974.
Amended November 4, 1976, effective January 1, 1977.
Amended April 7, 1977, effective May 22, 1977, applicable to 1977 assessment appeals.
Amended December 7, 1982, effective March 16, 1983.

Rule 314. LEGAL COUNSEL FOR APPLICANT AND ASSESSOR

Reference Sections 1620 et seq., 1638, Revenue and Taxation Code.

The applicant and the assessor may be represented by legal counsel, except that when an assessment protest is heard by a hearing officer appointed pursuant to section 1636 of the Revenue and Taxation Code, the assessor may have legal counsel only if the applicant is represented by an attorney.

History Adopted May 11, 1967, effective June 11, 1967.
Amended June 13, 1974, effective June 14, 1974.

Rule 316. EXAMINATION OF APPLICANT BY BOARD

Reference Section 1620 et seq., Revenue and Taxation Code.

Except as hereinafter provided no reduction of an assessment shall be made unless the board examines, on oath, the applicant or his agent touching the value of the property, and the applicant or agent attends and answers all questions pertinent to the inquiry.

(a) In the event there is filed with the board a written stipulation, signed by the assessor and county legal advisor on behalf of the county and the person affected or the agent making the application, as to the taxable value and assessed value of the property, which stipulation sets forth the facts upon which the reduction in value is premised, the board may, at a public hearing,

(1) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with Section 1610.8 of the Revenue and Taxation Code, or,

(2) reject the stipulation or set or reset the application for reduction for hearing.

(b) The board may in its discretion, waive the examination of the applicant or his agent if the board and the assessor are satisfied that the issues raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or his agent requests such waiver in his application. The board shall consult with the assessor and shall act promptly on any request for waiver and give written notice of its decision within ten days of the filing of the application. If the board waives the examination of the applicant or his agent, it shall decide the case on the merits of the application.

History Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968
Amended December 17, 1975, effective January 25, 1976.
Amended July 27, 1982, effective February 10, 1983.

Rule 317. PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AGENT

Reference Section 1601 et seq., Revenue and Taxation Code.

The applicant must appear personally at the hearing and not through an agent except as otherwise provided in this article. The applicant's presence at the hearing may be excused by the board and he may be represented by an agent upon a showing by affidavit or declaration under penalty of perjury at the time of hearing that the applicant is either absent from the county or unable to appear by reason of health.

Any person, other than an attorney at law, purporting to act as agent for the applicant shall prior to the hearing file with the clerk written authority to represent the applicant at the hearing. An appearance by an officer or employee of a corporate applicant or by a relative mentioned in Section 320 requires no written authorization.

History Adopted May 11, 1967, effective June 11, 1967.

Rule 318. PROPERTY IN COMMON OWNERSHIP

Reference: Section 1601 et seq., Revenue and Taxation Code.

If the property is held in joint or common ownership or in co-ownership, the presence of the applicant or any one of the owners shall constitute a sufficient appearance.

History: Adopted May 11, 1967, effective June 11, 1967.

Rule 319. APPEARANCE BY CORPORATION

Reference: Section 1601 et seq., Revenue and Taxation Code.

Where the applicant is a corporation, the corporation shall make an appearance by the presence of any duly authorized officer or employee.

History: Adopted May 11, 1967, effective June 11, 1967.

Rule 320. APPEARANCE BY MEMBERS OF FAMILY

Reference: Section 1601 et seq., Revenue and Taxation Code.

A husband may appear for his wife, or a wife for her husband, and sons or daughters for parents or vice versa.

History: Adopted May 11, 1967, effective June 11, 1967.

Rule 321. BURDEN OF PROOF

Reference: Sections 167, 1601 et seq., Revenue and Taxation Code.

(a) The law presumes that the assessor has properly performed his duty and has assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the applicant the burden of proving that the property in question has not been correctly assessed. The law requires that the applicant proceed to present independent evidence relevant to the full value of the property. The assessor has the burden of establishing the basis for imposition of a penalty assessment. No greater relief may be granted than is justified by the evidence produced.

(b) An exception to (a) applies in any hearing involving the assessment of an owner-occupied single-family dwelling. In such instances the presumption in section 167 of the Revenue and Taxation Code affecting the burden of proof in favor of the taxpayer or assessee who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended November 20, 1968, effective November 22, 1968.
Amended April 14, 1972, effective May 14, 1972.
Amended November 4, 1976, effective January 1, 1977.
Amended July 27, 1982, effective February 10, 1983.

Rule 322. SUBPENAS

Reference: Sections 1609, 1609.5, Revenue and Taxation Code.

At the request of the applicant or the assessor in advance of the hearing or at the time of the hearing the board or the clerk on authorization from the board shall issue subpoenas for the attendance of witnesses at the hearing. The board may issue a subpoena on its own motion. If a subpoena is issued at the request of the applicant, he is responsible for serving it and for the payment

Rule 322. SUBPENAS (Cont.)

of witness fees and mileage. An application for a subpoena for the production of books, records, maps, and documents shall be supported by an affidavit such as is prescribed by section 1985 of the Code of Civil Procedure. No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the board.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.

Rule 323. CONTINUANCES

Reference: Section 1609, Revenue and Taxation Code.

The board may continue a hearing to a later date. If the hearing is continued, the chairman or the clerk shall inform the applicant or his agent and the assessor of the time and place of such further hearing and no further notice thereof need be given.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.

Rule 324. DECISION

Reference: Section 1601 et seq., Revenue and Taxation Code.

(a) Acting upon the evidence properly before it the board shall determine the taxable value of the property which is the subject of the hearing, and shall designate the ratio to be applied thereto, which shall be the lowest of the ratios provided in section 1610.8 of the Revenue and Taxation Code. The determination of the taxable value shall be supported by the weight of the evidence at the hearing.

(b) When an applicant requests a reduction in the assessed value of a portion of an improved real property (e.g., land only or improvements only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment), whether the reduction is requested on grounds of valuation, on grounds of misclassification, or for any other cause, the board shall make a determination of the full cash value of the whole property and shall order a change in the assessed value of the part only if the assessed value of the whole requires equalization, or shall adjust the value of the parts so that each is equalized and the value of the whole property is accounted for.

(c) The board shall be bound by the same principles of evaluation that are legally applicable to the assessor.

(d) The board shall neither raise nor lower the entire local roll.

(e) When written findings of fact are made, they shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full cash value of the property, and shall be made timely after the hearing.

(f) When valuing a property by comparison with sales of other properties, the board shall consider only those sales which in its judgment are sufficiently near in time to the valuation date yet occurring no more than 90 days after the lien date, are located sufficiently near, and are sufficiently alike in respect to character, size, situation, usability, zoning or other legal restriction as to use, to the property being valued, to make it clear that the properties sold and the property

Rule 324. DECISION (Cont.)

being valued are comparable in value and that the cash equivalent price realized for the properties sold may fairly be considered as shedding light on the value of the property being valued. Pursuant to section 402.1 of the Revenue and Taxation Code, the board shall presume that zoning or other legal restrictions on the use of either the properties sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the board to overcome that presumption.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended May 6, 1970, effective June 6, 1970.
Amended May 5, 1971, effective June 10, 1971.
Amended April 14, 1972, effective May 14, 1972.
Amended December 17, 1975, effective January 25, 1976.
Amended July 27, 1982, effective February 10, 1983.

Rule 325. NOTICE OF DECISION

Reference Section 1601 et seq., Revenue and Taxation Code.

A board may announce its decision to the applicant and the assessor at the conclusion of the hearing, or it may take the matter under submission. If the matter is taken under submission, the clerk shall notify the applicant in writing of the decision of the board by United States mail addressed to the applicant or to his agent at the address given in the application.

History: Adopted May 11, 1967, effective June 11, 1967.

Rule 326. RECONSIDERATION AND REHEARING

Reference: Section 1601 et seq., Revenue and Taxation Code.

The decision of the board upon an application is final. The board shall not reconsider or rehear an application.

History: Adopted May 11, 1967, effective June 11, 1967.