



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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State Controller

March 14, 2008

RAMON J. HIRSIG
Executive Director

TO INTERESTED PARTIES

GUIDELINES ON THE PROPER HANDLING OF
CONFIDENTIAL INFORMATION

In Letter To Assessors 2007/044, the Board mailed proposed *Guidelines on the Proper Handling of Confidential Information*. Interested parties were invited to provide comments on the proposed guidelines. Enclosed is a matrix summarizing the comments received.

An interested parties meeting will be held on April 11, 2008 to discuss the comments submitted on the proposed guidelines. The meeting will begin at 9:30 a.m. at the Board's headquarters in Sacramento, 450 N Street, Room 122. The guidelines are tentatively scheduled for discussion before the Board's Property Tax Committee meeting on May 28, 2008.

All documents regarding this project will be posted to the Board's website at www.boe.ca.gov/proptaxes/confidentiality_timeline.htm. If you plan to attend the interested parties meeting on April 11, 2008, please advise Mr. Michael McDade at michael.mcdade@boe.ca.gov. or at 916-445-3150.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee, Chief
County-Assessed Properties Division

DRK:sk
Enclosure

GUIDELINES ON THE PROPER HANDLING OF CONFIDENTIAL INFORMATION ALTERNATIVE LANGUAGE

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
1	1	28	Alameda County Assessor (Thomsen)	<p>Revise sentence: Property owners with business-related personal property having a value in excess of \$100,000 are obligated to file annual property statements describing <u>including a description</u> of the cost of all taxable property acquired or disposed of during the preceding assessment year.</p> <p>SBE rewrite: Property owners with business-related personal property having a value in excess of \$100,000 are obligated to file annual property statements describing the cost <u>which include the cost and description</u> of all taxable property acquired or disposed of during the preceding assessment year.</p>	See SBE rewrite.
2	2	7	Sacramento County Assessor (Lewis)	Revise sentence: <u>Under section 408,</u> a property owner is entitled to require <u>request</u> ...	Not accepted. Section 408(d) and (e) state: "The assessor shall permit..."
3	2	8	SBE staff	Add footnote to first sentence: Section 408(d) and (e).	Accepted.
4	2	9	Sacramento County Assessor (Lewis)	Revise sentence: The property owner may inspect the county assessor's records concerning the particular appraisal of his or her property and review publicly available market data used as basis for the appraisal.	Accepted.
5	2	10	Sacramento County Assessor (Lewis)	Comment: Strike the sentence "In certain instances, the property owner may secure a court order to force disclosure of confidential business information of others which the county assessor may have used to value the property." Quote or paraphrase instead from the cited case Henderson v. Bettis (1975) 53 Cal. App. 3d 486: "Section 408 can be used only by the taxpayer to obtain any information the assessor has relating to the appraisal and assessment of his or her property as long as it does not relate also to the property or business affairs of another, and the assessor's market data as defined in that section. Section 408 .. [is] restricted to data relating to comparable sales, and thus is of no use in obtaining income or other non-sales valuation data."	Not accepted. See item 6.
6	2	11	San Diego County Counsel (de Lorrell)	Revise sentence: In certain instances, the property owner may secure a court order to force disclosure of confidential business information <u>that also relates to the property or business affairs</u> of others which the county assessor may have used to value the property.	Accepted.
7	2	12	San Diego County	Revise footnote 9: <i>Henderson v. Bettis</i> (1975) 53 Cal.App.3d 486, <u>493</u> ; <u>sections 408(d)</u> ,	Accepted.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
			Counsel (de Lorrell)	408(e)(3).	
8	2	13	Sacramento County Assessor (Lewis)	Comment: Change the heading from 'Information Provided To The Public' to 'Assessor's Records.'	Not accepted. Heading is consistent with following headings.
9	2	15	Sacramento County Assessor (Lewis)	Revise sentence: (1) Public information filed by taxpayers that a county assessor is statutorily required to maintain.	Accepted.
10	2	16	Sacramento County Assessor (Lewis)	Revise sentence: These include the assessment roll, assessment maps, list of all property transferred in the last two years, welfare exemption claims and supporting documents, <u>and publicly available</u> market data, and information maintained on property characteristics.	Not accepted. Section 408(d) doesn't state publicly available.
11	3	2	Sacramento County Assessor (Lewis)	Add sentence: <u>This is generally interpreted to include email and electronically stored data.</u>	Accepted.
12	3	18	Alameda County Assessor (Thomsen)	Revise sentence: Section 408(b) incorporated the above Government Code section into the Revenue and Taxation Code in order to confirm the authority and jurisdiction of the board of supervisors and to ensure that, <u>when conducting an investigation of the assessor's office</u> , the board of supervisors has access to all documents in a county assessor's possession.	Accepted.
13	3	21	Sacramento County Assessor (Lewis)	Add new heading: <u>Confidentiality Rule Exception.</u>	Not necessary.
14	3	22	Alameda County Assessor (Thomsen)	Revise sentence: It requires that <u>allows</u> a county assessor to disclose information or permit access to all records sought by a county assessor of any other county and <u>requires access to</u> the following:	Accepted.
15	3	22	Riverside County Assessor (Colt)	Comment: Section 408 is permissive on the issue of disclosing information to another county assessor.	See item 14.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
16	4	12	Sacramento County Assessor (Lewis)	<p>Revise paragraph: Move the sentence from Page 5 Lines 1 and 2 in between the two sentences on lines Page 4 Lines 12 and 13.</p> <p>The resulting paragraph will read: "Section 601 instructs a county assessor to prepare an assessment roll showing all assessable property within the county. Section 1602 provides that the information contained on the roll is public and must be made available for inspection during regular office hours.</p> <p>The assessment roll must contain the following information:</p>	Accepted.
17	4	27	Placer County Assessor (Dear)	<p>Add sentence: Add the following bullet point to the section 601 requirements:</p> <ul style="list-style-type: none"> • <u>Any other things required by the board.</u> 	Accepted.
18	4	27	Sacramento County Assessor (Lewis)	<p>Add bullet:</p> <ul style="list-style-type: none"> • <u>Exemption amount granted on roll.</u> <p>SBE rewrite: Add paragraph at top of page 5.</p> <p><u>The local roll will also contain the exempt amount of any assessed value of land, improvements, and personal property subject to taxation at general property tax rates, with identifying legends or distinctive positions for amounts allowed pursuant to the inventory exemption, the homeowners' exemption, and any other reimbursable exemptions.</u>^{Fn}</p> <p>^{Fn} <u>Property Tax Rule 252, subsection (a)(12).</u></p>	See SBE rewrite.
19	5	4	San Diego County Counsel (de Lorrell)	<p>Revise sentence: Organizational exemption claims and related documents are available for public inspection pursuant to the Act and section 408.2.</p> <p>Comments: Cite the specific statutory and case authority for why exemption records do not fall under Section 408. (i.e. <i>Statewide Homeowners</i> at p. 570 and Sections 251 et seq.) Section 408.2 only applies to counties with a population over four million (LA County). Section 408.2(e).</p> <p>SBE rewrite: Organizational exemption claims and related documents are available for public inspection pursuant to the Act, and section 408.2. <u>Documents which are required to be kept or prepared by a county assessor are considered public documents.</u>^{Fn}</p> <p>^{Fn} <u><i>Statewide Homeowners, Inc. v Williams</i> (1973) 30 Cal. App.3d 567.</u></p>	Accepted. See SBE rewrite.
20	5	9	Madera County	<p>Comment: Section 408.3(c) states that the assessor may require that a fee reasonably</p>	Not accepted. This is

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			Assessor (Kidwell)	related to the actual cost of developing and providing the information be paid by the party receiving the information as it concerns the "property characteristics."	addressed at page 6, line 26.
21	5	20	Madera County Assessor (Kidwell)	Comment: Section 327 says that the map or copy shall at all times be publicly displayed in the office of the Assessor (we provide those maps for review at our front counter.) It does not say it has to be furnished upon request (the Assessor's 11" X 17" maps.) The Geographic Information Systems (GIS) Parcel Base Map is a separate mapping system that is not tied to the 11" X 17" Assessor's maps (AutoCAD.)	Not accepted. Attorney General Opinion 04-1105, page 2, concludes that "a copy of parcel boundary map data maintained in electronic format must be furnished promptly upon request of a member of the public."
22	5	20	Madera County Assessor (Kidwell)	Comment: Reference to Government Code sections 27556 through 27560 should be included because the sections address the preparation of Assessor's 11" X 17" maps. These sections do not reference the maps being made available upon request.	Not accepted. Government Code sections 27550 through 27564 pertain to the Surveyor, not Assessor.
23	5	20	Madera County Assessor (Kidwell)	Comment: Government Code sections 6250 et seq. do not refer to GIS data as being made available directly or indirectly upon request by the public, but section 6254.9 clearly indicates that the state or local agency (Assessor) can sell, lease, or license the software for commercial or non-commercial use.	Not accepted. Refer to page 8 of Attorney General Opinion 04-1105. Parcel map data is not software.
24	5	26	Sacramento County Assessor (Lewis)	Comment: Recommend quote or paraphrase from the Attorney General Opinion 04-1105 to clarify whether a fee can be charged for providing the electronic format parcel boundary map data. SBE rewrite: add paragraph after line 26. <u>The fee that may be charged by a county for furnishing a copy of parcel boundary map data maintained in an electronic format by a county assessor is generally limited to the amount that covers the direct cost of producing the copy but may include certain other costs depending upon the particular circumstances as specified in the California Public Records Act.</u>	Accepted. See SBE rewrite.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
25	5	28	Placer County Assessor (Dear)	Revise sentence: Section 408.1 provides in part that a county assessor must maintain a list of property transfers <u>of any interest in real property, other than undivided interests,</u> within the county that have occurred within the preceding two-year period.	Accepted.
26	6	5	Sacramento County Assessor (Lewis)	Move sentence from page 16, line 9: <ul style="list-style-type: none"> Consideration paid for such property (if known) <u>The consideration paid for the property can usually be calculated from the amount of documentary transfer tax shown on the recorded deed. In some cases, real estate publications and Realtors' Multiple Listing Service databases disclose information to the public concerning the sales price or liabilities assumed.</u>	Not accepted.
27	6	5	SBE staff	Add parenthetical note: [<u>See following section entitled "Reconciliation of Sections 408.1 and 481".</u>]	Accepted.
28	6	10	San Diego County Counsel (de Lorrell)	Revise footnote: Section 481, <u>408.1(f).</u>	Accepted.
29	6	17	Sacramento County Assessor (Lewis)	Revise sentence: <ul style="list-style-type: none"> The consideration paid for each property (if known) 	Accepted.
30	6	20	Placer County Assessor (Dear)	Add sentence: The Assessor may require the deposit of a nonrefundable fee consistent with section 408.1(d) and (e).	Accepted.
31	6	28	Placer County Assessor (Dear)	Revise footnote: Section 408.3(e). Section 409(a). SBE rewrite: Sections <u>408.3(c) and 409(a).</u>	See SBE rewrite. 408.3(c) is relevant; 409(a) added to footnote.
32	7	2	Sacramento County Assessor (Lewis)	Revise sentence: Section 408(b) provides that a county assessor is required to disclose <u>all confidential and public</u> information, or permit access to all records in a county assessor's office, to:	Accepted.
33	8	10	SBE staff	Revise sentence and add footnote: The district attorneys <u>and the City Attorney of the City and County of San Francisco,</u> and their deputies and employees, in the 58 California counties are "law enforcement agencies" within the meaning of section 408(b). ^{Fn}	Accepted.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
				^{Fn} Rule 301(l).	
34	9	21	SBE staff	Revise paragraph: Section 1153.5 provides for the establishment of a lead county assessor's office for each commercial air carrier operating certificated aircraft. <u>Section 1162 provides for the establishment of a lead county assessor's office for each manager in control of a fleet of fractionally owned aircraft.</u> The lead county office, pursuant to either section 1153.5 or 1162, receives the property statements from the carrier or manager of the fractional ownership program, calculates the unallocated value of the aircraft, electronically transmits the calculated values to the county in which the aircraft has situs, and leads the audit team when an audit of the designated carrier is conducted.	Accepted.
35	11	20	Sacramento County Assessor (Lewis)	Revise sentence: These Examples include, but are not limited to, property statements, Preliminary Change of Ownership Report (PCOR), Change of Ownership Statement (COS), and the Claim for Homeowners' Property Tax Exemption.	Accepted.
36	11	22	Sacramento County Assessor (Lewis)	Add sentence: <u>A full categorized listing can be found on page 14 of this document.</u> SBE rewrite: <u>Refer to the section entitled "Summary of Confidential Claims and Forms" for a complete listing.</u>	See SBE rewrite.
37	12	11	SBE staff	Add sentence and footnote: <u>Information contained in the statement may be shared with the Board.</u> ^{Fn} ^{Fn} Section 452(b)(1)(C).	Accepted
38	12	18	Placer County Assessor (Dear)	Add sentence: Add the following bullet point to the list of property statements <ul style="list-style-type: none"> • <u>Business Property Statement, short form.</u> SBE rewrite: <ul style="list-style-type: none"> • <u>Business Property Statement, Long Form (BOE-571-L)</u> • <u>Business Property Statement, Short Form (BOE-571-S)</u> 	Accepted, see SBE rewrite.
39	13	19	San Diego County Counsel (de Lorrell)	Revise sentence: The Claim for Homeowners' Property Tax Exemption contains confidential information, such as social security numbers <u>and is not a public record.</u> Add footnote for this sentence: ^{Fn} Section 408(a).	Accepted.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
40	13	23	San Diego County Counsel (de Lorrell)	<p>Revise sentence: The Claim for Disabled Veterans' Property Tax Exemption is confidential because it contains the applicant's social security number <u>and is not a public record.</u></p> <p>Add footnote for this sentence: ^{Fn} <u>Section 408(a).</u></p>	Accepted.
41	14	12	San Diego County Counsel (de Lorrell)	<p>Add footnotes: Add footnotes for each form listed in the table as follows. Forms BOE-58-AH and 58-G: ^{Fn} <u>Section 63.1(i).</u> Forms BOE-60-AH, 60-NR and 62: ^{Fn} <u>Section 69.5(n).</u> Forms BOE-261-G and 266: ^{Fn} <u>Section 408(a).</u></p>	Accepted.
42	14	14	San Diego County Counsel (de Lorrell)	<p>Revise heading: CONFIDENTIAL— <u>PROPERTY OR BUSINESS AFFAIRS OF OTHERS</u></p>	Accepted.
43	16	4	SBE staff	<p>Revise sentence: ...only information from the PCOR or COS that is otherwise public information.</p>	Accepted
44	16	12	Gangloff, Gangloff & Pool (Pool)	<p>Add sentence: "However, the assessor should not include the purchase price obtained from a PCOR or a COS in any public document unless and until it has been confirmed that it is available from some other public source such as a recorded deed that includes the transfer tax from which the selling price can be calculated by the public or from a real estate publication such as a Realtors' Multiple Listing Service database."</p> <p>SBE rewrite: add sentence. <u>However, the county assessor should not include the purchase price obtained from a PCOR or a COS in any public document unless it has been confirmed that it is available from some other public source.</u></p>	See SBE rewrite.
45	16	13	San Diego County Counsel (de Lorrell)	<p>Revise heading: INFORMATION RELATED TO <u>PROPERTY OR BUSINESS AFFAIRS OF OTHERS</u></p>	Accepted.
46	16	14	San Diego County Counsel (de Lorrell)	<p>Revise paragraphs: <u>Section 408 states that a county assessor shall permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by a county assessor, relating to the appraisal and the assessment of the assessee's property. However, a county assessor is prohibited from disclosing to one taxpayer information and records that also relate to the property or business affairs of another taxpayer. An exception occurs when the disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the validity of the assessment of his or her property.</u></p>	Accepted.

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				<p><u>Subsequent to a change in ownership, a prior owner is not permitted to have the same access to those confidential records because he or she is no longer the assessee.</u></p> <p><u>The California Public Records Act provides the information and records prohibited from disclosure by section 408 are exempt from disclosure under Government Code section 6254(k). Government Code section 6254(i) describes other records that may not be disclosed by a county assessor:</u></p> <p style="padding-left: 40px;">Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.</p> <p>Section 408 states that a county assessor shall permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by a county assessor, relating to the appraisal and the assessment of the assessee's property.</p> <p>Subsequent to a change in ownership, a prior owner is not permitted to have the same access to those confidential records because he or she is no longer the assessee.</p>	
47	16	24	Placer County Assessor (Dear)	Revise sentence: Section 408(e)(1) states that a county assessor shall permit...	Accepted.
48	16	24	Sacramento County Assessor (Lewis)	<p>Comment: Please clarify that it is only the "current" assessee who can inspect the record. And, if true, that a current owner would have access to information related to his or her period of ownership but not a prior owner's PCOR, etc.</p> <p>Revise paragraph: Section 408 states that a county assessor shall permit the <u>current</u> assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by a county assessor, relating to the appraisal and the assessment of the assessee's property.</p>	Not accepted. See item 46.

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49	16	28	Sacramento County Assessor (Lewis)	<p>Comment: Also, please clarify if the prior owner can have access to information related to his or her period of ownership such as an appraisal record or building record. Or are they completely closed out from access to any non-public information once they sell?</p> <p>Revise sentence: Subsequent to a change in ownership, a prior owner is not permitted to have the same access to those confidential records because he or she is no longer the <u>current assessee</u>.</p>	Not accepted. See item 46.
50	18	14	Sacramento County Assessor (Lewis)	<p>Revise paragraph: <u>A general recommendation is that confidential information should not be exchanged via email. The most widely used Internet e-mail protocol, Simple Mail Transfer Protocol (SMTP), is inherently not secure.</u> Messages sent in this fashion are easily readable by others. A general recommendation is that confidential information should not be exchanged via e-mail. The most widely used Internet e-mail protocol, Simple Mail Transfer Protocol (SMTP), is inherently not secure.</p>	Accepted.
51	18	19	San Diego County Counsel (de Lorrell)	<p>Revise sentence: When a portion of a hearing involves evidence regarding trade secrets for which the county assessor or applicant wishes to maintain confidentiality, that portion of the hearing may be closed to the public.</p>	Discussion item.
52	19	5	San Diego County Counsel (de Lorrell)	<p>Revise sentences: If the information is included as an exhibit, or if the minutes <u>or other record</u> of the hearing delineates the information, confidentiality would not be maintained. Therefore, the confidential information must be redacted/deleted from the published minutes <u>record or sealed to prevent public disclosure.</u></p>	Accepted.
53	19	9	Sacramento County Assessor (Lewis)	<p>Comment: We think the Examples 1 and 2 are obvious (but helpful). The same principles can be applicable to other property types with specialized information, such as the occupancy ratios on lodging / hotel properties. However, please clarify whether other, more "typical" income producing properties (warehouse, office, retail) are at issue in the same way as gas wells or cable TV. Also, could add verbiage to the effect that Assessors have the duty to educate their appraisal staff on confidentiality issues and the procedures available to close portions of appeal hearings when necessary.</p>	Discussion item.
54	19	9	San Diego County Counsel (de Lorrell)	<p>Revise sentence: In the minutes <u>record</u> of a gas well appeal, the county assessor's exhibits include appraisal calculations that contain the taxpayer's name, current and prior years' production, and estimated reserves.</p>	Accepted.

No.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
55	19	14	San Diego County Counsel (de Lorrell)	Revise sentence: Therefore, prior to inclusion in the minutes record , all confidential information should be redacted <u>or sealed to prevent public disclosure</u> .	Accepted.
56	19	17	San Diego County Counsel (de Lorrell)	Revise sentence: The minutes record of a cable television appeal contain specific references, by the county assessor and assessee, to growth rate, market rent, discount rate, expense ratios, contract terms, and competitive issues.	Accepted.
57	20	2	Sacramento County Assessor (Lewis)	<p>Comment: Please cite (and possibly quote) the applicable statutes regarding the assessor being 'prohibited by law' from disclosing information relating to business affairs of another taxpayer unless the assessor has a written waiver from that taxpayer allowing disclosure of the information. Specifically, we don't know where the waiver cite is located.</p> <p>SBE rewrite: A county assessor is prohibited by law from disclosing market information that relates to the <u>property or business affairs</u> of another taxpayer unless the county assessor is provided with an <u>authorization</u> written waiver from that taxpayer allowing the <u>a designated representative county assessor to disclose to view or copy</u> the information. ^{Fn}</p> <p>^{Fn} <u>Section 408(d)</u>.</p>	See SBE rewrite.
58	20	2	San Diego County Counsel (de Lorrell)	Revise sentence: A county assessor is prohibited by law from disclosing market information that relates to the <u>property or business affairs</u> of another taxpayer unless the county assessor is provided with a written waiver from that taxpayer allowing the county assessor to disclose the information.	Accepted. See item 57 for SBE rewrite.
59	20	22	Sacramento County Assessor (Lewis)	Add sentence: <u>In contrast to the specialized industry properties illustrated in the Examples on Page 19, confidentiality may be less of a pressing concern in appraisals and appeals relating to typical income producing properties such as apartments, warehouses, office buildings, and retail properties, especially when the assessor's appraiser is able to verify data from an alternate source. Much data can be found or confirmed through web sites or by contacting leasing agents.</u>	Not accepted. Confidentiality is appropriate regardless of property type or value.
60	20	23	Sacramento County Assessor (Lewis)	<p>Comment: Omit the Example on Page 20. In our opinion, the A,B,C,D method is unworkable and impractical for typical income producing properties such as apartments, retail, warehouse, and office buildings. The A,B,C,D method could limit assessors' credibility, and possibly applicants' due process. And, taking things another step further, what would happen if an Appeals Board decision (based on A,B,C,D evidence) was taken to court by a dissatisfied applicant?</p> <p>To quote a May, 2007 communication from a Chief Appraiser in another county: "... the</p>	Discussion item.

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			<p>local [Assessment Appeals] board is charged with substituting its judgment for that of the Assessor if it finds that the property value being appealed is out of equalization. To properly discharge its duty to do this, the local board should have (at least from our side) the same information the Assessor had when the property was assessed in the first place. To preclude such information, some of which can be conclusive as to value, from the board's consideration would set up two disparate assessment systems; one [for] all taxpayers at the initial assessment of their property, and another one that uses inferior and less complete data for everyone who has filed an assessment appeal. Nor would this issue be mitigated by redacting information that might be considered confidential during the presentation of the case. That would only violate the parties' rights to due process."</p> <p>In our opinion, the example of an apartment complex as related to non-disclosure of confidential information is weak. Rental information for apartments can be found in such public sources as the local newspaper, or even signs on the property. It might be more instructive to use an example of an office building or retail property where the assessor might have in file less easily-obtainable data such as copies of rent rolls, leases, or annual profit-and-loss statements.</p> <p>In any event, if the Page 20 Example is retained, we recommend inserting language to specify that it is the Rent and Overall Rate comparables that are to be 'masked' and identified as A, B, C, D. The resulting paragraph would then read:</p> <p>In a multi-unit apartment appeal, data supporting the county assessor's use of the income approach was obtained from several recent sales of comparable apartment buildings used to impute rent and select overall rates. To maintain confidentiality, the Lease Information and OAR Comparable properties are identified in the assessor's exhibits as A, B, C, and D, with no references to owner's name, APN, street address, or other similar items.</p>	

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61	20	23	Cahill, Davis & O'Neill, LLP (Cahill)	<p>Comment: In the example shown under that Section, if the assessor relies on recent sales of comparable apartment buildings in making his assessment of the taxpayer's property, we believe the taxpayer is entitled under Sections 408, and 408.1 of the Revenue and Taxation Code to receive information about the buyer and seller of the property, the APN number, the street address, date of sale, sale price, etc. Likewise, if either the assessor or the taxpayer initiates an exchange of information under Section 1606 and the assessor has relied on those comparable sales in making his assessment, he must disclose the same type of information as required by Section 408.1. We do not think he can just mark comparable sales by a letter with no reference to the owner's name, the APN number, street address, or other similar items required to be disclosed.</p> <p>There is also a serious question as to whether the assessor can use comparable sales to develop a capitalization rate in the income approach if he obtained the confidential income or income stream of said properties from third parties, because he is specifically prohibited from disclosing the income or the income streams generated by property under Section 408.1(7), and that is a critical factor in developing capitalization rates from sales. (See also <i>Chanslor Western Oil and Development Co. v. Cook</i> (1980) 101 Cal.App.3d 407.)</p> <p>We believe that if the assessor wishes to use that type of information in an assessment appeal proceeding where the taxpayer is contesting the assessment of his property, the assessor must obtain a waiver from the third parties who provided the information to him or seek an order from the court permitting the disclosure of such information, with proper notice to the third parties whose information the assessor desires to disclose at the hearing. (See <i>Chanslor Western Oil and Development Co. v. Cook</i> (1980) 101 Cal.App.3d 407.) Without such waiver or court order, the assessor cannot disclose the information and thus, he is barred from using the information at the hearing. Otherwise, he would be denying the taxpayer's due process rights on cross-examination.</p>	Discussion item.
62	20	30	Placer County Assessor (Dear)	<p>Revise sentence: Rule 322 allows an applicant or a county assessor to request that the appeals board issue a subpoena for attendance of witnesses at a hearing, or, <u>if supported by an appropriate affidavit</u>, to produce books, records, maps, and documents relevant to the issues contemplated in the application.</p>	Accepted.
63	21	6	San Diego County Counsel (de Lorrell)	<p>Revise sentence: If an applicant has subpoenaed confidential information in a county assessor's possession concerning the <u>property or business</u> affairs of third parties, the county assessor must invoke the confidentiality provisions of sections 408, 451, and 481 and refuse to offer evidence on that matter unless the applicant has first sought and obtained a judicial order for disclosure.</p>	Accepted.

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64	--	--	Peter Michaels, Attorney at Law	Comment: The <i>Guidelines</i> should expressly recognize that, for purposes of safeguarding confidential information, local assesseees and state assesseees must be treated identically, particularly to ensure competitive neutrality.	Guidelines pertain to locally assessed properties only. Confidentiality for hearings of state-assessed properties are covered by the Board of Equalization Rules for Tax Appeals, Rules 5572-5574.