



STATE BOARD OF EQUALIZATION

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Third District, Kentfield
RICHARD NEVINS
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KENNETH CORY
Controller, Sacramento

DOUGLAS D BELL
Executive Secretary

August 22, 1984

No. 84/81

TO COUNTY ASSESSORS, COUNTY COUNSELS
COUNTY ASSESSMENT APPEALS BOARDS, AND
OTHER INTERESTED PARTIES:

NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION

RULE 313, Hearing Procedure

PUBLIC HEARING: October 10, 1984

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Article XIII A, California Constitution, and Sections 167, 1605, 1605.4, 1607, 1609, 1609.4 of the Revenue and Taxation Code, proposes to amend Rule 313 in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on October 10, 1984. Any person interested may present statements or arguments orally or in writing at that time and place.

INFORMATIVE DIGEST: The Ventura County Board of Equalization requested the State Board of Equalization to amend Title 18, Section 313(a), to provide for the setting aside of a previous denial of the petitioner's application when such denial was because the petitioner failed to appear. The County was concerned

because as written the rule presently does not provide for the setting aside of a denial for lack of appearance even when the applicant could show good cause for such failure to appear. Agreeing that the rule should provide for the setting aside of a denial where good cause can be shown, the Board amended Rule 313(a) to provide that a denial for lack of appearance can be set aside if the applicant makes a request in writing within 30 days of a denial and shows good cause for such failure to appear.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change does not impose a mandate on local agencies or school districts. Further, the Board has determined that the change will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

The cost impact on private persons or businesses will be insignificant. This proposal will not have a significant adverse economic impact on small businesses.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by October 10, 1984; they are requested by September 28, 1984. Please send comments to Janice Masterton, Regulation Coordinator, at 1020 N Street, Sacramento, California 95814.

STATEMENT OF REASONS; EXPRESS TERMS; RULE-MAKING FILE: The Board has prepared a statement of reasons and a strike-out and underscore version (express terms) of the proposed changes. Both of these documents are available to the public upon request. The rule-making file is available for public inspection at Room 123, 1020 N Street, Sacramento, California.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rulemaking file after the close of the public hearing, these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions sufficiently related to the published version of the rule, these revisions will be available to the public from Mrs. Masterton for a period of 15 days before adoption.

Following the hearing, the State Board of Equalization, upon its own motion, or at the request of any interested person, may in accordance with law adopt the changes proposed without further notice.

INQUIRIES

CONTENT

Questions regarding the content of the regulation should be directed to Gordon P. Adelman, Assistant Executive Secretary, Property Taxes, (916) 445-1516, at 1020 N Street, Sacramento, CA 95814.

HEARING

Written comments for the Board's consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Janice Masterton, Assistant to Executive Secretary, (916) 445-6479, at the same address.

STATE BOARD OF EQUALIZATION

Douglas D. Bell

Douglas D. Bell
Executive Secretary

Rule 313. HEARING PROCEDURE.

References: Article XIII A, California Constitution
Sections 167, 1665, 1605.4, 1607, 1609, 1609.4, Revenue and Taxation Code.

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.

The board may set aside its denial of an application for hearing for lack of appearance and hear the application at a future date if, within 30 days of the date set for the hearing, the applicant or the applicant's agent files with the clerk of the board a request that the board set aside the denial. The request shall be supported by evidence of good cause for the lack of appearance.

(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.