



March 4, 2011

Ms. Sherrie Kinkle
State Board of Equalization
Property and Special Taxes Department
450 N Street
PO Box 942879
Sacramento, CA 94279-0064 **VIA EMAIL: sherrie.kinkle@boe.ca.gov**

Re: Possessory Interests Annual Usage Report (Form BOE-502-P) Interested Parties
 – Response Requesting Clarification of the Legal Memorandum

Dear Ms. Kinkle:

I am writing on behalf of Cox Communications to request that the State Board of Equalization clarify the Legal Memorandum to ensure that county assessors disclose all possessory interest records transmitted to them by state and local governmental entities.

Cox provides cable television, broadband data and wired telephone services to residential and business customers in Los Angeles, Orange, San Diego and Santa Barbara counties. Our facilities occupy rights-of-way, and we are subject to property tax appraisals based on our possessory interests. In the 1980s, Cox litigated the case that led to the Court of Appeal to conclude that cable companies were subject to local property tax jurisdiction and that cable possessory interests were subject to taxation. Thus, we are interested in making sure that we have access to possessory interest documents in the hands of the assessors to help us evaluate whether our possessory interests are being treated comparably with others using the rights-of-way in a similar fashion.

We attended the interested parties meeting on December 1, 2010 to support of the position that, when faced with a request under the Public Records Act, county assessors have a duty to disclose all possessory interest records supplied to them by state and local governmental entities regardless of how they are labeled or whether they are transmitted in writing or electronically.

We appreciate the position as outlined in the Legal Memorandum that the Annual Possessory Interest Usage Report and its attachments are public records. We hope that the Board will revise the form to delete the indication that an assessor must keep the document "secret."

We are concerned, however, the Legal Memorandum does not make it crystal clear to the assessors that all possessory interest records in the assessors' possession from public agencies must be disclosed, regardless of how they are requested from the public agencies and regardless of how the assessors keep them. Our concern is exemplified by the flawed legal analysis in the Legal Memorandum that the same information supplied in a "change in ownership statement" by a public entity must be held secret by an assessor.

That is not logical. It would create a situation in which government agencies have the power to make public records secret simply by labeling them in a particular way. That cannot be right.

As we understand the Constitution and the Public Records Act, it makes no difference how a public agency gets these records get into an assessor's possession. The analysis should focus on the public nature of the records. Thus, because these public records are put the possession of a public agency (i.e., the assessor) by other government entities, the assessor has no secrecy obligation and the possessory interest records must be disclosed.

It would be very helpful for the Board to clarify this.

Respectfully submitted,



Art Yoon
Director, Government Affairs

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