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January 23, 2003

TO INTERESTED PARTIES:

REVISION OF ASSESSMENT APPEALS MANUAL

In an October 7, 2002 letter, interested parties were invited to provide comments on the draft revision of the *Assessment Appeals Manual*. Staff's proposed revisions were primarily limited to topics relating to recent statutory changes, regulatory amendments, and judicial decisions.

After reviewing comments received from interested parties, staff has prepared a matrix which will form the primary discussion topics for a meeting with interested parties. The matrix is posted to the Board's Web site (www.boe.ca.gov) and can be accessed by way of (1) Property Tax Programs, (2) Property Tax Committee Work Plans, (3) Property Tax Committee Work Plans 2003. Additionally, you may obtain a hard copy of the matrix by contacting Ms. Sherrie Kinkle at (916) 322-2921 or sherrie.kinkle@boe.ca.gov.

The interested parties meeting will be held on February 7, 2003, 9:30 a.m., at the Board's headquarters in Sacramento, 450 N Street, Room 122. The revision of the *Assessment Appeals Manual* is tentatively scheduled to be presented to the Property Tax Committee at its April 23 meeting. Any changes to the schedule will be posted to the Board's Web site.

If you plan to attend the interested parties meeting on February 7, please advise Sherrie Kinkle. Thank you for your continued interest in this project.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee, Chief
Assessment Policy and Standards Division

DRK:sk

**ALTERNATIVE LANGUAGE
REVISION OF THE ASSESSMENT APPEALS MANUAL**

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
1	1	6	Industry Representative (J. Bone)	Revise sentence: In addition to the procedures mandated by the Legislature <u>and the Board of Equalization</u> , those boards are also governed by local rules <u>of notice and procedure</u> adopted by boards of supervisors pursuant to the authority of section 16 of article XIII of the California Constitution.	Accepted
2	5	18	Industry Representative (J. Bone)	Revise sentence: Under the latter method of direct appointment, the assessment appeals board may consist of either three or five members, but a five-member board shall <u>will</u> act only as a three-member panel, which members are designated by the clerk.	Not accepted—Existing text is consistent with R&T Code § 1622.1. R&T Code § 16 defines <i>shall</i> as mandatory and <i>may</i> as permissive. <i>Will</i> is not defined.
3	6	6	Industry Representative (J. Bone)	Revise sentence: Since M most persons have limited experience in <u>complex</u> appraisal matters, and, in recognition of that fact, the Legislature enacted eligibility requirements for assessment appeals board members.	Accepted
4	6	23	SBE Training Staff	Add organizations: American Society of Appraisers American Society of Farm Managers and Rural Appraisers National Association of Independent Fee Appraisers	Accepted
5	10	1	Industry Representative (J. Bone)	Revise sentences: Hearings by a hearing officer are conducted in accordance with <u>the same regulations that apply to appeals boards and boards of equalization. They must be public hearings, and all the laws that apply to assessors and appeals boards apply to hearing officers also. The primary difference is that section 1609 which provides that technical rules of evidence need not be observed. Likewise,</u> the hearing and disposition of applications are to be conducted in an informal manner. SBE REWRITE: Hearings by a hearing officer <u>are subject to the same statutes and regulations that apply to appeals boards and, like hearings held before an appeals board, are conducted in accordance with section 1609 which provides that technical rules of evidence need not be observed.</u> ^{fn} <u>Likewise, Whether the matter is before a hearing officer or before an appeals board, the hearing and disposition of an applications are to should be conducted in an informal manner.</u> ^{fn} Rule 313, subsection (e).	Not accepted—See Rewrite. Hearings by AABs or hearing officers need not be conducted according to technical rules of evidence.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
6	11	6	CA Association of Clerks & Election Officials	<p>Add back proposed deleted language: In counties that have <i>not</i> adopted resolutions pursuant to sections 1640.1 and 1641.1, a member of an appeals board may sit concurrently as an assessment hearing officer provided <u>(1) the board member/hearing officer has been appointed by the county board of supervisors to serve concurrently in both positions, and (2) no hearing officer's recommendation is submitted to a board on which the hearing officer serves as a board member.</u></p> <p>SBE REWRITE: In counties that have <i>not</i> adopted resolutions pursuant to sections 1640.1 and 1641.1, a member of an appeals board may sit concurrently as an assessment hearing officer provided <u>(1) the board member/hearing officer has been appointed by the county board of supervisors to serve concurrently in both positions, and (2) to avoid an appearance of conflict of interest, no hearing officer's recommendation should be submitted to a board on which the hearing officer serves as a board member.</u></p>	Not accepted—See Rewrite.
7	11	24	Industry Representative (J. Bone)	<p>Revise paragraph: An appeals board is an independent entity created to adjudicate disputes between taxpayers and the county assessor, and, in the performance of its duties, functions in conjunction with other county and state officials and departments. The board looks to county and state officials for appraisal, procedural, and legal advisement <u>advice</u> and instructions, and it relies on various county department to carry out <u>the</u> decisions made by the board.</p>	Not accepted—Does not add to readability or clarity of text.
8	12	9	Industry Representative (J. Bone)	<p>Revise paragraph: It is within the purview of the board of supervisors to decide a taxpayer's claim for a refund or cancellation of taxes paid.²¹ Although the board of supervisors cannot review the decision of the appeals board and substitute its opinion of value on the assessment roll, the board of supervisors can decide to grant or deny a taxpayer's separately filed claim for refund based upon the appeals board's decision. If the taxpayer has indicated that the application to the appeals board also serves as a claim for refund,²² however, then a denial of the application by the appeals board will be deemed a denial of the claim for refund as well. The taxpayer will then have six months to file an action for refund of taxes in the superior court.²³</p> <p>²¹Section 4946 and section 4096.</p> <p>²²Section 5097.</p> <p>²³Section 5141.</p>	Not accepted—Does not add to readability or clarity of text. <i>Bunker v. Orange</i> did not invalidate the provisions of R&T Code §§ 4946, 4096, 5097, or 5141.
9	12	18	Santa Barbara County Counsel's Office (R. Sanchez)	<p>Revise sentence: The <i>county legal advisor</i> is the <u>deputy county counsel, or county counsel, designated by county counsel to advise the appeals board;</u> or, if there is no county counsel, the district attorney of the county in all counties other than San Francisco.</p>	Not accepted—See Property Tax Rule 301(l)

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
10	13	20	Santa Barbara County Counsel's Office (R. Sanchez))	Add sentence: • Ensure that applications meet the requirements of Rule 305 for completeness and timeliness and are on the State Board of Equalization prescribed form. ³⁰ <u>The assessor may file a motion with the assessment appeals board for a hearing on the sole issue of the timeliness of an application for changed assessment for the supplemental roll.</u>	See Item No.37 Suggested text will be added to manual at page 28, line 32.
11	13	29	Industry Representative (J. Bone)	Add bullet: • Provide reference materials for board members' and hearing officers' use.	Not accepted— duplicative text. See page 13, line 26.
12	14	23	Industry Representative (J. Bone)	Revise sentence: The assessor in person or through a deputy shall <u>must</u> attend all hearings of the county board and may make any statement or produce evidence on matters before the county board. ⁴³	Not accepted—R&T Code § 16 defines <i>shall</i> as mandatory and <i>may</i> as permissive. <i>Must</i> is not defined. Text is direct quote of statute.
13	15	19	Industry Representative (J. Bone)	Revise sentence: If a refund is due <u>and less than four years have elapsed from the date of payment of the tax</u> , the county tax collector notifies the county auditor, and <u>the auditor may issue a refund check for the amount of overpaid taxes</u> is issued to the taxpayer . <u>If the auditor does not issue a refund check, then the tax collector must notify the taxpayer that the taxpayer may file a claim for refund within one year of the date of the tax collector's notice.</u>	Not accepted—(1) there can be instances where more than 4 years have elapsed, and (2) the county auditor does not determine whether a check should be issued, the tax collector does. This is a brief statement. <i>Tax Collectors' Manual</i> covers full duties.
14	15	21	Industry Representative (J. Bone)	Revise sentence: If the taxpayer owes additional taxes, <u>the tax collector will mail a notice</u> are owed by the taxpayer, a notice is mailed by the county tax collector to the taxpayer indicating the new tax amount.	Accepted

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
15	16	4	Industry Representative (J. Bone)	Revise paragraph: The Board performs its duties to local governments through (1) the adoption of <u>mandatory regulations, CCR Title 18, known as the Property Tax Rules</u> ; (2) issuance of <u>advisory information to the counties, including Assessors' Handbooks</u> on appraisal (see Appendix 1); (3) , issuance of legal opinions to county assessors, county appeals boards, and property taxpayers; (4) <u>(3)</u> , issuance of county assessment compliance and topic audits; and (5) <u>(4)</u> providing training and educational materials to assessors, county appeals boards, and interested members of the public.	Not accepted—does not add to readability or clarify of text. Authority of Property Tax Rules is discussed at page 17, line 8.
16	16	24	Industry Representative (J. Bone)	Revise sentence: Appeals boards <u>and individual members and hearing officers</u> may utilize the services of the State Board of Equalization in several ways:	Accepted
17	16	26	Industry Representative (J. Bone)	Add bullet: • By referring to the applicable constitutional, statutory, or regulatory sections and/or specific case law when any question or uncertainty arises about the proper approach to an issue.	Not accepted—proposed text is not a way board members may utilize the services of the SBE.
18	17	1	Industry Representative (J. Bone)	Revise paragraph: Instructions in the form of Letters To Assessors, the Assessors' Handbook, special topic surveys, and other similar writings from the State Board of Equalization do not have the force of law. They are only advisory notice to the assessors and appeals boards of the Board's analyses, conclusions, and recommendations concerning problems of general concern or are strictly informational reports of court decisions, legislative enactments, or other factual information. —When problems common to all assessors or appeals boards are of such a nature that equity or law requires uniformity, the State Board of Equalization has adopted <u>adopts</u> regulations, known as Property Tax Rules, which are set forth in the California Code of Regulations. Unlike instructions to assessors or appeals boards, the Property Tax Rules are legally enforceable by the express provisions of section 15606 of the Government Code. The State Board of Equalization may also bring a legal action on its own behalf to compel a county assessor or any city or county tax official to comply with any provisions of law or any validly adopted Property Tax Rule or regulation. <u>Unlike the Property Tax Rules, State Board of Equalization guidance in the form of Letters To Assessors, the Assessors' Handbook, special topic surveys, and other similar writings do not have the force of law. They are only advisory notice to the assessors and appeals boards of the Board's analyses, conclusions, and recommendations concerning problems of general concern or are strictly informational reports of court decisions, legislative enactments, or other factual information.</u>	Accepted

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
19	18	13	Industry Representative (J. Bone)	<p>Revise sentence: For example, in those areas where the State Legislature has enacted statutes <u>or the Board of Equalization has adopted regulations</u>, counties have no authority to adopt local rules in <u>that expand upon</u>, conflict with <u>or restate exactly</u> those statutes.</p> <p>SBE REWRITE: For example, in those areas where the State Legislature has enacted statutes <u>or the State Board of Equalization has adopted Property Tax Rules</u>, counties have no authority to adopt local rules in conflict with those statutes <u>or Property Tax Rules</u>.</p>	Not accepted—See Rewrite.
20	19	25	Industry Representative (J. Bone)	<p>Revise heading: PROPERTY TAX RULES <u>REGULATIONS</u></p>	Not accepted—They are called <i>rules</i> in the R&T Code.
21	19	35	Industry Representative (J. Bone)	<p>Revise heading: LOCAL RULES <u>OF NOTICE AND PROCEDURE</u></p>	Accepted
22	20	2	Industry Representative (J. Bone)	<p>Revise paragraph: Local rules <u>of notice and procedure</u> are valid if they are not expressly prohibited by section 16, are not preempted by or in conflict with statutes or regulation, <u>do not duplicate statutes or regulations</u>, and comport with due process.⁵³ <u>Local rules cover such issues as how the clerk processes potentially invalid applications, how requests for continuances or rescheduling are handled, and the procedures for requesting findings of fact.</u></p> <p><u>Since local procedural rules can vary widely from county to county, clerks should regularly publish their local rules, or make them available on the Internet, to facilitate the orderly process of assessment appeals.</u></p> <p>⁵³ <i>Williamson v. Payne</i> (1938) 25 Cal.App.2d 497.</p> <p>SBE REWRITE: Local rules are valid if they are not expressly prohibited by section 16, are not preempted by or in conflict with statutes or regulation, and comport with due process.⁵³ <u>Local rules cover such issues as how the clerk processes potentially invalid applications, how requests for continuances or rescheduling are handled, and the procedures for requesting findings of fact. The clerk must make copies of the local rules available upon request of a taxpayer.</u></p> <p>⁵³ <i>Williamson v. Payne</i> (1938) 25 Cal.App.2d 497.</p>	<p>Not accepted—See Rewrite.</p> <p>SBE cannot mandate that a county publish documents or have an Internet site.</p>

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
23	21	2	Industry Representative (J. Bone)	<p>Add paragraph: <u>Under Section 1604(b) of the Revenue & Taxation Code, any taxpayer may petition the board for a reduction in an assessment and a proportionate reduction or refund of the taxes extended thereon by filing an application pursuant to Section 1603 or Section 5097. Applications requesting value reductions and most other requests for relief are filed under Section 1603. Under certain circumstances, such as illegal assessments or assessments made on improvements that did not exist on the lien date, may be filed as a combined claim for refund and petition for a reduction in an assessment.</u></p> <p>This chapter describes the <i>Application for Changed Assessment</i> form . . .</p>	Not accepted—R&T § 5097 addresses filing refunds not applications
24	21	17	CA Assessors' Association	<p>Delete sentence: Also, a facsimile application may be accepted as timely filed, provided the applicant submits the application with an original signature within a reasonable time.</p>	Not accepted—current trend of Legislature regarding documents requiring signatures validates facsimile copies, e.g., see R&T §§ 441(k) and 6066.
25	21	17	CA Association of Clerks & Election Officials	<p>Delete sentence: Also, a facsimile application may be accepted as timely filed, provided the applicant submits the application with an original signature within a reasonable time.</p>	Not accepted—current trend of Legislature regarding documents requiring signatures validates facsimile copies, e.g., see R&T §§ 441(k) and 6066.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
26	21	24	CA Assessors' Association	<p>Delete entire section: FILING FEES OR CHARGES Counties may not charge applicants a deposit, a filing fee, or a hearing fee. Sections 1601 et seq. and Rules 302 through 326 set forth detailed rules of procedure for the conduct of assessment appeal proceedings which do not require a filing fee or a hearing fee. There are only two instances where fees or charges are allowed under statute or regulation. Section 1611 permits any party to request a hearing transcript or recording at that party's expense, and section 1611.5 provides that a party who requests findings of fact shall bear the expense of preparing the findings.</p> <p>In view of the fact that there are statutorily authorized fees for other services in connection with the appeals process, it follows that the Legislature viewed fees and other charges as a matter of statewide concern and, thereby, intended to circumscribe the counties' authority to act in this area. Furthermore, the rulemaking authority conferred on the counties by section 16 of article XIII of the California Constitution is limited to the adoption of rules of notice and procedures when they do not involve matters of statewide concern.</p>	Not accepted
27	21	24	Kings County Counsel's Office (D. Eymil)	<p>Delete entire section: FILING FEES OR CHARGES Counties may not charge applicants a deposit, a filing fee, or a hearing fee. Sections 1601 et seq. and Rules 302 through 326 set forth detailed rules of procedure for the conduct of assessment appeal proceedings which do not require a filing fee or a hearing fee. There are only two instances where fees or charges are allowed under statute or regulation. Section 1611 permits any party to request a hearing transcript or recording at that party's expense, and section 1611.5 provides that a party who requests findings of fact shall bear the expense of preparing the findings.</p> <p>In view of the fact that there are statutorily authorized fees for other services in connection with the appeals process, it follows that the Legislature viewed fees and other charges as a matter of statewide concern and, thereby, intended to circumscribe the counties' authority to act in this area. Furthermore, the rulemaking authority conferred on the counties by section 16 of article XIII of the California Constitution is limited to the adoption of rules of notice and procedures when they do not involve matters of statewide concern.</p>	Not accepted

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
28	21	24	San Francisco Clerk of the Board of Supervisors/Appeals Board (G. Young)	<p>Delete entire section: FILING FEES OR CHARGES Counties may not charge applicants a deposit, a filing fee, or a hearing fee. Sections 1601 et seq. and Rules 302 through 326 set forth detailed rules of procedure for the conduct of assessment appeal proceedings which do not require a filing fee or a hearing fee. There are only two instances where fees or charges are allowed under statute or regulation. Section 1611 permits any party to request a hearing transcript or recording at that party's expense, and section 1611.5 provides that a party who requests findings of fact shall bear the expense of preparing the findings.</p> <p>In view of the fact that there are statutorily authorized fees for other services in connection with the appeals process, it follows that the Legislature viewed fees and other charges as a matter of statewide concern and, thereby, intended to circumscribe the counties' authority to act in this area. Furthermore, the rulemaking authority conferred on the counties by section 16 of article XIII of the California Constitution is limited to the adoption of rules of notice and procedures when they do not involve matters of statewide concern.</p>	Not accepted
29	23	19	CA Assessors' Association	<p>Revise sentence: Thus, the <u>original or digital</u> signature of the applicant or the applicant's agent must appear on the application as required; a photocopied or rubber-stamped signature is not acceptable.</p>	Accepted
30	23	19	CA Association of Clerks & Election Officials	<p>Revise sentence: Thus, <u>except as provided below</u>, the <u>original</u> signature of the applicant or the applicant's agent must appear on the application as required; a photocopied or rubber-stamped signature is not acceptable.</p>	Not accepted—See Item No. 29.
31	23	21	CA Assessors' Association	<p>Revise sentence: However, Government Code section 16.5 authorizes the use of and prescribes guidelines for digital signatures (electronic signatures).</p>	Accepted
32	26	21	CA Assessors' Association	<p>Delete section: CONFIDENTIALITY OF THE APPLICATION Occasionally, the assessor and/or the clerk of the board will receive a request for information, e.g., from the media, regarding an application that has been filed with the county. An application is a public document and, therefore, the clerk may advise whether or not an appeal has been filed. However, the clerk may not release any information which is considered trade secrets.⁶⁸ Every effort should be made to protect any confidential information filed with the clerk of the board. The clerk should seek advice from the county counsel prior to release of information to individuals who are not directly involved in the hearing.</p>	Not accepted—See Item No. 36.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
33	26	21	CA Association of Clerks & Election Officials	Delete section: CONFIDENTIALITY OF THE APPLICATION Occasionally, the assessor and/or the clerk of the board will receive a request for information, e.g., from the media, regarding an application that has been filed with the county. An application is a public document and, therefore, the clerk may advise whether or not an appeal has been filed. However, the clerk may not release any information which is considered trade secrets. ⁶⁸ Every effort should be made to protect any confidential information filed with the clerk of the board. The clerk should seek advice from the county counsel prior to release of information to individuals who are not directly involved in the hearing.	Not accepted—See Item No. 36.
34	26	21	Industry Representative (J. Bone)	Revise section: CONFIDENTIALITY OF THE APPLICATION Occasionally, the assessor and/or the clerk of the board will receive a request for information, e.g., from the media, regarding an application that has been filed with the county. An application is a public document and, therefore, <u>any individual may inspect the application.</u> In addition, the clerk may advise whether or not an appeal has been filed. However, the clerk may not release any information which is considered <u>confidential information or trade secrets.</u> ⁶⁸ <u>Prior to the hearing, any attachments provided with the application should be considered confidential information.</u> During and after the hearing, Every every effort should be made to protect any confidential information <u>trade secret information that accompanies public document on file</u> filed with the clerk of the board. <u>If questions arise about confidential attachments or trade secrets,</u> the clerk should seek advice from the county counsel prior to release of information to individuals who are not directly involved in the hearing.	Not accepted—See Item No. 36.
35	26	21	Santa Barbara County Counsel's Office (R. Sanchez)	Revise section: CONFIDENTIALITY OF THE APPLICATION Occasionally, the assessor and/or the clerk of the board will receive a request for information, e.g., from the media, regarding an application that has been filed with the county. An application is a public document and, therefore, the clerk may advise whether or not an appeal has been filed. However, the clerk may not release any information which is considered trade secrets. ⁶⁸ Every effort should be made to protect any confidential information filed with the clerk of the board. The clerk should seek advice from the county counsel prior to release of information to individuals who are not directly involved in the hearing. <u>In the event applicant includes trade secret information with an application for changed assessment, the applicant shall enclose said trade secret information, with sufficient supporting declarations prescribed by Rev. & Tax. Code § 1605.4 and Property Tax Rule 313(g)(2), in a sealed envelope marked "trade secret; do not disclose without order from the appeals board" as an attachment to the application for changed assessment. The clerk of the assessment appeals board shall thereupon submit to the assessment appeals board for its determination and disposition the request to seal from public disclosure the trade secrets.</u>	Not accepted—See Item No. 36.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
36	26	21	SBE Staff	<p>SBE REWRITE: CONFIDENTIALITY OF THE APPLICATION Occasionally, the assessor and/or the clerk of the board will receive a request for information, e.g., from the media, regarding an application that has been filed with the county. An application is a public document and, therefore, the clerk may advise whether or not an appeal has been filed. <u>Prior to the hearing, however, any attachments provided with the application should be considered confidential information</u> However, the clerk may not release any information which is considered trade secrets.⁶⁸ Every effort should be made to protect any confidential information filed with the clerk of the board. The clerk should seek advice from the county counsel prior to release of information to individuals who are not directly involved in the hearing.</p>	This question has been asked several times. Clerks advise that taxpayers often do attach documents to the Application at the time of filing.
37	28	32	CA Association of Clerks & Election Officials	<p>Revise section: For assessments made outside the regular assessment period, i.e., supplemental assessments, escape assessments, and roll corrections, section 1605 provides for a separate filing period as follows: (b) ...The application shall be filed with the clerk no later than 60 days after the date on which the assessee was notified. For counties of the first class [counties of 4,000,000 or more in population], the application shall be filed within 60 days of the date of the mailing of the tax bill...in accordance with the applicable of the following: (1) In a county other than the County of Los Angeles or a county in which the board of supervisors has adopted a resolution in accordance with subdivision (c), no later than 60 days after the date of mailing printed on the notice of assessment, or the postmark therefor, whichever is later... (2) In the County of Los Angeles or any county in which the board of supervisors has adopted a resolution in accordance with subdivision (c), an application subject to this subdivision shall be filed within the period specified in that subdivision. (c) The board of supervisors of any county may by resolution require that the application for reduction pursuant to subdivision (a) of Section 1603 be filed with the clerk no later than 60 days after the date of the mailing of printed on the tax bill or the postmark therefor, whichever is later. An <i>Application for Changed Assessment</i> must be filed within 60 days of the assessee's notification of the assessment. In counties where the board of supervisors has adopted the resolution described in subdivision (c) of section 1605, this deadline may occur 60 days after the date of mailing date printed on of the tax bill reflecting the assessment appealed, or the postmark date, whichever is later. Section 1605 provides a separate filing period for assessments made outside the regular assessment period (i.e., supplemental assessments, escape assessments, and roll corrections) during which an application must be filed with the clerk. This filing period is linked to the date of mailing of the assessment notice or tax bill, depending upon an action taken by the board of supervisors pursuant to subdivision (c) of Section 1605:</p> <p>(Continued next page)</p> <p>1. In the County of Los Angeles,^{Fn} or in any county in which the board of supervisors has</p>	Accepted—see SBE additional paragraph

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
37 Cont.	28	32	<p>CA Association of Clerks & Election Officials</p> <p>Santa Barbara County Counsel's Office (R. Sanchez)</p> <p>SBE Staff</p>	<p>adopted a resolution pursuant to subdivision (c) of Section 1605, an application must be filed within 60 days of the date of mailing printed on the tax bill, or the postmark therefor, whichever is later.</p> <p><u>2. In all other counties, an application must be filed within 60 days of the date of mailing printed on the notice of assessment, or the postmark therefor, whichever is later.</u></p> <p><u>The assessor may file a motion with the appeals board for a hearing on the sole issue of the timeliness of an <i>Application for Changed Assessment</i> for the supplemental roll.</u></p> <p><u>^{Fn} The filing period in Los Angeles County is determined by statute in paragraph (2) of subdivision (b) of Section 1605. All other counties may establish the date of mailing of the tax bill as the pivotal date for such appeals by resolution of the board of supervisors.</u></p> <p>SBE ADDITIONAL PARAGRAPH: <u>Under certain circumstances, an application may be filed based on the written audit results following an audit conducted by the assessor. ^{Fn} For applications filed following an audit where the assessor elects not to enroll a discovered escape assessment, or when the escape assessment is enrolled but offset pursuant to section 533, the filing must occur within 60 days after receipt of the written audit results.</u></p> <p>SBE ADDED FOOTNOTE: <u>^{Fn} Rule 305.3, subsection (d).</u></p>	See Item No. 10
38	30	30	CA Association of Clerks & Election Officials	<p>Revise sentence: (a) Filing July 2 – September 15 for the new base year value during the first year of enrollment <u>on the current local roll</u> or the three succeeding years when a notice of assessed value is mailed pursuant to section 1603</p> <p>SBE Rewrite: (a) Filing July 2 – September 15 for the new base year value during the first year of enrollment <u>on the current local roll, not on the supplemental roll,</u> or the three succeeding years when a notice of assessed value is mailed pursuant to section 1603</p>	Not accepted—see SBE rewrite
39	31	20	CA Association of Clerks & Election Officials	<p>Revise sentence: (b) Filing July 2 – November 30 for the new base year value during the first year of enrollment <u>on the current local roll</u> or three succeeding years when a notice of assessed value is not mailed pursuant to section 1603</p> <p>SBE Rewrite: (b) Filing July 2 – November 30 for the new base year value during the first year of enrollment <u>on the current local roll, not on the supplemental roll, or the three succeeding years</u> when a notice of assessed value is not mailed pursuant to section 1603</p>	Not accepted—see SBE rewrite

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
40	32	21	Industry Representative (J. Bone)	Add section: <u>CLAIM UNDER SECTION 5097 FILING PERIOD</u> A request for review and equalization filed under Section 5097 must be filed within 4 years of the date of payment of the tax that is claimed to be erroneous, illegal, or paid on improvements that did not exist on the lien date. This special type of request for review must comply with both Sections 5097 as to form and signature, and 1603 as to form and content.:	Not accepted— R&T § 5097 addresses filing refunds not applications
41	34	Table	CA Association of Clerks & Election Officials	Revise sentence: [Column Supplemental Assessments/Filing Period] No later than 60 days after date of notice or date of mailing of the tax bill, or the postmark date, whichever is later (Section 1605).	Accepted
42	36	26	Santa Barbara County Counsel's Office (R. Sanchez)	Delete bullet: • An application may be amended, at the discretion of an appeals board, if requested in writing by the applicant and filed with the clerk of the board prior to any scheduled hearing, or an amendment may be requested orally at the hearing. An appeals board may allow an amendment that states additional facts claimed to require a reduction of the assessment that is the subject of the application. For example, an appeals board has the authority to grant a request to amend an application from an appeal of a decline in value for a specified lien date to an appeal of the base year value as of that lien date, providing the property is still eligible for equalization pursuant to section 80.	Not accepted—See Property Tax Rule 305 (e)
43	36	33	CA Association of Clerks & Election Officials	Add sentence: For example, an appeals board has the authority to grant a request to amend an application from an appeal of a decline in value for a specified lien date to an appeal of the base year value as of that lien date, providing the property is still eligible for equalization pursuant to section 80. <u>A base year application may be filed during the first year of enrollment on the current local roll, or during the three succeeding years.</u>	Accepted
44	37	12	Industry Representative (C. O'Neill)	Delete sentence: In some counties, however, if the assessor has indicated that evidence to support a higher value will be introduced at the hearing, the applicant will not be allowed to withdraw the application without the concurrence of the assessor.	Not accepted—An AAB does not have to allow withdrawal once the AAB has accepted jurisdiction.
45	39	22	Santa Barbara County Counsel's Office (R. Sanchez)	Revise sentence: When multiple applications are filed for a single property, e.g., for several different tax years, then, whenever possible, the clerk should <u>submit the multiple applications to the assessment appeals board for its determination on consolidating</u> consolidate the applications into one hearing.	Accepted
46	40	21	Industry Representative (J. Bone)	Revise sentence: A county board of supervisors may establish <u>procedures for holding</u> prehearing conferences, which are <u>can</u> be a valuable tool in the orderly scheduling and conduct of hearings. ⁸⁶ ⁸⁶ Rule 305.2.	Accepted

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
47	41	2	Industry Representative (J. Bone)	<p>Revise sentence: For an appeals hearing to be most effective, <u>taxpayers and assessors should provide the board members should be provided with comprehensive information regarding the <u>subject property and the taxpayer's and the assessor's opinions of value for the subject property.</u></u></p>	Accepted
48	41	13	Industry Representative (J. Bone)	<p>Add paragraphs: <u>Under Section 408, the assessee or representative may inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any penalties and interest thereon.</u></p> <p><u>Information obtainable under subdivision (e) of section 408 is relevant to a determination of value and may be introduced at an appeals board hearing. Assessors are expected to comply with an assessee's reasonable requests pursuant to that provision; thus, both the assessor and the taxpayer should be able to make use of and present the same information at hearings. In the event that an assessor withholds requested information, subdivision (f) of section 408 provides:</u></p> <p><u>If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or his or her representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.</u></p> <p><u>The sanctions for failure to provide information that are contained in Rule 305.1(c) do not apply to requests for information under Section 408 or Section 441(d).</u></p>	Not accepted—See Item No. 49

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
49	41	6	SBE Staff	<p>Section Rewrite: SECTION 408, INSPECTION OF ASSESSOR'S RECORDS</p> <p>Section 408 allows an assessee, or a representative of the assessee, to inspect records at the assessor's office regarding the assessment of his or her property, as well as market information regarding any comparable properties that the assessor used in the valuation of the assessee's property. <u>The assessee or representative may inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of the assessee's property, and any applicable penalties and interest.</u> The assessor is prohibited by law from disclosing market information that relates to the business affairs of another taxpayer unless the assessor is provided with a written waiver from that taxpayer allowing the assessor to disclose the information.</p> <p><u>Information obtainable under section 408 is relevant to a determination of value and may be introduced at an appeals hearing. Assessors are expected to comply with an assessee's reasonable request pursuant to that provision; thus, both the assessor and the taxpayer should be able to make use of and present the same information at appeals hearings. If an assessor fails to permit the inspection or copying of materials or information, and the assessor introduces any requested materials or information at an appeals hearing, the assessee or representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in section 1604 for a period of time equal to the period of continuance.</u></p> <p>A taxpayer has a right to inspect records under section 408 whether or not an appeal has been formally filed.⁸⁷</p> <p>⁸⁷ <i>Henderson v. Bettis</i> (1975) 53 Cal.App.3d 486.</p>	SBE Staff Rewrite
50	41	31	Industry Representative (J. Bone)	<p>Add paragraph: <u>The sanctions for failure to provide information that are contained in Rule 305.1(c) do not apply to requests for information under Section 408 or Section 441(d).</u></p>	Not accepted—requesting information and introducing information at a hearing are different issues
51	42	28	Santa Barbara County Counsel's Office (R. Sanchez)	<p>Revise sentence: A Rule 322 subpoena may not be issued unless an appeal has been formally filed <u>or a hearing set by the appeals board on its own motion or investigation.</u></p>	Accepted

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
52	47	4	Industry Representative (J. Bone)	Add paragraph: <u>As described in the Multiple Issues section on page 40, a county may decide to hold separate hearings on the real property assessed on the secured roll, and the business property and improvements assessed on the unsecured roll. The board holding the first hearing should prepare findings in sufficient detail to enable the board that is hearing the subsequent application to assure that property neither escapes assessment nor is double-assessed. The applicant would not normally be charged a fee for such findings.</u>	Not accepted—SBE cannot mandate that a county prepare findings of fact or prepare them for the taxpayer at no charge. An AAB can have sufficient minutes/notes to ensure no escapes or double taxation at a subsequent hearing.
53	50	19	Industry Representative (J. Bone)	Revise sentence: An appeals board has authority to make a reduction in an assessment on the local roll only upon the filing of a timely and complete application. ¹¹⁴ ¹¹⁴ Section 1603, subdivision (a).	Not accepted—See Property Tax Rule 305 and this manual at page 22, line 26.
54	52	8	Industry Representative (J. Bone)	Add paragraph: <u>If the clerk receives an application that is invalid because it was filed prior to notice and the notice has been issued by the assessor, then the clerk should notify the applicant of the defect and allow the applicant to cure the defect. Under Rule 305(e), the applicant can refile the application until the last date for filing. If the last date has passed, then the clerk should advise the applicant that the board can consider a request to amend the application. If the assessor has not yet issued the appropriate notice, then the clerk should advise the applicant of that fact and advise the applicant that the 60-day filing period will begin when the notice is issued.</u>	Not accepted—See Item No. 55 The notice sent by the assessor advises the taxpayer of the filing provisions.
55	52	6	SBE Staff	SBE Rewrite: An assessment made outside the regular period is not effective <i>for any purpose</i> until proper notice is given and, for that reason, an application filed prior to notice is invalid. Consequently, an appeals board has no jurisdiction to hear an application filed prior to notice of the assessment. <u>If the clerk receives an application that was filed without proper notice, the applicant should be advised of the error.</u>	SBE Rewrite
56	54	5	Industry Representative (J. Bone)	Add section: <u>BASE YEAR VALUE ALLOCATIONS When a real estate developer files a preliminary tract map, the assessor must allocate the base year value of the original parcel among all of the new parcels. Since there may be significant tax ramifications to the allocation, the allocation is a proper issue for consideration by the board.</u>	Not accepted—See Item No. 57

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
57	54	5	SBE Staff	<p>SBE Rewrite: <u>ALLOCATION OF SUBDIVIDED PROPERTY</u> When an assessor receives a copy of a final subdivision or parcel map, he or she must allocate the base year value of the original parcel among all of the new parcels. The allocation is a proper issue for consideration by the board.^{Fn}</p> <p>^{FN} Rule 302, subsection (a)(5).</p>	SBE Staff Rewrite
58	54	17	CA Association of Clerks & Election Officials	<p>Revise sentence: <i>Proposition 90</i>, passed in November 1988. This proposition extends the relief allowed by Proposition 60 to replacement residences located in a different county from the original residence, if the county of the replacement residence has adopted an ordinance participating in the <u>intercounty transfer</u> program.</p>	Accepted
59	54	22	SBE Staff	<p>Revise paragraph: An appeals board has jurisdiction, on an application appealing the denial of a claim for a base year value transfer pursuant to section 69.5, to determine the full cash value of an original property solely for the purpose of the "equal or lesser" value comparison test of that section, <u>provided the appeals board has jurisdiction in the county where the original property is located. The issue that the board must determine for purposes of qualification is whether the full cash value of the original property was properly determined by the assessor. The full cash value thus determined by the appeals board would establish a new base year value for the original property upon the change in ownership, provided that such value has not already been the subject of an application decided by the an appeals board and the base year value may still be challenged per section 80. If the appeals board determines that a different value is appropriate, the current owner of the original property would incur an adjusted tax liability. Consequently, the current owner of the original property must be afforded due process by providing an opportunity to be heard by the appeals board. Therefore, the appeals board must notify the current owner of its intention to hear and decide an application appealing the denial of a section 69.5 claim for transfer of a base year value when such a hearing involves a determination of value for the original property.</u></p>	SBE Rewrite
60	56	28	Industry Representative (J. Bone)	<p>Revise heading: <u>SPECIFIC LEGAL ISSUES</u></p>	Not accepted—does not add to readability or clarity of text.
61	57	20	Industry Representative (J. Bone)	<p>Revise sentence: Because the Legislature has granted appeals boards the authority to hear these matters, appeals board members must be familiar with <u>carefully consider and apply</u> the laws applicable to change in ownership and new construction.</p>	Accepted

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
62	58	1	Industry Representative (J. Bone)	Revise heading: PROCEDURAL ISSUES <u>STATUTES OF LIMITATIONS ON ASSESSMENTS</u>	Not accepted—proposed title is not reflective of all of the material in the section.
63	58	9	Industry Representative (J. Bone)	Revise sentence: Section 532, subdivision (b), further provides that the time limitations period does not start running until <u>is eight years if</u> a change in ownership has <u>not</u> been properly reported:	Accepted
64	59	29	Industry Representative (J. Bone)	Add heading: <u>TIME FOR HEARING APPEALS</u>	Not accepted—does not add to readability or clarity of text.
65	60	30	Industry Representative (J. Bone)	Add heading: <u>CONTINUATIONS AND WAIVERS</u>	Not accepted—does not add to readability or clarity of text.
66	60	35	CA Association of Clerks & Election Officials	Revise paragraph: The clerk of the board should closely follow applications to ensure that all are heard and final determinations are made within two year. A hearing and decision by an appeals board to determine whether the board has jurisdiction to hear an appeal constitutes a hearing and final determination within the meaning of subdivision (c) of section 1604. ¹⁴¹ ¹⁴¹ <i>Heavenly Valley v. El Dorado County Board of Equalization</i> (2000) 84 Cal.App.4 th 1323 (opn.mod. 86 Cal.App.4 th 25d).	Not accepted—See Item No. 67
67	60	35	Industry Representative (J. Bone)	Revise paragraph: The clerk of the board should closely follow applications to ensure that all are heard and final determinations are made within two years. A hearing and decision by an appeals board to determine whether <u>that</u> the board has <u>no</u> jurisdiction to hear an appeal constitutes a hearing and final determination within the meaning of subdivision (c) of section 1604. ¹⁴¹ ¹⁴¹ <i>Heavenly Valley v. El Dorado County Board of Equalization</i> (2000) 84 Cal.App.4 th 1323 (opn.mod. 86 Cal.App.4 th 25d).	Accepted

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
68	61	3	Industry Representative (J. Bone)	<p>Revise paragraph: When a two-year period expires, section 1604(c) does not require immediate enrollment of the taxpayer's opinion of value, but instead sets the date two years after the close of the filing period—nominally September 15¹⁴²—when all taxpayers' opinions of value should be enrolled. Thus, the board clerk must individually track applications by exact date of filing, <u>and calendar for hearing any applications that were not heard within the two year time limit. After the board determines the correct amounts to enroll for those applications, the clerk will</u> but transmit <u>the information</u> to the auditor a one-time value reduction two years after the close of the filing period for all applications that remain unheard.</p> <p>¹⁴²November 30 in counties where the assessor does not mail assessee notices of assessed value for real property on the secured roll by August 1 annually.</p>	Not accepted—current text is reflective of the provisions of R&T Code § 1604.
69	61	20	Industry Representative (J. Bone)	Move section: Move "Extensions and Waivers Regarding Escape and Supplemental Assessments" section after the discussion of escape assessments on page 58.	Not accepted—does not add to readability or clarity of text.
70	62	28	Industry Representative (J. Bone)	Move section: Move "Matters Requiring Exhaustion of Administrative Remedies" section before line 5 on same page.	Not accepted—does not add to readability or clarity of text.
71	64	1	Industry Representative (J. Bone)	Revise heading: CHAPTER 6: OVERVIEW OF <u>TECHNICAL ISSUES AND CONCEPTS APPRAISAL AND LEGAL ISSUES</u>	Not accepted—proposed title is not reflective of all of the material in the chapter.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
72	64	18	Industry Representative (J. Bone)	<p>Add section: <u>NON-TAXABLE PROPERTY</u> Property is either exempt or not taxable for a variety of reasons, including the type of property, the ownership of the property, the use of the property, or due to a specific exemption in either the Constitution or the statutes. <u>Examples of non-taxable property include:</u></p> <ul style="list-style-type: none"> • <u>Property owned by the Federal government</u> • <u>Property owned by the State of California or a subdivision such as a city or a county</u> • <u>Intangible property such as money, copyrights, and business goodwill</u> • <u>Inventory</u> • <u>Personal household property and pets</u> • <u>Property owned and used by churches, schools, and certain other exempt organizations</u> • <u>\$7,000 of a homeowner's property value, the homeowners' exemption</u> <p><u>The Constitution grants some of the above exemptions. Sections beginning with 201 of the Revenue & Taxation Code provide for other exemptions.</u></p>	Not accepted—See page 75 at line 11.
73	64	20	Industry Representative (J. Bone)	Move section: Move "Lien Date" section before line 7 on same page.	Not accepted—does not add to readability or clarity of text.
74	65	1	Industry Representative (J. Bone)	Move section: Move "Appraisal Unit" section to proposed Valuation Chapter	Not accepted—a new chapter does not add to readability or clarity of text.
75	69	33	Industry Representative (J. Bone)	<p>Add sections: <u>NEW CONSTRUCTION PROPERTY</u> <i>New construction property means any substantial addition to land or improvements, including fixtures, that is created by actual physical new construction activity on the site.</i></p> <p><u>NEW CONSTRUCTION PROPERTY VALUE</u> <i>The value of new construction property means the value of the new construction property as of the lien date if it is incomplete, or as of the date of completion. New construction property value does not include value increases to the pre-existing land and improvement.</i></p>	Not accepted—See page 68, line 33. Current text is clarifying the definition of <i>new construction</i> as used in R&T Code § 70 and Rule 463.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
76	75	6	CA Assessors' Association	Delete paragraph: An appeals board has jurisdiction, on an application appealing a reassessed value pursuant to section 170, to determine the full value of the property at the time of the disaster or at the time of restoration following the disaster. A value determined by an appeals boards following restoration will establish a new base year value for the property, provided that such value has not already been the subject of an application decided by the appeals board.	Not accepted—See Item No. 77
77	75	1	CA Association of Clerks & Election Officials	<p>Revise paragraphs: If the damaged property is later restored, repaired, or reconstructed, with a resultant increase in fair market value, it will be reassessed upward. That value cannot exceed its prior adjusted base year value, even though the fair market value may be higher. However, if the restoration of the property results in new construction unless it is determined that the restoration resulted in new construction, as defined in Rule 463, a new base year value will be established for the newly constructed portion.</p> <p>An appeals board has jurisdiction. On <u>On an application appealing a reassessed value pursuant to section 170, an appeals board has jurisdiction to determine the full value of the property at the time of the disaster or at the time of restoration following the disaster, including jurisdiction to determine if the restoration of the property has resulted in new construction. If a portion of the restoration is determined to be new construction, a new base year value will be established for the newly constructed portion.</u> A value determined by an appeals boards following restoration will establish a new base year value for the property, provided that such value has not already been the subject of an application decided by the an appeals board.</p>	Accepted
78	76	1	Industry Representative (J. Bone)	Add chapter: <u>MEASUREMENT OF VALUE</u>	Not accepted—a new chapter does not add to readability or clarity of text.
79	76	2	Industry Representative (J. Bone)	Revise sentence: Determination of full value involves judgment, and the law recognizes that there is no single acceptable appraisal <u>approach or</u> method which must be employed to determine fair market value.	Accepted

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
80	76	11	Industry Representative (J. Bone)	<p>Add sections: STEPS IN THE APPRAISAL PROCESS <u>The appraisal process is a systematic method for arriving at an estimate of value. It is a standardized procedure developed by professional appraisers for applying the fundamental principles of valuation to a given property. There are seven steps in the appraisal process: 1. Definition of the appraisal problem 2. Preliminary analysis and data collection 3. Highest and best use analysis 4. Land value estimate 5. Application of the approaches to value 6. Reconciliation of value indicators and the final value estimate 7. Reporting the final value estimate</u></p> <p>DEFINITION OF THE APPRAISAL PROBLEM <u>The definition of the appraisal problem is the first step in the valuation process. This step should eliminate any ambiguity regarding the nature of the appraisal. The definition of the appraisal problem contains five substeps: (1) identification of the property being appraised; (2) identification of the property rights involved in the appraisal; (3) determination of the purpose of the appraisal; (4) establishing the effective date of the appraisal; and (5) obtaining the definition of value for the appraisal.</u></p> <p>PRELIMINARY ANALYSIS AND DATA COLLECTION <u>The preliminary analysis phase develops a logistical plan for the appraisal. This step includes a preliminary inspection of the property and its surroundings; a list of the data, time, and resources needed; a preliminary estimate of the property's highest and best use; and a selection of the primary approaches to value that will be used.</u></p> <p>HIGHEST AND BEST USE ANALYSIS <u>After determining the data requirements and collecting the data, the appraiser analyzes the property's highest and best use in light of market forces and conditions. The value estimate is premised on the assumption that the highest and best use has been identified. Under competitive market conditions there is a strong tendency for property to be used in the most productive manner; that is, there is a high probability that the current or existing use is also the highest and best use of the property. The determination of highest and best use is also necessary in order to select the comparable properties used in the appraisal.</u></p> <p>LAND VALUE ESTIMATE <u>Land value is directly related to the highest and best use determination. In fact, the determination of the highest and best use of the land as though vacant requires a land value estimate. A separate estimate of land value is needed for at least two reasons. First, an estimate of land value under its highest and best use as though vacant is required in some appraisal approaches or techniques. Both the cost approach and the building residual technique in the income approach, for example, require separate land value estimates. Second, the property tax appraiser is required to allocate the total property value between land and improvements, which may be accomplished through a separate estimate of land value. This also produces an estimate of the contributory value of the improvements.</u></p>	Not accepted—proposed text is a direct quote from AH 501. This manual is not intended to be an appraisal guide. It is a reference manual for AAB members. The readers are advised at page 64, line 2, where to seek in-depth appraisal information.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
81	77	8-20	Industry Representative (J. Bone)	Move text: Move to last section of Appraisal. Use heading Reconciliation and Value Conclusion	Not accepted—does not add to readability or clarity of text.
82	80	2	Industry Representative (J. Bone)	Move text: Insert appraisal unit discussion here [from page 65]	Not accepted—does not add to readability or clarity of text.
83	80	2	Industry Representative (J. Bone)	<p>Add sections: <u>RECONCILIATION OF VALUE INDICIATORS AND THE FINAL VALUE ESTIMATE</u> The reconciliation of value indicators from the separate approaches to value and the resulting final value estimate is the next step in the appraisal process. <u>Theoretically, the approaches to value should produce identical value indicators. In practice, however, this is rarely the case, and significant differences may occur. To produce a final value estimate, the appraiser reconciles the indicators from each approach utilized. Value indicators should be reconciled considering: (1) the appropriateness of the approach given the purpose of the appraisal; and (2) the adequacy and reliability of the data available to perform the appraisal. The appraiser should examine and reconcile all value indicators.</u></p> <p><u>The final value estimate is not a simple average of the value indicators; one or two approaches often have greater significance and are given greater weight by the appraiser. The final value estimate must reconcile all available indicators in an analytical manner. While the final value estimate is an opinion of value, it should be a reasoned and defensible opinion based on verified market data.</u></p> <p><u>REPORTING THE FINAL VALUE ESTIMATE</u> The final step in the appraisal process is reporting the final value estimate. An appraisal may be reported in a letter, a form, or a narrative. In appraising for property tax purposes, form reports are generally used although short narrative reports may be used for complex properties and in assessment appeals cases.</p>	Not accepted—proposed text is a direct quote from AH 501. This manual is not intended to be an appraisal guide. It is a reference manual for AAB members. The readers are advised at page 64, line 2, where to seek in-depth appraisal
84	85	25	Industry Representative (J. Bone)	Add paragraph: <u>Both types of rebuttable presumptions are used in assessment appeals. The hearing starts with one party having the burden of producing evidence. During the hearing, both the burden of producing evidence and the burden of proof are utilized. After the hearing, the appeals board or hearing office[r] uses the question of the burden of proof to determine the outcome of the hearing</u>	Not accepted—See Item No. 85 Most of proposed text is already covered in the current section.
85	85	25	SBE Staff	SBE Rewrite: <u>Both the presumption affecting the burden of producing evidence and the presumption affecting the burden of proof may be used in an appeals hearing. The effect of a presumption affecting the burden of proof is to impose upon the party . . .</u>	SBE Rewrite

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
86	85	29	Industry Representative (J. Bone)	Revise sentence: An appeals board must apply an applicable presumption as the starting point for <u>determination as to which party has the burden of the presentation production</u> of evidence.	Accepted
87	86	3	Industry Representative (J. Bone)	Revise paragraph: <u>In applications where the applicant has the burden of production of evidence, the board will require the applicant or the applicant's agent to present his or her evidence first, and then the board will determine whether the applicant has presented proper evidence supporting his or her position. In the event the applicant has met the burden of production, the board shall then require the assessor to present his or her evidence. If the presumption operates against the applicant and the applicant fails to present evidence to support his or her position sufficient to rebut the correctness of the assessed value, at the request of the assessor, the appeals board shall will dismiss the case without requiring the assessor to provide evidence substantiating the assessed value. If the appeals board determines the applicant has presented evidence sufficient to make a prima facie case, the burden of production shifts to the assessor to present evidence to support his or her opinion of value.¹⁸⁵ However, if the presumption operates against the assessor and the assessor fails to present evidence sufficient to rebut the presumption, the appeals board should rule in favor of the applicant providing that there is substantial evidence in the record to support the applicant's value.</u>	Not accepted—does not add to readability or clarity of text. R&T Code § 16 defines <i>shall</i> as mandatory. <i>Will</i> is not defined.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
88	86	31	Industry Representative (J. Bone)	<p>Revise paragraph: With regard to the presumption stated above, the appeals board then proceeds with examination of the evidence to determine whether the applicant's evidence is sufficient to establish an opinion of value and that the evidence demonstrates that the assessor did not establish a correct assessment.</p> <p><u>If both sides have presented evidence, the board considers the [sic] all of evidence presented, and determines whether the assessor's assessment is correct. The standard for determining the correctness of an assessment is the <i>preponderance of the evidence</i>. Essentially, the board considers all of the evidence and determines the correct assessable value, which may be the assessor's value, the applicant's value or any other value supported by the evidence. Rule 321(b) directs the board to ignore the assessor's presumptions during their deliberations as follows:</u></p> <p><u>If the applicant has presented evidence, and the assessor has also presented evidence, then the board must weight all of the evidence to determine whether it has been established by a preponderance of the evidence that the assessor's determination is incorrect. The presumption that the assessor has properly performed his or her duties is not evidence and shall not be considered by the board in its deliberations.</u></p> <p><u>Thus, if the applicant has presented sufficient evidence to cause the board to require the assessor to present evidence, then neither the original assessment, the assessor's revised value (if any), nor the evidence presented by the assessor carries a presumption of correctness that make the assessor's evidence carry more weight than the applicant's.</u></p>	<p>Not accepted—does not add to readability or clarity of text.</p> <p>Proposed text is covered in Chapter 9 in the decision process. See text beginning at page 106</p>
89	89	37	Industry Representative (J. Bone)	<p>Revise sentence: <u>If the assessor has followed prescribed standards, then the applicant must meet his or her burden of producing evidence. If the applicant has met his or her burden, or if the assessor fails to follow the prescribed standards, neither party (assessor nor taxpayer) has a presumption of correctness. The appeals board must hear evidence from both parties and, as in all other cases where evidence has been taken from both parties, make its decision based solely on the weight of the evidence presented.</u></p>	<p>Not accepted—does not add to readability or clarity of text.</p>
90	91	3	CA Association of Clerks & Election Officials	<p>Comment: The clerks would like clarification on whether the burden of proof can be divided in any appeal, including the circumstances described in the added paragraph. There is no agreement among the clerks as to whether this is legally correct. However, some clerks question whether a division of the burden of proof is permissible in a case where the board's task is to arrive at a single, total assessed value of a property, regardless of the circumstances of the appeal. As currently worded, the paragraph is confusing. If the paragraph will remain in the manual, it should contain a specific reference to the language of the entire Section 167 on page 87 of the manual.</p>	<p>See Item No. 91</p>

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
91	91	3	SBE Staff	<p>SBE Rewrite: In an appeal resulting from a section 469 audit in which the assessee files an application appealing both the property subject to escape assessment and other property at the location, the section 167 provisions apply only to that portion of the property subject to escape assessment. Assuming that the conditions of section 167 are satisfied, the section 167 presumption takes precedence and benefits the taxpayer with respect to the escape assessment, and the assessor bears the burden of proof as to the correctness of that assessment. On the other hand, the assessor has the presumption of correctness as to the original assessment of the property <u>other property at the location not subject to escape assessment</u> and, thus, the taxpayer bears the burden with respect to that assessment.</p>	SBE Rewrite
92	91	30	Industry Representative (J. Bone)	<p>Revise paragraph: When the assessor sends an applicant a <i>raise letter</i>, a letter notifying the applicant that the assessor intends to request that the appeals board find a higher assessed value than is on the roll, the assessor no longer has the presumption that he or she has properly performed his or her duties. However, if the applicant has failed to supply all the information required by law to the assessor, the assessor maintains the presumption of correctness.¹⁹⁰</p> <p>¹⁹⁰<i>Domenghini v. San Luis Obispo, supra.</i></p>	Not accepted—See Item No. 93
93	91	30	SBE Staff	<p>SBE Rewrite: : When the assessor sends an applicant a <i>raise letter</i>, a letter notifying the applicant that the assessor intends to request that the appeals board find a higher assessed value than is on the roll, the assessor no longer has the presumption that he or she has properly performed his or her duties.^{Fn} However, if the applicant has failed to supply all the information required by law to the assessor, the assessor maintains the presumption of correctness.¹⁹⁰</p> <p>^{Fn} Rule 313, subsection (f).</p> <p>¹⁹⁰<i>Domenghini v. San Luis Obispo, supra.</i> <u>Section 167.</u></p>	SBE Rewrite
94	92	29	Industry Representative (J. Bone)	<p>Add paragraphs: <u>If the party that has the burden of production of evidence in an assessment appeals hearing has met his or her burden of production sufficient to show that another value or other decision is possibly correct according to applicable California law, then the board or hearing office [sic] weighs all of the evidence to determine the correct value or other decision. The board or hearing officer is not bound by either party's value or position, and may determine another value or decision if appropriate.</u></p> <p><u>In the event that the weight of the evidence is approximately equal and the board does not determine that another value or decision is correct, then the value or position of the party that does not have the burden of proof will be the correct decision of the board.</u></p>	Not accepted—Proposed text is covered in Chapter 9 in the decision process. See text beginning at page 106.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
95	93	6	Industry Representative (J. Bone)	<p>Add paragraph: <u>Examples of situations in property taxation where the clear and convincing standard apply are:</u></p> <ul style="list-style-type: none"> • <u>Evidence that a clerical or other error occurred that requires correction more than four years after the year of the enrollment</u> • <u>Proof that an electronic transmittal of a tax payment was made on a specific date and time</u> 	Accepted
96	94	20	Industry Representative (J. Bone)	<p>Revise paragraph: If an agreement and correction have been made pursuant to section 4831, the taxpayer may withdraw his or her application from the appeals process. Counties are advised to develop a procedure by which applicants may withdraw their applications on the condition that the assessor enrolls the agreed upon value. By this means, if the taxpayer receives the notice from the county reflecting a new value different than the value the taxpayer believes was agreed upon, <u>or the assessor fails to enroll the agreed-upon correction</u>, the taxpayer may still pursue the appeal. An appeals board is not required to accept withdrawal of an application for reduced assessment.</p> <p>SBE Rewrite: . . . than the value the taxpayer believes was agreed upon, <u>or the assessor fails to take action</u>, the taxpayer may still pursue the appeal.</p>	Accepted in concept—See SBE rewrite
97	96	9	Industry Representative (J. Bone)	<p>Add bullet: • <u>Members and hearings [sic] officers should utilize all available reference materials to ensure that their decisions conform to current statutes, regulations and advisory materials provided by the Board of Equalization. Any deviations should be explained on the record.</u></p>	<p>Not accepted—See Item No. 98</p> <p>Neither AAB members nor hearing officers must conform to SBE advisory materials.</p>
98	96	9	SBE Staff	<p>SBE Rewrite: <u>(6) Members and hearing officers should have available for consultation reference materials to ensure that their decisions conform to current statutes and regulations.</u> (6)(7) Members and hearing officers may ask questions for clarification . . .</p>	SBE Rewrite
99	97	12	Industry Representative (J. Bone)	<p>Delete sentence: The board will typically ask for a stipulation that the applicant is properly represented at the hearing.</p>	Not accepted—this is common in many counties.
100	98	1	Industry Representative (J. Bone)	<p>Revise bullet: • The assessor intends to request a higher <u>different</u> assessed value than is on the roll.</p>	Not accepted—the assessor loses the presumption of correctness under a <i>raise letter</i> situation.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
101	98	33	Industry Representative (J. Bone)	Revise sentence: Property tax rules governing appeals board procedures do not address the issue of cross-examination of parties at a hearing. Counties should adopt <u>and publish</u> local rules of practice <u>procedure</u> to make their policy clear to both sides at the outset of the hearing.	Not accepted—the SBE cannot mandate that counties publish documents. See Item No. 22.
102	99	11	Industry Representative (J. Bone)	Revise sentence: Section 1605.4 and Rule 313 require that <u>assessment</u> appeals hearings <u>and hearing officer hearings</u> must be open, accessible, and audible to the public.	Accepted—with deletion of word <i>assessment</i> . See page 1 at line 12.
103	100	25	Industry Representative (J. Bone)	Revise paragraph: There are two <u>three</u> primary reasons for continuing a hearing: <ul style="list-style-type: none"> • <u>A decision to bifurcate the hearing because the application presents multiple issues that will be heard separately</u> • New information introduced at the hearing—If new material relating to the information received from the other party during an exchange of information, <u>a request by the applicant under Sec. 408, or by the assessor under sec. 441(d)</u> is introduced, the other party may request a continuance for a reasonable period of time.²¹⁷ 	Not accepted—there may be dozens of reasons why a hearing may be continued. The text list the two <i>primary</i> reasons. Requests under §§ 408 or 441 should be made prior to the beginning of a hearing.
104	102	19	Industry Representative (J. Bone)	Revise sentence: <u>In most appeal hearings,</u> the goal of the appeals board is to make a determination of the full value of the property under appeal.	Accepted
105	103	27	Industry Representative (J. Bone)	Revise sentence: As discussed earlier, even though the taxpayer files an appeal on only a portion of the property, the appeals board on its own motion or at the request of the assessor <u>either party</u> may equalize the entire property. ²²⁶	Not accepted—the applicant must seek an amendment to the <i>Application</i> to have an AAB equalize other property.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
106	105	2	Industry Representative (J. Bone)	Add bullet: • <u>Failure of the appeals board to follow applicable statutes, regulations, and advisory materials</u>	Not accepted—the list of examples is not intended to be all-inclusive. Neither AAB members nor hearing officers must follow SBE advisory materials.
107	107	4	Industry Representative (J. Bone)	Revise sentence: Board members with <u>accounting</u> , appraisal, legal, and real estate backgrounds typically have a better understanding of appraisal, and <u>legal, and technical business</u> issues and are, therefore, usually more adept at the decision-making process; however, use of technical and professional knowledge must be applied to the weight of the evidence presented during the hearing.	Accepted
108	108	29	Industry Representative (J. Bone)	Add paragraph: <u>In some situations where the board has either bifurcated issues presented in an application or decided to hear the secured and unsecured applications separately, it may be necessary for the board to prepare findings for use in the subsequent hearing. There would be no charge to the applicant for these findings.</u>	Not accepted—SBE cannot mandate that a county prepare findings of fact or prepare them for the taxpayer at no charge. An AAB can have sufficient minutes/notes to ensure no escapes or double taxation at a subsequent hearing.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
109	109	15	Industry Representative (J. Bone)	<p>Add paragraphs: <u>Given the length of time between the filing of some applications and their ultimate disposition, the clerk should consider asking the applicant at the end of the hearing if the address on the application is still correct. If it is not, then the clerk should allow the applicant to amend the application to show the proper address for either the applicant or the applicant's representative.</u></p> <p><u>Where complex issues are involved, it may be appropriate for the board to issue a written decision that provides guidance to the parties in the implementation of the decision. Such a written decision is not "findings" but simply a more complete decision than simply the correct full values.</u></p> <p><u>When only a portion of the property at a location for a specific lien date has been equalized, the board 's decision should clearly identify the property that has been equalized.</u></p>	<p>Not accepted—See Item No. 110.</p> <p>It is the applicant's responsibility to advise the clerk of address changes. See Rule 325.</p>
110	109	12	SBE Staff	<p>SBE Rewrite: 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 must notify the applicant in writing of the decision of the board by United States mail addressed to the applicant or to an agent at the address given in the application.²⁴⁶ <u>Where complex issues are involved, it may be appropriate for the board to issue a written decision that provides guidance to the parties in the implementation of the decision. When only a portion of the property at a location for a specific lien date has been equalized, the board's decision should identify the property that has been equalized.</u></p>	SBE Rewrite
111	110	2	CA Assessors' Association	<p>Revise paragraph: An applicant <u>or the assessor</u> may request clarification in order to determine whether to appeal all or some part of the board's decision. Therefore, clarification should be made promptly to enable the applicant <u>requesting party</u> to be fully informed of the legal and factual issues on which the board based its decision well in advance of the deadline for filing a refund action. <u>any subsequent filing deadlines.</u>²⁴⁷</p>	Accepted
112	110	2	CA Association of Clerks & Election Officials	<p>Revise sentence: An applicant <u>or assessor</u> may request clarification in order to determine whether to appeal all or some part of the board's decision.</p>	Accepted in concept—See Item No. 111
113	166	23	CA Association of Clerks & Election Officials	<p>Delete sentence: Additionally, a hearing and decision by the county board of equalization to determine whether it has jurisdiction to hear the appeal constitutes a hearing and final determination within the meaning of subdivision (e) of section 1604.</p> <p>SBE Rewrite: Additionally, a hearing and decision by the county board of equalization to determine whether it <u>that the board has no jurisdiction to hear the appeal constitutes a hearing and final determination within the meaning of subdivision (c) of section 1604.</u></p>	Not accepted—See SBE Rewrite
114	172	8	CA Assessors' Association	<p>Revise definition: [Electronic Filing] Any electronically filed application n part; (a) subject to exceptions set by law, it is presumed that the assessor h</p>	Not accepted—See Item No. 115

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
115	172	8	CA Association of Clerks & Election Officials	Revise definition: [Electronic Filing] . . . Any electronically filed application n-part; (a) <u>subject to exceptions set by law, it is presumed that the assessor should be printable on a State Board of Equalization authorized application form.</u>	Accepted— correction of computer hiccup
116	175	1	CA Assessors' Association	Revise definition: [Trial de novo] A new trial or retrial in which the whole <u>entire</u> case is retried as if no <u>prior trial or hearing</u> whatever had occurred in the first instance <u>at all</u> .	Not accepted—see <i>Black's Law Dictionary</i> , Sixth Edition
117	175	1	CA Association of Clerks & Election Officials	Revise definition: [Trial de novo] A new trial or retrial in which the whole case is retried as if no trial whatever had occurred in the first instance <u>at all</u> .	Not accepted—see <i>Black's Law Dictionary</i> , Sixth Edition