



STATE BOARD OF EQUALIZATION  
PROPERTY TAXES DEPARTMENT  
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E. L. SORENSEN, JR.  
Executive Director

May 21, 1999

TO INTERESTED PARTIES:

PHASE II  
REVISION OF LOCAL EQUALIZATION RULES

Enclosed are draft copies of the seven rules that will comprise Phase II of the revision project for the Local Equalization Rules—Property Tax Rules 301 through 326. These seven rules are scheduled for discussion at the Board's Property Tax Committee meeting in Sacramento on October 6, 1999. Also enclosed is a summary matrix of the suggested changes we received from interested parties for these rules. The rules are:

Rule 301	Rule 305.2 (New)	Rule 321
Rule 305	Rule 309	
Rule 305.1	Rule 313	

Comments regarding these drafts must be received by July 2, 1999. An interested parties meeting will be held in Sacramento on August 5 and, if necessary, August 6. Comments may be submitted through the project leaders or directly to Board staff. The project leaders are:

California Association of Clerks and Election Officials  
Mr. John McKibben  
Deputy Executive Officer, Board of Supervisors  
500 West Temple Street, Room 383  
Los Angeles, CA 90012  
Telephone: (213) 974-1405 FAX: (213) 633-5100

California Assessors' Association  
Honorable Mike DeFerrari  
Stanislaus County Assessor  
P. O. Box 1068  
Modesto, CA 95353-1068  
Telephone: (209) 525-6461 FAX: (209) 525-6586

California Clerk of the Board of Supervisors Association  
Ms. Christine Ferraro-Tallman  
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1100 H Street  
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County Counsels' Association of California (Representing Assessors)

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Deputy County Counsel, El Dorado County

330 Fair Lane

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Taxpayers

Ms. Carol Ross Evans

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Sacramento, CA 95814

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Comments submitted directly to Board staff should be sent to Dean Kinnee or Sherrie Kinkle in the Policy, Planning, and Standards Division; FAX (916) 323-8765.

Thank you for your continued interest in this project. If you have any questions, please contact either Dean Kinnee at (916) 322-3822 or Sherrie Kinkle at (916) 322-2921.

Sincerely,

Richard C. Johnson

Deputy Director

Property Taxes Department

RCJ:sk

Enclosures

**LOCAL EQUALIZATION PROPERTY TAX RULES  
PHASE II - RULES 301, 305, 305.1, 305.2, 309, 313, 321  
PROPOSED AMENDMENTS FOR OCTOBER PROPERTY TAX COMMITTEE**

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
1	301-326	Solano County Counsel (Wood)	Opposes any Property Tax Rule change which would limit a County Assessment Appeals Board's ability to make local rules.	Agree
2	301	Kern County Counsel (Gallagher)	<p>Change subsection (a): "'County' is the county wherein the property is located <del>which</del> <u>that</u> is the subject of the proceedings under this subchapter."</p> <p>Change subsection (e): "'Chairman' is the chairman of the <u>county board of equalization or assessment appeals.</u>"</p> <p>Change subsection (f): "'Clerk' is the clerk of the board <u>of equalization or assessment appeals.</u>"</p> <p>Change subsection (g): "'Person affected' is one who owns a <u>present economic interest in property, substantially equivalent to fee ownership, or who has the contractual responsibility to the person holding the substantial equivalent to fee ownership for the payment of property taxes levied against a property</u> which is the subject of the proceedings under this subchapter."</p> <p>Change subsection (i): "'Restricted value is a value standard other than full cash value prescribed by the Constitution or by <u>a statute authorized by the California Constitution.</u>"</p> <p>Change subsection (l): "'County legal advisor' is the county counsel <u>of a county</u> or City Attorney of the City and County of San Francisco <u>or the district attorney of the county if there is no county counsel responsible for providing legal advice to a county's assessment appeals board or board of equalization.</u>"</p>	<p>Accepted</p> <p>Accepted – Reworded</p> <p>Accepted – Reworded</p> <p>Not accepted — See Item 6</p> <p>Not accepted — Reference omitted</p> <p>Accepted – Reworded</p>
3	301	Fresno County Counsel (Grunwald)	<p>Delete subsection (e): "'<del>Chairman</del>' is the <del>chairman of the board.</del>"</p> <p>Add: "(e) 'Chair' is the chair of the board."</p>	Accepted
4	301	Cal-Tax	<p>Change subsection (d): "'Board' is the board of equalization or <u>a duly constituted</u> assessment appeals board of the county."</p> <p>Change subsection (g): "'Person affected' is <u>the owner of the property or any person having a direct economic interest in the payment of the property taxes</u><del>one who owns an interest in</del> <u>on</u> property which is the subject of the proceedings under this subchapter."</p> <p>Change subsection (k): "'Taxable value is the base year full value adjusted for any given <del>lien</del> <u>assessment</u> date as required by law, <del>or</del> <u>the full cash value, or the restricted value</u> for the same <del>lien</del> <u>assessment</u> date, whichever is less."</p> <p>Change subsection (l): "'County legal advisor' is the county counsel or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco, <u>that advises the board.</u>"</p> <p>Add new subsection (m): "'<u>The property</u>' is <u>the property which is the subject of the application, or the appraisal unit which the board determines is the subject of the hearing.</u>"</p> <p>Add new subsection (n): "'<u>Equalize</u>' is the determination by the board of the correct taxable value of the <u>property.</u>"</p>	<p>Not accepted</p> <p>Not accepted — See Item 6</p> <p>Not accepted</p> <p>Not accepted — See Item 2</p> <p>Not accepted</p> <p>Accepted – Reworded</p>
5	301	Madera County Assessor	Change subsection (g): "' <u>Party affected</u> ' includes, but is not limited to, <u>the property owner or lessee required by the lease to pay the current property taxes and/or any delinquent property taxes due.</u> "	Not accepted — See Item 6

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
6	301	CA Association of Clerks	<p>Delete subsection (g): "<del>'Person affected' is one who owns an interest in property which is the subject of the proceedings under this subchapter.</del>"</p> <p>Add: "(g) 'Party affected' is any person or entity having a direct economic interest in the payment of property taxes on the property as of the valuation date which is the subject of the proceedings under this subchapter, including, but not limited to, a property owner or a lessee required by the lease to pay the property tax."</p> <p>Change subsection (i): "Restricted value is a value standard other than full cash value <u>as defined in subsection (h) above</u> <del>prescribed by the Constitution or by statute authorized by the Constitution.</del>"</p> <p>Change subsection (k): "Taxable value is the base year full value adjusted for any given lien date as required by law or the full cash value <u>of the appraisal unit, including land and improvements,</u> for the same lien date, whichever is less."</p>	<p>Accepted – Reworded</p> <p>Accepted</p> <p>Not accepted</p>
7	301	Industry (Mo)	Change subsection (g): "'Person affected' is one who owns an interest in property which is the subject of the proceedings under this subchapter <u>or one who has the obligation to pay the taxes on the property.</u> "	Not accepted — See Item 6
8	301	Los Angeles County Assessor	Add a definition of "authorized agent" and "authorized attorney," referred to in rule 305(a), that comports with Sec. 1603(f) and defines such person(s) as someone who has been authorized and/or retained directly <i>by the applicant.</i>	No specific wording submitted — See Item 9
9	301	Eagle's Lodge West	<p>Delete: "<del>(g) 'Person affected' is one who owns an interest in property which is the subject of the proceedings under this subchapter.</del>"</p> <p>Add: "(g) 'Person affected' is one who has a direct economic interest in the property which includes any person obligated by operation of law or contract to pay the tax, any person who has actually paid the tax, and the owner of the property."</p> <p>Add new subdivision (m): "(m) 'Authorized agent' is one who is authorized by the applicant to represent the applicant in an assessment appeals proceeding. <u>An authorized agent may include an employee of a corporation who, during the normal course of the employee's duties, is authorized to represent the corporation in assessment appeals matters. Such an employee is not required to file a separate agency authorization with an application or at the time of hearing.</u>"</p>	<p>Not accepted — See Item 6</p> <p>Partially accepted</p>
10	305	Fresno County Counsel (Grunwald)	<p>Change first sentence of subsection (a): "(a) WHO MAY FILE. The application is made by a person affected or <del>his</del> <u>the person's agent.</u>"</p> <p>Change first sentence of subsection (b): "The application shall be in writing and signed by applicant or <del>his</del> <u>the applicant's</u> agent with declaration under penalty of perjury that the statements made in the application are true."</p> <p>Change last sentence in subsection (c): "If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which <del>he</del> <u>the applicant</u> may request <del>his</del> <u>that the</u> application be heard by such an officer."</p>	<p>Accepted</p> <p>Accepted</p> <p>Accepted</p>
11	305	Fresno County Counsel (Grunwald)	Change subsection (a): "The application is made by a person affected or his agent. If the application is made by an agent other than an <del>authorized</del> attorney licensed to practice in this state <u>who has been authorized by the applicant to act as his attorney,</u> or a relative mentioned in section 320, written authorization to so act must be filed with the application. If the applicant is a corporation, the authorization must be signed by an officer of the corporation. <u>An attorney may not list a non-attorney as the "person to contact" or otherwise refer the application to a non-attorney, but the applicant may, with appropriate authorization, substitute a non-attorney as agent.</u> "	Not accepted
12	305	Fresno County Counsel (Grunwald)	Change first sentence of subsection (b): "The application shall be in writing and signed by <u>the</u> applicant or his agent with <u>a</u> declaration under penalty of perjury that the statements made in the application are true."	Accepted

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
13	305	Industry (Mo)	Add at end of subsection (c)(6): ". . . assessed values. <u>The applicant may make the same application both a request for decline in value for the current tax year and a request for change in the base year value.</u> "	Not accepted — Local rules dictate
14	305	Humboldt County Assessor	In subsection (c)(7), increase the fee to a minimum of \$40 to more closely cover actual costs.	Not accepted — R&T Section 408.1(d)
15	305	Industry (Mo)	Delete in subsection (d): " <del>March 1.</del> Add: " <u>January 1</u> "	Wrong version of rule; change made 10/23/97
16	305	Los Angeles County Assessor	Change the regular assessment period definition in the last line to "from January 1 to and including July 1."	Wrong version of rule; change made 10/23/97
17	305	Industry (Mo)	Delete in paragraph following (8): " <del>Prompt notice that an application is invalid shall be given. An application which shows the foregoing items is valid and no additional information shall be requested of the applicant on the application form.</del> " Add: " <u>Written notice that an application is invalid shall be given to the applicant at the address indicated on the application no later than 120 days after the filing of the application. The notice shall state the reason(s) why the application is invalid. If written notice is not given to the applicant within the foregoing 120 day period, the application shall be deemed properly and timely filed. An application which shows the foregoing items is valid and complete, and no additional information shall be requested of the applicant on the application, or thereafter from any person, including the assessor, in order to have a valid and complete application.</u> "	Not accepted
18	305	Eagle's Lodge West	Add sentence to end of subdivision (a): " <u>An agent must have authorization to file an application at the time the application was filed; retroactive authorizations are not permitted.</u> " Add new paragraph to end of subdivision (a): " <u>The agent shall be deemed to have been duly authorized if "Box 2" of the form prescribed by the State Board of Equalization is completed but the applicant's written authorization is attached to or otherwise separately filed concurrently with the application and the agent signs the application where indicated. The application in "Box 2" should bear the notation 'Agent's Authorization Filed Separately,' or words to that effect, on the state-prescribed form when the agent's authorization is attached to the application or separately filed.</u> " Delete in subdivision (b): " <del>If the application is executed outside the State of California, it shall be sworn to before a notary public or other person authorized to administer oaths.</del> " Add to subdivision (c): ". . . are to be made. <u>The application should permit applicants to designate multiple grounds for appeal.</u> " Add to last paragraph of subdivision (c): ". . . shall be given. <u>An applicant who has received notice shall be given a reasonable opportunity to correct the deficiency or deficiencies.</u> " Add to subdivision (e): ". . . originally requested. <u>An applicant may amend an application as a matter of right for up to 120 days after the application is filed, on the condition that the two-year period provided in section 1604 of the Revenue and Taxation Code be extended for a similar period of time.</u> " Add new subdivision (f): " <u>If an otherwise valid application for changed assessment is designated as a claim for refund pursuant to Revenue &amp; Taxation Code Section 5097(b), the taxpayer shall be deemed to have challenged each and every finding of the board and to have satisfied the requirements of Revenue &amp; Taxation Code Section 5097.02.</u> "	Accepted – Reworded Accepted – Reworded Accepted Not accepted — Local rules dictate Accepted – Reworded Not accepted — See <i>Midstate Theatres v. BOS</i> 46 C.A.3d 204 Accepted – Reworded

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
19	305	CA Association of Clerks	<p>Change reference: "Sections <u>408.1</u>, 1603, 1605 Revenue and Taxation Code."</p> <p>Change subsection (a): "The application is made by a <del>person-party</del> affected or his or her agent. If the application is made by an agent other than <del>an authorized attorney licensed to practice in this state a California licensed attorney</del> authorized by the applicant, prior to the time of filing, to file the application on the <u>applicant's behalf</u>, or a relative mentioned in section 320, written authorization to so act must be filed <del>with</del> <u>on</u> the application <u>unless local rules permit otherwise</u>. If the applicant is a corporation, the authorization must be signed by an officer of the corporation."</p> <p>Change subsection (b): "The application shall be in writing and signed by applicant or his or her agent with declaration under penalty of perjury that the statements made in the application are true <u>and that the person signing the application is one of the following: (1) The owner of the property or the party affected, (2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application form, or (3) An attorney licensed to practice law in the State of California who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.</u>"</p> <p>Change subsection (c)(2) "(2) The name and address of the applicant's agent, if any. <u>An agent may not furnish his or her own mailing address in place of an applicant's actual mailing address. If the applicant will be represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application:</u>"</p> <p>Add sentence to subsection (c)(7): ". . . ten dollars (\$10). <u>This paragraph shall not apply to counties of a population of under 50,000 people as determined by the 1970 decennial census pursuant to section 408.1 of the Revenue and Taxation Code.</u>"</p> <p>Change last sentence of subsection (c): "If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which he or she may request <del>his</del> <u>that the</u> application be heard by such an officer."</p> <p>Add sentence to subsection (d): ". . . such period. <u>An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates. If September 15 falls on Saturday, Sunday or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.</u>"</p> <p>Change last paragraph of subsection (d): "An application for a change of assessment made outside the regular assessment period must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment, <u>or no later than 60 days after the mailing of the tax bill in a county of the first class and in those counties whose board of supervisors has adopted a resolution to that effect,</u> pursuant to section 1605 of the Revenue and Taxation Code. Except as provided in Revenue and Taxation Code sections 619.2, 620 and <del>620.5</del> <u>subdivision (d) of section 1603</u>, the board has no jurisdiction to hear an application unless filed within the time specified. The regular assessment period is from <del>March 1</del> <u>January 1</u> to and including July 1 or to such later date for completion of the roll as may be authorized by the State Board of Equalization."</p>	<p>Accepted</p> <p>Not accepted</p> <p>Accepted – Reworded</p> <p>Accepted – Reworded</p> <p>Accepted – Reworded</p> <p>Accepted</p> <p>Accepted – Reworded See R&amp;T Code § 166</p> <p>Accepted</p> <p>Wrong version of rule; change made 10/23/97</p>

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
20	305	Kern County Counsel (Gallagher)	<p>Change last sentence of subsection (a): "If the applicant is a corporation <u>or other legal entity</u>, the authorization must be signed by an officer of the corporation <u>or other legal entity</u>."</p> <p>Delete last sentence of subsection (b): "<del>If the application is executed outside the State of California, it shall be sworn to before a notary public or other person authorized to administer oaths.</del>"</p> <p>Add: "<u>The verification shall be in the following form: I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct, and complete to the best of my knowledge and belief and that I am (1) the owner of the property or the person affected (i.e., a person having a direct economic interest in the payment of the taxes on that property—"The Applicant," (2) an agent authorized by the applicant under Item 2 of this application, or (3) an attorney licensed to practice law in the State of California, State Bar No. _____, who has been retained by the applicant and has been authorized by that person to file this application.</u>"</p> <p>Change subsection (c)(2): "<u>The name and address of the applicant's agent, if any, and the applicant's executed written authorization for the agent to act on the applicant's behalf;</u></p> <p>Change subsection (c)(8): "<u>A notice that written findings of fact will be available prepared by the board upon request and payment of the findings fee established by the board. An appropriate place for the applicant to make the request. (See Sections 308 and 325 for other provisions regarding findings of fact.)</u>"</p> <p>Change last paragraph of subsection (c): "<u>Prompt notice that an application is invalid shall be given by the board clerk. Disputes concerning the validity of an application shall be resolved by the board.</u>"</p> <p>Change last paragraph of subsection (d): "<u>An application for a change of assessment made outside the regular assessment period must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment pursuant to Section 1605 of the Revenue and Taxation Code. The application shall be filed within the time period from July 2 to September 15, inclusive. An application that is mailed and postmarked September 15 or earlier within that period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15. If September 15 falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed to have been filed within "the time period beginning July 2 and continuing through and including September 15." If on the dates specified in this paragraph, the county's offices are closed for business prior to 5 p.m. or for that entire day, that day shall be considered a legal holiday for purposes of this section. If the taxpayer does not receive the notice of assessment described in Section 619 at least 15 calendar days prior to the deadline to file the application described in this subdivision, the party affected, or his or her agent, may file an application within 60 days of receipt of the notice of assessment or within 60 days of the mailing of the tax bill, whichever is earlier, along with an affidavit declaring under penalty of perjury that the notice was not timely received. Except as provided in Revenue and Taxation Code Sections 169.2 . . . ."</u></p> <p>Add new subsection (e): "<u>(e) Upon the recommendation of the assessor and the clerk of the county board of equalization, the board of supervisors may adopt a resolution providing that an application may be filed within 60 days of the mailing of the notice of the assessor's response to a request for reassessment pursuant to paragraph (2) of subdivision (a) of Section 51, if all of the following conditions are met: (1) The request for reassessment was submitted in writing to the assessor in the form prescribed by the State Board of Equalization and includes all information that is prescribed by the State Board of Equalization form. (2) The request for reassessment was made on or before the immediately preceding March 15. (3) The assessor's response to the request for reassessment was mailed on or after September 1 of the calendar year in which the request for reassessment was made. (4) The assessor did not reduce the assessment in question in the full</u></p>	<p>Not accepted — Wording in Rule 317</p> <p>Accepted</p> <p>Not accepted — See subsection (b)</p> <p>Accepted – Reworded</p> <p>Accepted – Reworded</p> <p>Accepted – Reworded</p> <p>Not accepted — See Item 19</p> <p>Not accepted — See subsection (d)</p>

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
20 Cont	305	Kern County Counsel (Gallagher)	<u>amount as requested. (5) The application for changed assessment is filed on or before December 31 of the year in which the request for reassessment was filed. (6) The application for reduction in assessment is accompanied by a copy of the assessor's response to the request for reassessment.</u> "	
21	305	Cal-Tax	<p>Change subsection (a): "<del>An</del> <u>The application is made</u> <del>may be filed</del> by <u>any</u> person affected or his agent. If the application is made by an agent other than an authorized attorney licensed to practice in this state, or a relative mentioned in section 320, written authorization to so act must be filed with the application. If the applicant is a corporation, the authorization must be signed by an officer <u>or authorized employee</u> of the corporation."</p> <p>Change subsection (c)(4): "<u>The applicant's opinion of the taxable value of the property, or the base year full value of the property adjusted as required by law, on the valuation date of the assessment year in issue;</u>"</p> <p>Change subsection (c)(6): "<del>The facts</del> <u>issues</u> relied upon to support the claim that the board should order a change in the assessed value, <u>base year value</u>, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values."</p> <p>Changed last paragraph of subsection (c): "<u>An application which does not show the foregoing items to be filled in by the applicant is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given to the applicant and, where applicable, his agent. The applicant and his agent shall be given an opportunity to cure the defects in the application.</u> An application which . . ."</p> <p>Change subsection (e): "<del>No application may be amended after 5:00 p.m. on the last day upon which it might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested. An application may be amended up to the commencement of the hearing.</del>"</p> <p>Add new subsection (f): "<u>(f) When an otherwise valid application for changed assessment is designated as a claim for refund pursuant to California Revenue &amp; Taxation Code Section 5097(b), the taxpayer shall be deemed to have satisfied the requirements of Revenue &amp; Taxation Code Section 5097.02.</u>"</p>	<p>Not accepted</p> <p>Not accepted</p> <p>Not accepted (issues)– See Board-prescribed form</p> <p>Accepted (base year value)</p> <p>Accepted – Reworded</p> <p>Not accepted — See <i>Midstate Theatres v. BOS 46 C.A.3d 204</i></p> <p>Accepted – Reworded</p>
22	305	Industry (Mo)	<p>Delete subsection (e): "<del>AMENDMENTS. No application may be amended after 5:00 p.m. on the last day upon which it might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested.</del>"</p> <p>Add: "(e) <u>AMENDMENTS. The application may be amended at any time prior to twenty (20) days before the date set for hearing the application.</u>"</p>	Not accepted — See <i>Midstate Theatres v. BOS 46 C.A.3d 204</i>
23	305	Industry (Gangloff)	<p>Delete subsection (e): "<del>AMENDMENTS. No application may be amended after 5:00 p.m. on the last day upon which it might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested.</del>"</p> <p>Add: "(e) <u>AMENDMENTS. The application may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon the application.</u>"</p>	Not accepted — See <i>Midstate Theatres v. BOS 46 C.A.3d 204</i>
24	305	El Dorado County Counsel (Parker)	Add at end of subsection (e): " <u>'Relief additional to or different in nature from that originally requested' includes an applicant's request for an amended applicant opinion of value less than the opinion of value stated on the original appeal application.</u> "	Not accepted
25	305	Industry (Mo)	<p>Add new subsection: "<u>(f) No fee shall be imposed on the applicant for filing an application for changed assessment.</u>"</p> <p>Add new subsection: "<u>(g) The applicant may designate the application as a claim for refund under Revenue and Taxation Code Section 5097. Any application so designated shall be deemed to have challenged all material findings which are adverse to the applicant.</u>"</p>	<p>Not accepted</p> <p>Not accepted — See Item 21</p>

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
26	305.1	Kern County Counsel (Gallagher)	Change first sentence of subsection (c): "Whenever information has been exchanged pursuant to this section, the parties may introduce evidence only on matters <u>pertaining to the information</u> so exchanged unless the other party consents to introduction of other evidence."	Accepted
27	305.1	El Dorado County Counsel (Parker)	<p>Add to reference: "<u>Section 441</u>"</p> <p>Change subsection (c): "Whenever information has been exchanged pursuant to this section (<u>Revenue and Taxation Code Section 1606</u>), the parties may introduce evidence only on matters so exchanged unless the other party consents to introduction of other evidence."</p> <p>Add new sentence at end of subsection (c): "<u>This rule is not intended in any way to prohibit the submission by the Assessor of any relevant evidence obtained pursuant to Revenue and Taxation Code section 441(d) information requests for assessment information from the taxpayer.</u>"</p>	<p>Accepted</p> <p>Not accepted — Reference is to Rule not R&amp;T Code</p> <p>Accepted – Reworded</p>
28	305.1	Humboldt County Assessor	In subsection (a), eliminate the restriction on the assessor of a request of exchange of information to values above \$100,000.	Not accepted – R&T Code §1606
29	305.1	Fresno County Counsel (Grunwald)	<p>Change third sentence of subsection (a): "The clerk shall immediately forward any request filed with his <u>or her</u> office or a copy thereof to the other party."</p> <p>Change last sentence of subsection (b): "When the assessor is the respondent, he <u>or she</u> shall mail <del>his</del> <u>the</u> response to the address shown on the application for hearing."</p>	<p>Accepted</p> <p>Accepted</p>
30	305.1	Industry (Mo)	Change last sentence of subsection (a): "The request shall contain the requesting party's opinion of value <u>for each valuation date at issue, the basis of the requesting party's opinion of value, and the following data:</u> "	Accepted – Reworded
31	305.1	Orange County Assessor	Change subsection (a)(1): "If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, <u>and</u> the terms of sale (if known) <del>and the zoning of the property.</del> "	Not accepted – R&T Code §1606
32	305.1	Industry (Mo)	<p>Delete in subsection (a)(2): "<del>the gross income, the expenses, and the capitalization method and rate or rates employed.</del>"</p> <p>Add: "the gross income, the expenses, the discounted cash flow (if applicable), and the capitalization/ discount method and the rate or rates employed."</p>	Accepted – Reworded
33	305.1	Sacramento County Assessor	Add language which clarifies that apart from a formal Exchange of Information, the applicant has the right to review their property records at any time, and that the Assessor has the right to request subject property-specific data at any time as well. It should also be made clear that supplying subject property data to the Assessor does <u>not</u> constitute a formal Exchange of Information.	No specific wording submitted – See last paragraph of subsection (c)

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
34	305.1	Cal-Tax	<p>Change subsection (a): ". . . such an exchange. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party <u>and clerk</u> at any time prior to 20 days before the commencement of the hearing. The clerk shall immediately forward any request filed with his office or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value, <u>which includes the amount of the resulting opinion of value</u>, and the following data:"</p> <p>Add new paragraph at end of subsection (a): "<u>The data exchange shall include the foregoing comparable sales, income, and/or cost data. If the data is not sufficiently described as set forth, the exchanging party may not utilize that data in the assessment appeal hearing. The assessor may not utilize information that is confidential and available to the assessor by law but not the applicant or the market in general, unless all details of the sale are disclosed to the applicant.</u>"</p> <p>Change first sentence of subsection (b): "If the party requesting an exchange of data under the preceding subsection has submitted the data required herein within the specified time, the other party shall mail a response at least 10 days prior to the hearing <u>to the initiating party and to the clerk.</u>"</p> <p>Add new second sentence to subsection (c): ". . . of other evidence. <u>This provision shall be reasonably construed.</u> However, at the . . ."</p> <p>Add new subsection (d): "<u>(d) Unless the parties agree otherwise, once a petition has been filed, the procedures in this section are the only method available to the parties to require disclosure of information from the other party's regarding the property at issue for the year(s) at issue.</u>"</p>	<p>Accepted</p> <p>Not accepted</p> <p>Not accepted</p> <p>Accepted</p> <p>Not accepted</p> <p>Not accepted</p>
35	305.2 NEW	Eagle's Lodge West	<p>Add new rule: "<u>PREHEARING CONFERENCE. (a) A prehearing conference shall be held for each application for appraisal units having an enrolled value in excess of \$10 million. The parties may stipulate to waive the prehearing conference. The purpose of this conference is to improve the efficiency of the hearing process by, including but not limited to, clarifying and defining the issues, stipulating to matters on which agreement has been reached and resolving any other procedural issues. (b) The clerk of the board shall set the matter for a prehearing conference and notify the applicant or the applicant's agent and the assessor of the time and date of the conference. Notice of the time, date, and place of the conference shall be given not less than 20 days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period.</u>"</p>	Accepted – Reworded
36	309	Fresno County Counsel (Grunwald)	<p>Change subsection (b): "For applications filed on or after January 1, 1983, the hearing must be held and a final determination made within two years of the timely filing of an application for reduction in assessment submitted pursuant to subdivision (a) of Section 1603 of the Revenue and Taxation Code, unless <del>the taxpayer</del> <u>and the county assessment appeals board approves an mutually agree agreement between the taxpayer and the assessor in writing to for an extension of time.</u>"</p>	Not accepted — See R&T Code § 1604(c)(1)
37	309	Cal-Tax	<p>Change subsection (b): "For applications filed on or after January 1, 1983, the hearing must be held and a final determination made within two years of the timely filing of an application for reduction in assessment submitted pursuant to subdivision (a) of Section 1603 of the Revenue and Taxation Code, unless the taxpayer and the county assessment appeals board mutually agree in writing to an extension of time <u>for a time certain, or to a specific date.</u>"</p>	Accepted

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
38	309	CA Association of Clerks	<p>Change subsection (c): "<del>If the hearing is not held and a determination is not made entered into the record within the time period specified in part subsection (b) of this section, ...</del>"</p> <p>Change subsection (c)(3): "The applicant has not complied fully with a request for the exchange of information under section 305.1 of this subchapter <u>or with the provisions of subdivision (d) of section 441 of the Revenue and Taxation Code;</u> or"</p> <p>Change subsection (d): "The applicant shall not be denied a timely hearing and determination pursuant to part (b) of this section, by reason of any of the exceptions enumerated in <del>parts</del>-(c)(1), (c)(2), (c)(3), or (c)(4) <del>herein of this section,</del> unless, within two years of the date of the application, the board gives the applicant written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his right to protest the denial <del>at the time of the hearing on his application.</del>"</p>	<p>Wrong version of rule; changed 9/6/97</p> <p>Accepted</p> <p>Wrong version of rule</p> <p>Accepted</p>
39	309	Industry (Mo)	<p>Delete subsections (c)(2) and (c)(3): "<del>(2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or, (3) The applicant has not complied fully with a request for the exchange of information under Section 305.1 of this subchapter; or,</del>"</p>	Not accepted – See R&T Code § 1604(c)(2)
40	309	Eagle's Lodge West	<p>Add new subdivision (c)(7): "<u>(7) The applicant has not fully complied with a request for information under section 441, subsection (d), of the Revenue and Taxation Code.</u>"</p> <p>Add to subdivision (e): ". . . notice of such denial. <u>Upon discovery of facts that might support a denial, the clerk shall promptly schedule a hearing on the validity of the application sufficiently in advance of the hearing on the merits of the application. The clerk shall notify the applicant of the hearing, the basis of the proposed denial, The notice shall indicate the basis for the denial and inform the applicant of his or her right to protest the denial at the time of the hearing on the application validity hearing.</u> When a hearing . . ."</p>	<p>Accepted – Reworded</p> <p>Not accepted</p>
41	313	Fresno County Counsel (Grunwald)	<p>Delete subsection (b): "<del>(b) If the applicant or his agent is present, the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the taxable value of the property.</del>"</p> <p>Change subsection (c): "<del>(c) The (b) If the applicant or his agent is present, the chairman shall then</del> require the applicant or his agent to present his case to the board, except when the hearing involves a penalty portion."</p>	<p>Not accepted</p> <p>Not accepted</p>
42	313	Fresno County Counsel (Grunwald)	<p>Add to last sentence of subsection (d): "In such instances the chairman shall require the assessor to present appraisal data that supports the taxable value he has determined for the property subject <del>of</del><u>to</u> the hearing."</p>	Not accepted
43	313	CA Association of Clerks	<p>Add new fifth sentence to subsection (g): "The board may act only upon the basis of evidence properly admitted into the record. <u>Board members may not act based upon any prior knowledge of the subject property or market, outside evidence or personal research.</u>"</p>	Accepted – Reworded
44	313	Industry (Mo)	<p>Delete in subsection (g): "<del>There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses, for argument, and for rebuttal.</del>"</p> <p>Add: "<u>There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses and all materials proffered as evidence, for rebuttal and for argument. The party having the burden of proof at the hearing has the right to open and close the argument. The assessor may not present testimony or materials based upon confidential information provided by persons other than the applicant unless (i) the person providing the confidential information has given written permission to the assessor's use of such confidential information and (ii) such confidential information is subject to disclosure to and cross-examination by the applicant.</u>"</p>	Accepted – Reworded

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
45	313	Los Angeles County Assessor	Suggest that a definition of trade secrets be included. The definition in <i>Barron's Law Dictionary</i> – "[a]ny formula, pattern, machine or process of manufacturing used in one's business which may give the user an opportunity to obtain an advantage over its competitors who do not know or use it." 278 N.W. 2d, 89-90 – would be one source of such a definition.	Civil Code Section 3426.1
46	313	Fresno County Counsel (Grunwald)	<p>Change subsection (a): ". . . The <del>chairman chair</del> shall then determine if the applicant or <del>his</del> <u>the applicant's</u> agent is present. If neither is present, the <del>chairman chair</del> shall ascertain whether the clerk has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor <del>his</del> <u>the applicant's</u> agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed, the board may postpone the hearing. . . . The denial of an application for lack of appearance by the applicant, or <del>his</del> <u>the applicant's</u> agent, is not a decision on the merits of the application and is not subject to the provisions of Section 326."</p> <p>Change subsection (b): "If the applicant or <del>his</del> <u>the applicant's</u> agent is present, the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the taxable value of the property."</p> <p>Change subsection (c): "The <del>chairman chair</del> shall then require the applicant or <del>his</del> <u>the applicant's</u> agent to present his <u>or her</u> case to the board, except when the hearing involves a penalty portion. If the applicant fails to present evidence of value of the property, the presumption set forth in section 321(a) applies and the board shall not require the assessor to present his <u>or her</u> case."</p> <p>Change second sentence in subsection (d): "In such instances the <del>chairman chair</del> shall require the assessor to present appraisal data that supports the taxable value he <u>or she</u> has determined for the property subject of the hearing."</p> <p>Change subsection (e): "When a hearing involves a penalty portion of an assessment, the assessor shall present his <u>or her</u> evidence notwithstanding the failure of the assessee or <del>his</del> <u>the assessee's</u> agent to present evidence, to appear, or to request postponement of the hearing."</p> <p>Change first sentence of subsection (h): "When the assessor requests the board find a higher assessed value than he <u>or she</u> placed on the roll and offers evidence to support the higher value, the <del>chairman chair</del> shall determine whether or not the assessor gave notice in writing to the applicant or <del>his</del> <u>the applicant's</u> agent by personal delivery or by deposit in the United States mail directed to the address given on the application."</p>	<p>Accepted</p> <p>Accepted</p> <p>Accepted</p> <p>Accepted</p> <p>Accepted</p> <p>Accepted</p>
47	313	Eagle's Lodge West	<p>Add new sentence to subdivision (b): "<u>The party with the burden shall open argument and present its case first.</u>"</p> <p>Add new second sentence to subdivision (i)(2): "<u>As used in this section, a "trade secret" is that information defined by Civil Code section 3426.1, subdivision (d).</u>"</p>	<p>Not accepted – See Item 44</p> <p>Accepted</p>
48	313	Cal-Tax	<p>Change subsection (b): "If the applicant or his agent is present, the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the taxable value of the property. <u>The chairman may request either or both parties to briefly describe the subject property, the issues the board will be requested to determine, and any stipulations or agreements the parties may have agreed to.</u>"</p> <p>Change subsection (c): "The chairman shall then require the applicant or his agent to present his case to the board, except when the hearing involves a penalty portion, <u>an escape assessment, or an owner-occupied residence.</u> If the applicant fails to present evidence of value of the property, the presumption set forth in section 321(a) applies and the board shall not require the assessor to present his case. <u>If the board determines the applicant has presented evidence of value of the property, the chairman shall announce that the applicant has met his burden as required under section 321, at which time the board shall require the assessor to present</u></p>	<p>Accepted – Reworded</p> <p>Not accepted</p>

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
48 Cont	313	Cal-Tax	<p><u>his evidence.</u>"</p> <p>Change subsection (d): "When a hearing involves the assessment of an owner-occupied single-family dwelling, <u>only a penalty, or an escape assessment</u>, and the applicant has complied with section 305(c) and, if applicable, section 305.1, then the presumption in section 321(b) applies. In such instances the chairman shall <u>first</u> require the assessor to present appraisal data that supports the taxable value he has determined for the property subject of the hearing. <u>In the case of an owner-occupied single-family dwelling, if the assessor fails to present evidence of value of the property, the board shall require the applicant to present evidence of value of the property.</u> In the event neither party presents evidence of value, that chairman shall <u>continue the hearing until such time as sufficient evidence is available to enable the board to determine the full value of the property.</u> In the case of an escape assessment, if the assessor fails to present evidence of value of the property, the presumption set forth in section 321(a) applies and the board shall not require the applicant to present his case."</p> <p>Add new subsection (f): "<u>(f) The escape assessments referred to in (c) and (d) do not apply in the case of an administrative hearing with respect to the appeal of an escape assessment resulting from a taxpayer's failure either to file with the assessor a change in ownership statement or a business property statement, or to obtain a permit for new construction, in which cases the applicant shall proceed first, as described in (c).</u>"</p> <p>Change subsection (f): "<del>(f)</del><u>(g)</u> All testimony . . ."</p> <p>Change subsection (g): "<del>(g)</del><u>(h)</u> The hearing . . ."</p> <p>Change subsection (h): "<del>(h)</del><u>(i)</u> When the assessor . . ."</p> <p>Change subsection (i): "<del>(i)</del><u>(j)</u> Hearings <u>by boards and hearing officers shall be open, accessible, and audible to the public, except that: (1) Upon conclusion of the evidentiary portion of the hearing, the board may take the matter under submission and deliberate in private in reaching a decision, and (2) The board may grant a request by the applicant to close to the public a portion of the hearing relating to trade secrets, <u>classified information, or other confidential data.</u> Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the applicant which related to trade secrets, <u>classified information, or other confidential data</u> whose disclosure to the public will be detrimental to the business interests of the owners of the trade secrets, <u>classified information, or other confidential data</u> or <u>whose disclosure may be prohibited under state or federal law.</u> The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets, <u>classified information, or other confidential data</u> may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the applicant."</u></p>	<p>Not accepted</p> <p>Not accepted</p> <p>Not accepted</p> <p>Accepted</p> <p>Accepted</p> <p>Accepted</p> <p>Accepted</p>

No.	Rule Number	Source	Proposed Amendment	SBE Staff Position
49	313	Kern County Counsel (Gallagher)	<p>Change first sentence of subsection (c): "<u>In all equalization appeals not involving the regular assessment of an owner occupied single family home or an escape assessment where the property owner has failed to file or has filed a deficient 'change of ownership' statement, a business property tax statement or failed to secure a required building permit for new construction,</u> the chairman shall then require the applicant or his agent to present his case to the board, except where the hearing involves a penalty portion."</p> <p>Change first sentence of subsection (d): "When a hearing involves the <u>regular annual</u> assessment of an owner-occupied single-family dwelling and the applicant has complied with section 305(c) and, if applicable, section 305.1, then the presumption in section 321(b) applies."</p> <p>Change first sentence of subsection (e): "When an <u>appeal</u> hearing involves a penalty portion of an assessment <u>levied under Revenue and Taxation Code sections 463, 482 or 504,</u> the assessor shall present his evidence <u>first,</u> notwithstanding the failure of the assessee or his agent to present evidence, to appear, or to request postponement of the hearing."</p> <p>Change first sentence of subsection (h): "When the assessor requests the board find a higher assessed value than he placed on the roll and offers evidence to support the higher value, the chairman shall determine whether or not the assessor gave notice in writing to the applicant or his agent by personal delivery or by deposit in the United States mail directed to the address given on the application <u>as required by California Revenue and Taxation Code section 1609.4.</u>"</p> <p>Add new sentence to subsection (i)(2): "The board may grant a request by the applicant to close to the public a portion of the hearing relating to trade secrets. <u>For purposes of this rule, the meaning of the term 'trade secrets' is that afforded by Civil Code 3426(d).</u>"</p>	<p>Not accepted</p> <p>Not accepted</p> <p>Not accepted</p> <p>Not accepted</p> <p>Accepted – Reworded</p>
50	321	Fresno County Counsel (Grunwald)	<p>Change first sentence of subsection (a): "The law presumes that the assessor has properly performed his <u>or her</u> duty and has assessed all properties fairly and upon an equal basis."</p>	Accepted
51	321	Cal-Tax	<p>Change subsection (a): "The law presumes that the assessor has properly performed his duty and has assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the applicant the burden of proving that <u>the value on the assessment roll is not correct, or, where applicable,</u> the property in question has not been <u>otherwise</u> correctly assessed. The law requires that the applicant proceed to present independent evidence relevant to the full value of the property. The assessor has the burden of establishing the basis for imposition of a penalty assessment <u>or an escape assessment unless the exceptions in R&amp;T Code Section 167 apply.</u> No greater relief may be granted than is justified by the evidence produced <u>during the hearing.</u>"</p> <p>Add new subsection (c): "<u>(c) The board shall not apply the presumption that the assessor has properly performed his duty as described in (a) above to the assessor's testimony at the hearing touching on the value of the property, or the procedures, facts or data utilized in the approaches selected by the assessor to determine that value.</u>"</p>	<p>Accepted</p> <p>Not accepted</p> <p>Not accepted</p>
52	321	Kern County Counsel (Gallagher)	<p>Change first sentence of subsection (b): "An exception to (a) applies in any hearing involving the assessment of an owner-occupied single-family dwelling <u>or to an escape assessment of any property where the escape assessment is not based on the property owner's failure to file or the property owner's submission of a materially inaccurate 'change of ownership' statement, an annual business property statement or construction permit for new construction.</u>"</p>	Not accepted

## Rule 301. DEFINITIONS AND GENERAL PROVISIONS.

*Reference:* Sections 110, ~~110.1~~110.5, 1601, ~~1603-1614, 1620-1630~~ et seq., Revenue and Taxation Code.

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

- (a) "County" is the county wherein the property is located ~~which~~ that is the subject of the proceedings under this subchapter.
- (b) "Assessor" is the assessor of the county.
- (c) "Auditor" is the auditor of the county.
- (d) "Board" is the board of equalization or assessment appeals board of the county.
- (e) ~~"Chairman"~~ "Chair" is the ~~chairman~~ chair of the county board of equalization or assessment appeals board.
- (f) "Clerk" is the clerk of the county board of equalization or assessment appeals board.
- (g) "Person affected" or "party affected" is ~~one~~ any person or entity who owns an having a direct economic interest in the payment of taxes on the property for the valuation date ~~which that~~ is the subject of the proceedings under this subchapter, including, but not limited to, the property owner or a lessee required by the lease to pay the property taxes.
- (h) "Full cash value:" ~~Except as otherwise provided in Section 110.1 of the Revenue and Taxation Code~~ "full cash value" and "market value" means the amount of cash or its equivalent the property would bring if exposed for sale in an open market. is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code.
- (i) "Restricted value" is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution as defined in subsection (h) above.
- (j) ~~Full value is either the full cash value or the restricted value.~~
- (~~k~~)(i) "Taxable value" is either the base-year full cash value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less. or the restricted value.
- (k) "Equalization" is the determination by the board of the correct taxable value for the property that is the subject of the hearing.
- (l) "County legal advisor" is the county counsel of the county, or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco, that advises the county board of equalization or assessment appeals board.
- (m) "Authorized agent" is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding.

## Rule 305. APPLICATION.

*Reference:* Sections 51, 166, 408.1, 1603, 1605, Revenue and Taxation Code.  
Section 25105.5, Government Code

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

(a) ~~WHO MAY FILE ELIGIBLE PERSONS.~~ The An application is made filed by a person affected or his the person's agent, or a relative mentioned in regulation 317 of this subchapter. If the application is made by an agent other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, or a relative mentioned in section 320, written authorization to so act must be filed with the application. An agent shall be deemed to have been duly authorized if the applicant's written agent authorization is separately filed concurrently with the application. A separately filed authorization shall include the date the authorization statement is executed and a statement to the effect that the agent is authorized to sign and file applications. If a photocopy of the original authorization is submitted, the applicant should be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was filed separately. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.

If the applicant is a corporation, limited partnership, or a limited liability company, the authorization must be signed by an officer or authorized agent of the ~~corporation-business entity~~.

No application shall be rejected as a duplicate application unless it qualifies as a duplicate application within the meaning specified in section 1603.5 of the Revenue and Taxation Code.

(b) **SIGNATURE AND VERIFICATION.** The application shall be in writing and signed by the applicant or his the applicant's agent with a declaration under penalty of perjury that the statements made in the application are true and that the person signing the application is one of the following:

- (1) The person affected or a relative mentioned in regulation 317 of this subchapter;
- (2) An agent authorized by the applicant as indicated by the agent's authorization portion of the application or a separately filed authorization filed concurrently with the application; or
- (3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.

~~If the application is executed outside the State of California, it shall be sworn to before a notary public or other person authorized to administer oaths.~~

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

- (1) The name and address of the applicant;
- (2) The name and address of the applicant's agent, if any; If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.
- (3) The applicant's written authorization for an agent, if any, to act on the applicant's behalf.

~~(3)~~(4) A description of the property ~~which~~ that is the subject of the application sufficient to identify it on the assessment roll;

~~(4)~~(5) The applicant's opinion of the taxable value of the property on the valuation date of the assessment year in issue;

~~(5)~~(6) The taxable value on which the assessment of the property was based;

~~(6)~~(7) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.

~~(7)~~(8) A notice that a list of property transfers within the county, ~~which~~ that have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee ~~of~~ not to exceed ten dollars (\$10). This requirement shall not apply to counties with a population under 50,000 as determined by the 1970 decennial census.

~~(8)~~(9) A notice that written findings of fact will be ~~available~~ prepared by the board upon request, at the requestor's expense. ~~and an~~ An appropriate place for the applicant to make the request shall be provided. ~~(See Sections 308 and 325 for other provisions regarding findings of fact.)~~

An application which does not show the foregoing items to be filled in by the applicant is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant who has received notice shall be given a reasonable opportunity to correct the deficiency or deficiencies if such amendment is permitted by subdivision (e). Disputes concerning the validity of an application shall be resolved by the board.

An application which shows the foregoing items is valid and no additional information shall be ~~requested~~ required of the applicant on the application form. The application shall be in a form prescribed by the State Board of Equalization. If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which ~~he~~ the applicant may request ~~his~~ that the application be heard by such an officer.

**(d) TIME OF FILING.** An application appealing an assessment made during the regular assessment period ~~The application~~ shall be filed with the clerk beginning July 2 but no later than September 15. The regular assessment period is from January 1 to and including July 1 or to such later date for completion of the roll as may be authorized by the State Board of Equalization. Except as provided in sections 1603 and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.

An application for a change of assessment made outside the regular assessment period must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment, or no later than 60 days after the mailing of the tax bill in a county of the first class and in those counties where the board of supervisors has adopted a resolution to that effect, pursuant to ~~Section~~ Section 1605 of the Revenue and Taxation Code. ~~Except as provided in Revenue and Taxation Code Sections 619.2, 620-620.5, and subdivision (d) of section 1603,~~ the board has ~~no jurisdiction to hear an application unless filed within the time specified.~~ The regular assessment period is from January 1 to and including July 1 or to such later date for completion of the roll as may be authorized by the State Board of Equalization.

An application will be deemed to have been timely filed if it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on ~~September 15~~ the last day of the filing period or earlier within such period. An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates. If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

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

**(f) CLAIM FOR REFUND.** If a valid application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.

**(g) RETENTION OF RECORDS.** The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The records may be destroyed three years after the final action on the application if the records have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used in this subsection, "final action" means the date of the final decision by the board.

## **Rule 305.1. EXCHANGE OF INFORMATION.**

*Reference:* Sections 408, 441, 1606, 1609.4, Revenue and Taxation Code.

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

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

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

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

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

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

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

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

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

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

at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

If neither party invokes the provisions of this regulation, nothing in this section shall be construed to prohibit the introduction of relevant evidence obtained by the assessor pursuant to Revenue and Taxation Code section 441, subdivision (d), or by the applicant pursuant to section 408. An assessor's use of information obtained pursuant to section 441 is limited to either market data or information obtained from the applicant, and not information relating to the business affairs of another taxpayer.

**(d) NONRESPONSE TO REQUEST FOR INFORMATION**

If one party initiates a request for information and the other party does not comply within the time specified in subsection (b), the board may grant a postponement or a continuance for a reasonable period of time only upon a showing of good cause. The postponement or continuance shall extend the time for responding to the request. If the noncomplying party is unable to show good cause, in the opinion of the board, the hearing will be convened and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce new evidence.

## **Rule 305.2. PREHEARING CONFERENCE.**

*Reference:* Article XIII, Section 16, California Constitution  
Section 1601 et seq., Revenue and Taxation Code

(a) A prehearing conference may be set by the clerk at the request of the applicant or the applicant's agent or the assessor. The purpose of a prehearing conference is to resolve issues such as, but not limited to, clarifying and defining the issues, determining the status of exchange of information requests, stipulating to matters on which agreement has been reached, bifurcating the hearing issues, and scheduling a date for a hearing officer or the board to consider evidence on the merits of the application. The county board of supervisors shall adopt a resolution establishing rules of procedure for prehearing conferences.

(b) The clerk of the board shall set the matter for a prehearing conference and notify the applicant or the applicant's agent and the assessor of the time and date of the conference. Notice of the time, date, and place of the conference shall be given not less than 20 days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period.

## **Rule 309. HEARING.**

*Reference:* Sections 441, 1603, 1604, 1606, 1624.4, 1641.1, 1641.2, Revenue and Taxation Code.

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

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

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

(1) The applicant has not filed a timely and complete application; or,

(2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or,

(3) The applicant has not complied fully with a request for the exchange of information under ~~Section~~ regulation 305.1 of this subchapter or with the provisions of subdivision (d) of section 441 of the Revenue and Taxation Code; or

(4) Controlling litigation is pending. "Controlling litigation" is litigation which is:

(A) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and

(B) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing; or,

(5) The applicant has initiated proceedings to disqualify a board member pursuant to Revenue and Taxation Code ~~S~~section 1624.4 within 90 days of the expiration of the two-year period required by Revenue and Taxation Code ~~S~~section 1604; or,

(6) The applicant has requested that the hearing officer's recommendation be heard by the board pursuant to Revenue and Taxation Code ~~S~~section 1641.1 within 90 days of the expiration of the two-year period required by Revenue and Taxation Code ~~S~~section 1604.

(7) The applicant has signed a waiver extending the two-year period specified in section 1604 of the Revenue and Taxation Code pursuant to regulation 323 of this subchapter.

For applications involving base year value appeals that have not been heard and decided by the end of the two-year period provided in section 1604 of the Revenue and Taxation Code, the applicant's opinion of value will be entered on the assessment roll for the tax year or years covered by the pending application, and will remain on the roll until such time as the board

makes a final determination on the application. No increased or escape taxes other than those required by a change in ownership or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the board fails to act.

For applications appealing decline in value, fixtures, and personal property assessments that have not been heard and decided by the end of the two-year period provided in section 1604, the applicant's opinion of value will be enrolled on the assessment roll for the tax year or years covered by the pending application.

**(d)** If the applicant has initiated proceedings pursuant to subdivision (c)(5), or made a request pursuant to subdivision (c)(6) of this ~~section~~ regulation, the two-year time period described in subdivision (b) shall be extended 90 days.

**(e)** The applicant shall not be denied a timely hearing and determination pursuant to subdivision (b) of this ~~section~~, regulation by reason of any of the exceptions enumerated in subdivisions (c)(1), (e)(2), (e)(3), ~~or (e)(4)~~ herein; unless, within two years of the date of the application, the board gives the applicant written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his or her right to protest the denial ~~at the time of the hearing on the application.~~ If requested by the applicant or the applicant's agent, the clerk shall schedule a hearing on the validity of the application and shall so notify the applicant.

When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, excluding the period of time between the notice of pending litigation and the date that the litigation becomes final.

### Rule 313. HEARING PROCEDURE.

*Reference:* Article XIII A, California Constitution.  
Sections 110, ~~167, 1605~~, 1605.4, 1607, 1609, 1609.4, 1637, Revenue and Taxation Code.  
Section 664, Evidence Code.

Hearings on applications shall proceed as follows:

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

The denial of an application for lack of appearance by the applicant, or ~~his~~ the applicant's agent, is not a decision on the merits of the application and is not subject to the provisions of ~~Section~~ regulation 326 of this subchapter. The board of supervisors may adopt a procedure which authorizes reconsideration of the denial where the applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement and files a written request for reconsideration within a period set by the board, not to exceed 60 days from the date of mailing of the notification of denial due to lack of appearance. Applicants who fail to request reconsideration within the period set, or whose requests for reconsideration are denied, may refile an appeal of the base year value during the next regular filing period in accordance with Revenue and Taxation Code ~~§~~section 80.

(b) If the applicant or ~~his~~ the applicant's agent is present, the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the taxable value of the property. The chair may request that either or both parties briefly describe the subject property, the issues the board will be requested to determine, and any agreements or stipulations agreed to by the parties.

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

(1) A penalty portion of an assessment. The assessor shall present his or her evidence first notwithstanding the failure of the applicant or the applicant's agent to present evidence, to appear, or to request a postponement of the hearing.

~~(d) (2) When a hearing involves the~~ The assessment of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the applicant has filed an application that provides all of the information required in ~~complied with section~~ regulation 305(c) of this subchapter and, if applicable, ~~section 305.1 has supplied all information as required by law to the assessor, then the presumption in section 321(b) applies.~~ With respect to escape assessments, the presumption in regulation 321(b) of this subchapter does not apply to appeals resulting from an applicant's failure to file a change in ownership statement, a business property statement, or to obtain a permit for new construction. ~~In such instances, the chairman~~ The chair shall require the assessor to present appraisal data that supports the taxable value he or she has determined for the property that is the subject of the hearing.

(3) A change in ownership and the assessor has not enrolled the purchase price, and the applicant has provided the change of ownership statement required by law. The assessor bears the burden of proving by a preponderance of the evidence that the consideration valued in money, whether paid in money or otherwise, is the full cash value of the property.

If the presumption operates against the applicant, the board shall require the applicant to present his or her case, and may require the assessor to present his or her case in order to determine whether the applicant has overcome the presumption.

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

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

~~(g)(e)~~ The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of evidence properly admitted into the record. Board members or hearing officers may not act based upon any prior knowledge of the subject property or market, outside evidence, or personal research. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses regarding information and materials proffered as evidence, for ~~argument and for~~ rebuttal, and for argument. The party having the burden of proof at the hearing has the right to open and close the argument. A party may not present testimony or materials based upon third party confidential information unless the third party has given written permission for the use of such confidential information, and such confidential information is disclosed and subject to cross-examination by the other party.

~~(h)(f)~~ When the assessor requests the board find a higher assessed value than he or she placed on the roll and offers evidence to support the higher value, the ~~chairman~~ chair shall determine whether or not the assessor gave notice in writing to the applicant or ~~his~~ the applicant's agent by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered has been supplied at least 10 days prior to the hearing, the assessor may introduce such evidence at the hearing. When the assessor proposes to introduce evidence to support a higher assessed value than the value on the roll, the assessor no longer has the presumption accorded in regulation 321(a) of this subchapter. The foregoing notice requirement shall not prohibit the board from a finding of a higher assessed value when it has not been requested by the assessor.

~~(i)(g)~~ Hearings by boards and hearing officers shall be open, accessible, and audible to the public except that:

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

(2) The board or hearing officer may grant a request by the applicant or the assessor to close to the public a portion of the hearing relating to trade secrets, classified information, or other confidential data. For purposes of this regulation, a "trade secret" is that information defined by section 3426.1 of the Civil Code. Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the assessor or the applicant ~~which~~ that relates to trade secrets, classified information, or other confidential data whose disclosure to the public will be detrimental to the business interests of the owner of the

trade secrets, classified information, or other confidential data. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets, classified information, or other confidential data may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the ~~applicant~~ party to whom it relates.

## **Rule 321. BURDEN OF PROOF.**

*Reference:* Section 110, 167, 1601 et seq., Revenue and Taxation Code.  
Section 664, Evidence Code.

**(a)** The law presumes that the assessor has properly performed his or her duty ~~and has assessed to assess~~ all properties fairly and upon an equal basis when he or she has valued properties according to valuation procedures prescribed by law. The effect of this presumption is to impose upon the applicant the burden of proving that the value on the assessment roll is not correct, or, where applicable, the property in question has not been otherwise correctly assessed. The law requires that the applicant proceed to present independent evidence relevant to the ~~full~~ taxable value of the property. The assessor has the burden of establishing the basis for imposition of a penalty assessment. ~~No greater relief may be granted than is justified by the evidence produced.~~

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

**(c)** In hearings involving change in ownership, except as provided in section 110 of the Revenue and Taxation Code, the purchase price is rebuttably presumed to be the full cash value. The party seeking to rebut the presumption bears the burden of proof by a preponderance of the evidence.

**(d)** In weighing evidence, the board shall apply the same evidentiary standard to the testimony and documentary evidence presented by the applicant and the assessor. No greater relief may be granted than is justified by the evidence produced during the hearing.