

Chapter 3: Property Taxes
Revisions compared to January 30, 2006 version
September 15, 2006

Chapter 3 (formerly Part 3) was entirely reorganized and renumbered to reflect the chronological order of procedures, conform more closely to the format of other chapters of the proposed Rules of Tax Appeals, and remove duplicative provisions. Articles 1 and 4 now contain general procedures applicable to all property tax petitions. Article 2 provides specific procedures for state assessee and private railroad car petitions, and Article 3 provides specific procedures for all other property tax petitions (staff). The changes shown in this memo are compared to the January 30, 2006 version discussed at the second interested parties meeting on February 23, 2006, which can be found here: <http://www.boe.ca.gov/reggs/pdf/Part3Fnl.pdf> (strikethrough/underline changes are included in this memo where possible).

Substantive revisions included:

- Codification of current procedures requiring appeals conferences to be held for all non-state assessee and private railroad car petitions, and require appeals conferences to be held for all state assessee and private railroad car petitioners that have requested an oral hearing or an appeals conference, or where the Appeals Division or a Board member has requested an appeals conference.
- Regarding consolidation of petitions, staff deleted agreed-upon language in favor of a cross-reference to the consolidation procedures provided in Chapter 5, General Board Hearing Procedures. Although the language of the cross-referenced section is somewhat different, the same procedures and protections are included.
- For several procedural provisions (e.g., some definitions, timeliness of documents and finality of petitions), deleted Chapter 3 provisions in favor of cross-references to Chapter 5, General Board Hearing Procedures.
- Regarding the filing deadline for petitions regarding assessment of publicly-owned property (“section 11 petitions”), staff replaced the “third Monday in July” filing deadline with the “July 20” deadline provided in recent legislation.

Global changes

Changed all references from “Part 3” to “Chapter 3” and changed internal section references to 5000.XXXX numbering scheme (staff). Former section numbers from the January 30, 2006 version are related to the new section numbers (e.g., “5000.3132. Former section 3122.”). If former sections are mentioned as “moved” without further comment, then no substantive changes were made.

Added notes containing authority, references, and history (staff).

Streamlined reference to “Chief Counsel” by omitting following phrase “or his or her designee” (staff).

Specific Changes

Article 1. New title reflects scope of definitions applying to all petitions covered by Chapter 3.

5000.3001 Application of Chapter. Moved former sections 3100, 3200, 3300 and 3400 here. In subdivision (c), staff suggested providing more clarity by replacing “Board Staff” with “Assessment Policy and Standards Division,” and replaced “property tax welfare exemption” with “organizational clearance certificate.” (Accepted). Changes are shown here:

~~This article shall apply chapter applies~~ to petitions appealing the ~~Board staff’s~~ Assessment Policy and Standards Division’s finding of ineligibility for ~~property tax welfare exemption~~ an organizational clearance certificate pursuant to section 254.6 of the Revenue and Taxation Code and denials of claims for supplemental clearance certificates pursuant to subdivision (g) of section 214 of the Revenue and Taxation Code.

In subdivision (d), deleted reference to “redetermination” and clarified that petitions were filed by county assessors (Kamp). Changes are shown here:

~~This article shall apply chapter applies~~ to petitions ~~for redetermination~~ filed with the Board by county assessors pursuant to Government Code section 15640 et seq.

5000.3002. Definitions. Moved definitions from former sections 3110, 3210, 3310, 3410, 3511 and 3561 to this section. Former section 3552 was deleted as a “Hearing Summary” is defined in Chapter 5, General Board Hearing Procedures.

In subdivision (b)(1) [formerly 3110(a)(1)], the phrase “if possible” was moved for grammatical clarity (Mandel).

Subdivisions (b)(3) and (b)(4) were added to provide definitions of “Assessment Policy and Standards Division” and “County Property Tax Division” (staff).

In subdivision (b)(5) [formerly 3552(a)], the definition of “Hearing Summary” was deleted as the definition is provided in Chapter 5 (staff).

In subdivision (b)(6), made changes to conform to the changes made in subdivision (b)(9) (staff). Changes shown here:

(6) “Party” means:

(A) For petitions described in section 5000.3001(a), the petitioner and the Valuation Division;

- (B) For applications described in section 5000.3001(b), the petitioner and ~~respondent~~ the county assessor and tax agency whose assessment is questioned by a petition described in subdivision (b) of section 5000.3001;
- (C) For petitions described in section 5000.3001(c), the petitioner and the Assessment Policy and Standards Division;
- (D) For petitions described in section 5000.3001(d), the petitioner and the County Property Tax Division.

In subdivision (b)(9) [formerly located in 3511], “Respondent” means the party opposing the petitioner. For petitions regarding state assessed property, private railroad cars, welfare exemption certifications, and property tax sampling program, the Respondent is a unit of the Board’s Property and Special Taxes Division, each of which is referred to by name for clarity. For petitions regarding the assessment of publicly-owned property in other counties (section 11 petitions), the Respondent is the county assessor whose assessment is being questioned, and the assessor’s taxing agency. (staff). Changes shown here:

~~(9) “Respondent” means the county assessor and tax agency whose assessment is questioned by a petition described in subdivision (b) of section 5000.3001.~~

(9) “Respondent” means:

- (A) For petitions described in section 5000.3001(a), the Valuation Division;
- (B) For applications described in section 5000.3001(b), the county assessor and tax agency whose assessment is questioned by a petition described in subdivision (b) of section 5000.3001;
- (C) For petitions described in section 5000.3001(c), the Assessment Policy and Standards Division;
- (D) For petitions described in section 5000.3001(d), the County Property Tax Division.

In subdivision (b)(11)(B) [formerly 3561(c)], the definition of “Summary Decision” was changed to include a discussion of an appeals conference or other Appeals Division review (staff), and “concessions” was changed to “resolutions” (Michaels).

In subdivision (b)(13), the term “Respondent” was clarified to “Department, as defined in Chapter 5, General Board Hearing Procedures” (staff).

A new subdivision (b)(15) defining the “Valuation Division’s Summary” was added (staff).

5000.3003. Application of Articles 2, 3 and 4. New section. Provides clearer indications of which rules apply to which types of petitions (Mandel.)

Article 2. Same title as former Article 1.

Subchapter 1. Application of Article

5000.3111. Former section 3100.

Subchapter 2. Assessments and Assessment Factor Hearings.

5000.3121. Former section 3120.

5000.3122. Former section 3111.

Subchapter 3: Contents of Petitions and Filing Deadlines

5000.3131. Suggestion to conform the way of expressing the various filing deadlines not accepted as each statute has different requirements (Sperring).

5000.3132. Former section 3122. Capitalization conformed (staff).

5000.3133. Former section 3130. In subdivision (b)(4), replaced “and” with ampersand in “Written Findings & Decision.” (staff).

5000.3134. Former section 3131. Added option for submitting electronic copies in lieu of extra paper copies (Hudson) Corrected cross-references to address for submission (Michaels).

5000.3135. Former section 3132. In subdivision (c), deleted the word “amend” and added a clearer description of the type of submission that would not be considered duplicate petitions (Michaels), as follows:

- (c) For purposes of this regulation, “duplicate petition” means a petition filed by the petitioner, or its agent on its behalf, subsequent to the petition previously filed by or on behalf of the same petitioner for the same assessment year at issue. A subsequent petition that seeks to ~~amend~~ correct or supplement a previously filed petition shall not be considered a duplicate petition for purposes of this regulation.

Subchapter 4: Timeliness, Acceptance, and Dismissal of Petitions

5000.3141. Subdivision (a) is former section 3133, with updated section cross-references (staff). New subdivision (b) incorporates the provisions of section 5000.5032(b) of Chapter 5, General Board Hearing Procedures (staff). Former section 3514 is deleted, with requirement that original documents follow electronic or facsimile transmission moved to new subdivision (c) (staff).

5000.3142. Former section 3134. In subdivisions (a) and (b), added headings to clarify scope of each subdivision, deleted requirement that extension requests be filed by 5 p.m., simplified responsibility for extending deadlines by referring only to the Chief Counsel (staff). In subdivision (b), deleted as non-substantive surplusage the word “reasonable” modifying “extension of time” (staff).

5000.3143. Former section 3135. Conformed to language of similar provision 5000.3251, except deleted the following sentence: “Upon acceptance of a valid and complete property tax sampling program petition, the Chief of Board Proceedings shall also notify the owner of the sampled property of the filing of the petition by the county assessor.” (staff). Simplified reference to Chief Counsel (staff).

5000.3144. Former section 3136. In subdivision (c), changed “its” to “petitioner’s” (Mandel) and added “signed” (staff). In subdivision (d), deleted word “untimely” (Mandel) and replaced it with language stating that evidence submitted after the deadline applicable to its submission would be returned to petitioner (staff). Changes are shown here:

- (d) Except as specified above, any ~~untimely~~ submitted evidence received by the Chief of Board Proceedings from the petitioner subsequent to the filing of the petition and after the expiration of the deadline applicable to such petition will be returned to the petitioner by the Chief of Board Proceedings.

5000.3145. Former section 3140. Deleted subdivision (c) as “administrative appeal rights” is not the correct term (Mandel). Change shown here:

- ~~(e) Dismissal of a petition extinguishes the petitioner’s administrative appeal rights with respect to its assessed value for that year.~~

Subchapter 5: Prehearing Meetings and Review of Petitions.

5000.3150. Former section 3150. In subdivision (a), moved “if possible” (Mandel).

5000.3151. Former section 3151. Replaced 45-day requirement for the Tax and Fee Programs Division to prepare a joint recommendation for all petitions that are completely resolved with a resolution deadline of the appeals conference or the due date of the petitioner’s reply brief (staff). Changed grammar, quotation marks and capitalization (staff).

5000.3152. Former section 3152. Conformed subdivision (a) to the changes made in section 5000.3151.

Subchapter 6: Briefing Schedules and Appeals Conferences.

5000.3161. Former section 3153. In subdivision (a), clarified that a valid and complete petition as defined in section 5000.3133 is considered the petitioner’s opening brief (Michaels). Changed subdivision (b) to reflect that the Valuation Division’s Summary serves as the Board staff’s

response to the petition. Changed subdivision (c) to reflect that the petitioner may prepare a reply to the Valuation Division's Summary.

5000.3162. Former section 3154. Replaced "Valuation Division's Brief" with "Valuation Division's Summary" (staff). In subdivisions (a) and (c), deleted reference to Board hearings, as under the proposed rules all petitions scheduled for Board hearing will have an appeals conference scheduled (staff). Changed due dates (staff). In subdivision (b), replaced reference to "Board staff" with reference to "Valuation Division or Appeals Division conference holder" (staff). In subdivision (c), deleted the reference to the Hearing Summary (since an Appeals Conference will always be held where an oral hearing is requested) and clarified that the Appeals Division will prepare a Summary Decision where no appeals conference is scheduled.

5000.3163. Former section 3155. Conformed subdivision (a) to language of section 5000.3272 (staff). In subdivision (a), moved the following sentence to subdivision (c): "An appeals conference will consider all issues raised in the petition." (staff). Subdivisions (a), (b) changed to reflect that an appeals conference will be held for any petition for which an oral hearing is requested, and that an appeals conference may be held if requested in the petition (even if an oral hearing is not requested), or in the discretion of the Assistant Chief Counsel of the Appeals Division or at the request of a Board member petition (staff). In subdivision (b), suggestion that the responsibility for the Appeals Division's decision to hold a discretionary conference be identified (Michaels) was accepted, and reference to the Assistant Chief Counsel of the Appeals Division was therefore added. In former subdivision (c), the procedures for a petitioner to request an appeals conference were deleted and are now handled in section 5000.3033(b)(4). In subdivision (f), clarified that Appeals Division attorneys will be conference holders (staff). Added new subdivision (g) regarding representation of the petitioner and the Valuation Division at the appeals conference (staff). Relettered former subdivisions (g) and (h) accordingly (staff). In relettered subdivision (i), updated cross-reference (staff).

5000.3164. Former section 3156. In subdivision (b), changed title of Valuation Division's Analysis (staff), and increased the time before which the Analysis needs to be submitted from 20 days to 30 days (staff). In subdivision (c), clarified that petitioner's reply is submitted to the Board Proceedings Division (staff). In subdivision (d), clarified that the Appeals Division may ask for additional briefing at any time during the appeals process (staff). In subdivision (d)(ii), changed "five business days" reference to "seven days" to put as many time references as possible into days only (Michaels).

Subchapter 7: Preparing Summaries, Scheduling Hearings, and Distributing Documents.

5000.3171. Former section 3157. Added subdivision (c) to provide that a Revised Hearing Summary or Summary Decision shall be "promptly submitted" to the Chief of Board Proceedings (staff).

5000.3172. Former section 3160. Suggestion to establish a deadline for hearing petitions for escaped or excessive assessments not accepted (Michaels), as there is no statutory deadline or other limitation.

5000.3173. Former section 3161. Adds “prompt” distribution to the responsibilities of the Board Proceedings Division (Michaels). Replaces “applicable” with “appropriate” (staff). In subdivision (b), changed “Valuation Division’s Brief” to “Valuation Division’s Analysis” (staff). In subdivision (d), adds reference to Revised Hearing Summary and Revised Summary Decision (staff).

Subchapter 8: Consolidation and Withdrawal of Petitions.

5000.3181. Former section 3163. Replaced subdivisions (a) and (b) with cross-reference to consolidation provision in Chapter 5, General Board Hearing Procedures (see text below). Current subdivision (c) relettered to subdivision (b) (staff). Staff believes that the cross-referenced procedure will provide uniformity across tax programs, while protecting petitioners from consolidation under circumstances that would make consolidation undesirable or difficult (Michaels). In relettered subdivision (b), changed “Valuation Division’s Brief” to “Valuation Division’s Analysis” (staff).

Section 5000.3181:

Consolidation of Petitions into a Single Hearing.

- ~~(a) If petitions filed by multiple petitioners involve the same issues, the petitions may be consolidated into one hearing. The Chief Counsel will decide whether certain petitions should be consolidated, based on the following factors:~~
- ~~(1) Whether the petitions present the same or substantially similar issues as to valuation, law, or fact;~~
 - ~~(2) Whether the petitioners have common ownership by a parent company;~~
 - ~~(3) Whether the petitioners have the same tax representative; and~~
 - ~~(4) Whether there are circumstances that make consolidation undesirable or unduly burdensome.~~
- ~~(b) If the Chief Counsel decides to consolidate certain petitions, the Chief of Board Proceedings will notify the affected petitioners. If, within 15 days of the notice, a petitioner objects to the consolidation, that petitioner will have its own oral Board hearing and its petition will not be consolidated with the others.~~
- (a) Multiple petitions may be consolidated for hearing or decision as provided in Chapter 5, General Board Hearing Procedures.
- (e**b**) If petitions are consolidated, the Tax and Fee Programs Division of the Legal Department will review the petitions and the supporting documentation submitted by the petitioners, and draft one Valuation Division’s Brief Analysis to address and

analyze the issues presented in all of the petitions. At the hearing, the Board may grant additional time, in equal amounts, to the petitioners' representative(s) and the Valuation Division to present their respective cases. The Appeals Division will draft one Hearing Summary for all of the consolidated petitions.

Cross-referenced section from Chapter 5, General Board Hearing Procedures:

5000.5005.2 Consolidation for Hearing or Decision

- (a) Multiple matters may be consolidated for hearing or decision if the facts and issues are similar and no substantial right of any party will be prejudiced.
- (b) The Board Members, Appeals Staff, or any party may request a consolidation, or object to a consolidation of, matters for hearing or decision.
- (c) Requests for and objections to the consolidation of matters for hearing or decision must be submitted in writing to the Board Proceedings Division and to all parties to the matters at issue.
 - (1) A request for consolidation should establish that the relevant facts and issues in each matter to be heard or decided are similar, and that no substantial right of any party is prejudiced by consolidation.
 - (2) An objection to the consolidation of matters to be heard or decided should establish that consolidation will have an adverse effect on a substantial right of the objecting party.
- (d) If the Chief Counsel determines that consolidation would not prejudice a substantial right of any party, or all of the parties to such matters agree to consolidation, the Chief of board Proceedings shall consolidate such matters and notify all of the parties. If the Chief Counsel determines that consolidation will have an adverse effect on a substantial right of any party, the matters shall not be consolidated regardless of the parties' consent.
- (e) Any party may file an objection to consolidation not later than 15 days from the date the Chief of Board Proceedings issues the notice described in subdivision (d). Upon receipt of an objection, the matters shall be deconsolidated unless the Chief Counsel determines that the objection is frivolous or deconsolidation would result in the misuse of administrative resources.

5000.3182. Former section 3180. . Deleted subdivision (b) as "administrative appeal rights" is not the correct term (Mandel); removed lettering from subdivisions accordingly (staff). Changes shown here:

Withdrawal of a Petition.

- (a) A petitioner may withdraw its petition at any time, up to and including the date of the scheduled Board hearing, by notifying the Chief of Board Proceedings either in writing or by electronic mail or facsimile.
- ~~(b) If a petition is withdrawn, the petitioner's administrative appeal rights are extinguished with respect to the assessment and the Board's determination of value is final.~~

Article 3: Other Property Tax Petitions

Subchapter 1: Application of Article.

5000.3201. Former sections 3200, 3300, and 3400, with the same changes as made to section 5000.3001.

Subchapter 2: Appeal of Assessments of Publicly-Owned Property: Contents of Applications, Filing Deadlines, and Board-Appraised Property.

5000.3211. Former section 3220. In subdivision (a)(1), changed filing deadline of "the third Monday in July" to "July 20" to reflect SB 1607's (Stats. 2006, ch. 224, § 5) change to the filing deadline (staff). Added subdivision (c) to clarify timely filing requirements. Staff suggestion to clarify that appeals of publicly-owned, state-assessed property are governed by the procedures in Article 2 not accepted (staff).

5000.3212. Former section 3230.

5000.3213. Former sections 3240 and 3250, subdivisions (c) and (d). In subdivision (a), changed cross-reference for mailing address. In subdivision (b), deleted unnecessary phrase "which includes relevant statutes and regulations" and deleted leading "A" from last sentence (staff). In subdivision (d), added a specific reference to an "employee" of the Valuation Division (staff).

Subchapter 3: Contents of Property Tax Welfare Exemptions Petitions and Filing Deadlines

5000.3221. Former section 3320. Spelled out "Organizational Clearance Certificate" and "Supplemental Clearance Certificate" (staff). Deleted last sentence of subdivision (a), thereby conforming the timely filing requirements to those of the other petitions, i.e., the petition need only be mailed by the 60th day, not actually received (staff). Deleted sentence: "The petition and supporting documents must be received by the Board no later than 60 days from the date of mailing of the notice of ineligibility."

5000.3222. Former section 3330. In subdivision (e), clarified that petitioner or authorized representative may sign the petition (staff). Change shown here:

- (e) Be signed by petitioner or an authorized representative of the petitioner. The Chief Counsel may require the representative to demonstrate the representative's authority to represent the petitioner.

5000.3223. Former section 3340. Changed cross-reference for mailing address.

Subchapter 4: Contents of Property Tax Sampling Program Petitions and Filing Deadlines

5000.3231. Former section 3420. Added subdivision (d) to clarify timely filing requirements and that the provision applied to the petition and supporting documents (staff).

5000.3232. Former section 3430. In subdivisions (a), (b) and (c), removed reference to petition "for redetermination" (Kamp.) Removed unnecessary comma from subdivision (a)(3) (staff).

5000.3233. Former section 3440.

Subchapter 5: Filing and Distribution of Petitions, Briefs, and Other Documents

5000.3241. Former section 3511. Changed subdivisions (a) and (b) to more closely coordinate with the provisions of Chapter 5, General Board Hearing Procedures, while preserving the ability of the Board's Property Tax program divisions to ensure that original documents must be submitted where necessary (staff). In subdivision (c), added heading and cross-references to clarify that this subdivision applies to publicly-owned property applications only (staff).

5000.3242. Former section 3514. Deleted all provisions in favor of section 5000.5032 of Chapter 5, General Board Hearing Procedures, which provides as follows:

5000.5032 Timeliness of Documents

- (a) A document or other correspondence shall be timely if it is mailed to or received at the headquarters office of the State Board of Equalization within the time specified by the particular statute or regulation under which the document is filed.
- (b) In the absence of other evidence, the post-mark date or the date of delivery to a delivery service, as defined in section 5000.5002 of this chapter, shall be considered the mailing date. If the last day for mailing for delivering a document falls on a Saturday, Sunday or holiday, the time for mailing or delivering such document shall be extended to the next business day.

5000.3243. Former section 3513. Added "prompt" distribution requirement to responsibilities of Board Proceedings Division (Michaels). Added reference to Revised Hearing Summary and Summary Decision (staff).

Subchapter 6: Accepting, Rejecting, and Perfecting Petitions and Applications

5000.3251. Former section 3520. In subdivision (b), made grammatical clarifications and added requirement that, for property tax sampling program petitions, the property owner be notified that a perfected petition has been filed (staff). In subdivisions (b) and (d), deleted redundant “then” (staff).

5000.3252. Former section 3521. In subdivisions (a) and (b), updated cross-references. In subdivision (b), replaced “accepts a petition, and such petition is not perfected” with “receives an incomplete petition,” and replaced “with” with “to” in subdivision (b)(2) (staff).

Subchapter 7: Prehearing Meetings and Briefing Schedules

5000.3261. Former section 3530. In title, replaced “Department” with “Respondent” (staff). In subdivision (a), clarified that meetings with petitioner are only applicable to welfare exemption and property tax sampling program petitions (staff). Moved “if possible” (Mandel).

5000.3262. Former section 3540. In subdivision (c), provided that extensions of time for filing based on the agreement of the parties must also be agreed to by the Appeals Division (staff). Change shown here:

- (c) Any request to extend the period for filing a brief must be in writing. The Chief Counsel, in his or her discretion, may grant such a request upon a showing of reasonable cause or based upon the written agreement of the parties and the Appeals Division.

In subdivision (e), efforts to clarify whether the page and font limitations affect e-filing (Schutz) were not accepted, as all e-filing language will be developed in concert with other chapters of the new rules. Details regarding briefing were deleted and replaced by most provisions of section 5000.5012 of Chapter 5, General Board Hearing Procedures (subdivision (d)(1) was omitted because submission to Board Proceedings Division is dealt with in another section; subdivision (d)(2) was omitted because for property tax matters, the Board Proceedings Division distributes briefs and documents to the parties). The length and font requirements are the same. The major difference is that under Chapter 5, exceptions to the page length limit are to be granted in the discretion of the Chief Counsel and *prior* to the deadline for filing the brief, whereas in the Chapter 3 version the Chief of Board Proceedings could grant such a request, and also had the discretion to accept a brief that did not meet the criteria or to allow 10 days to correct the brief. Staff incorporated the provisions of Chapter 5 in the belief that uniformity among tax programs outweighs the benefit of continuing the prior procedure. Deleted Chapter 3 section and Chapter 5 section 5000.5012 shown here:

Chapter 3: [deleted]

- e) All briefs shall be no longer than 30 double-spaced 8½” by 11” pages, or 15 single-spaced 8½” by 11” pages, excluding any table of contents, table of authorities, and exhibits. All briefs shall be typed, and printed only on one side in a type-font size of at least 10 points or 12 characters per inch. The Chief of Board Proceedings may grant an exemption to the requirements of this subdivision upon written request that

establishes the necessity thereof. If a brief is filed that does not comply with the requirements of this subdivision, the Chief of Board Proceedings may, in his or her discretion, return the brief to the filing party and grant 10 days in which to file a corrected brief. Failure to file a corrected brief within the 10-day period shall constitute a waiver of the right to file that brief. Except as otherwise provided in the applicable briefing schedule, such waiver shall have the effect of concluding the briefing schedule.

Chapter 5, section 5000.5012, subdivision (d):

d) General Requirements. All briefs permitted to be filed pursuant to this section shall follow the requirements listed below:

~~(1) Be addressed and mailed to the Chief of Board Proceedings;~~

~~(2) Be mailed or personally delivered to the other parties;~~

(31) Length.

(A) Not exceed 30 typed or handwritten, double-spaced 8 ½” by 11” pages, printed on one side only; or

(B) Not exceed 15 typed or handwritten, single-spaced 8 ½” by 11” pages, printed on one side only;

(42) Type-font size of at least 10 points or 12 characters per inch;

(53) The Table of Contents, Table of Authorities, and exhibits are not included in the page count;

(64) Exception. An exception to the foregoing requirements may be granted prior to the deadline for filing a brief. Exceptions may be requested by submitting a written request establishing reasonable circumstances that justify the necessity for additional pages to the Chief of Board Proceedings. It is at the discretion of the Chief Counsel or his or her designee to approve a request.

In subdivision (g), clarified that non-party briefs may only be filed for petitions related to publicly-owned property, welfare exemption claims, and property tax sampling (staff). In subdivision (g)(1), discussions of whether to allow anonymous amicus briefing (Schutz) resulted in the added requirement that any named individual or entity may file an amicus brief. In subdivision (g)(2), provided that the Board has the discretion to accept late-filed non-party briefs (staff). Changed capitalization throughout subdivision (g) (staff).

5000.3263. Former section 3541. In subdivision (a), clarified that this section does not apply to state assessee petitions (staff). In subdivision (c)(2)(A), corrected typographical error (staff). In subdivision (c)(2), simplified multiple references to Chief Counsel (staff).

Subchapter 8: Appeals Division Review, Prehearing Conferences, and Summaries

5000.3271. Former section 3550. In subdivision (a), changed cross-reference regarding supplemental briefing from a provision formerly in Chapter 3 to section 5000.5012 of Chapter 5, General Board Hearing Procedures.

5000.3272. Former sections 3551 and 3542(b). In title and section, deleted redundant references to “prehearing” appeals conferences (staff). In subdivision (a), added reference to “other Board action” because an appeals conference may not always precede an oral hearing. In subdivision (b), deleted requirement that the appeals conference must be held only after an oral hearing is scheduled (staff). In subdivision (c), replaced “extraordinary circumstances” with a provision that an in-person appeals conference may be held away from Sacramento for reasonable cause and taking into consideration the resources of the Board (staff). In subdivision (e), rejected suggestion to replace “employee” with “conference holder” (Mandel) in favor of replacing “employee” with “attorney” (staff). In subdivision (f), clarified the term “reporting” to mean “court reporting” (Schutz), and clarified that a transcript or recording only becomes a public record if the petition subsequently becomes a public record. Moved former section 3542(b), regarding discretionary briefing requested by the Appeals Division, to subdivision (g) to reflect chronological order of events (Mandel).

5000.3273. Former section 3552. Definition of “Hearing Summary” was moved to definitions section 5000.3002 (staff). In subdivision (a), provided that a Hearing Summary or Summary Decision will be submitted to the Chief of Board Proceedings within 90 days of the appeals conference; subdivision rewritten for clarity (staff). Simplified reference to Chief Counsel.

Article 4: General Board Hearing and Notice Procedures

5000.3301. New section providing hierarchy of authority.

5000.3302. Former section 3542(a), (c), and (d). Re-ordered subdivisions to reflect chronological order (Mandel). Conformed provisions to current Chapter 4, section 5000.4035 (staff). In re-lettered subdivision (d), clarified when each type of request may be made (staff). Changes shown here:

~~5000.3302. Discretionary Supplemental Briefing.~~

~~(a) Individual Board Member’s Request for Supplemental Briefing. An individual Board Member may request additional briefing or evidence from any party prior to the Board hearing and only with the consent of the Board Chair. If the Board Chair consents to such a request, the Chief of Board Proceedings shall determine the order, deadlines, and conditions under which any briefing or evidence must be submitted and shall administer any request made under this subdivision. The Chief of Board Proceedings may extend deadlines under this subdivision upon a showing of reasonable cause.~~

- ~~(b) Board Requests for Supplemental Briefing. If the Board, in its discretion, determines that insufficient briefing or evidence has been provided, the Board may request additional briefing or evidence from any party. The Board may set forth the order, deadlines, and conditions for briefing that it deems appropriate. The Board Proceedings Division shall administer any request made under this subdivision. The Chief of Board Proceedings may extend deadlines set by the Board under this subdivision only upon a showing of extreme hardship and with the consent of the Board Chair.~~
- ~~(c) Timing of Request. A request under subdivision (a) may be made at any time before the Board hearing. A request under subdivision (b) may be made at the hearing or at any subsequent Board hearing occurring before the petition is decided. Additional briefs or evidence provided in response to such a request are not subject to the requirements of the applicable briefing schedule.~~

5000.3302. Additional Briefing.

- (a) Staff Requests for Additional Briefing. If the Assistant Chief Counsel of the Appeals Division, or his or her designee, determines that insufficient briefing or evidence has been provided, the Appeals Division may request additional briefing or evidence from any party. The Appeals Division will determine the order, deadlines, and conditions under which any briefing or evidence must be submitted. Deadlines under this subdivision may be extended upon a showing of reasonable cause.
- (b) Individual Board Member's Request for Additional Briefing. Any individual Board Member may contact the Appeals Division in order to request additional briefing or evidence from any party. The Appeals Division will determine the order, deadlines, and conditions under which any briefing or evidence must be submitted. Deadlines under this subdivision may be extended upon a showing of reasonable cause.
- (c) Board Requests for Additional Briefing. If the Board determines that insufficient briefing or evidence has been provided, the Board may request additional briefing or evidence from any party. The Board will determine the order, deadlines, and conditions under which any briefing or evidence must be submitted. The Chief of Board Proceedings may extend deadlines set by the Board under this subdivision only upon a showing of extreme hardship and with the consent of the Board Chair.
- (d) Timing of Request. A request under this section may be made during or after the applicable briefing schedule has concluded. Additional briefs or evidence provided in response to such a request are not subject to the requirements of the applicable briefing schedule.
- (e) Notification of Board Chair. The Board Chair must be notified promptly of any request made under this section and may postpone the scheduling or hearing of an appeal.

5000.3303. Former sections 3160 and 3250(b). In subdivision (b), made grammatical clarifications (staff).

5000.3304. Former section 3561. Deleted unnecessary quotation marks (staff).

5000.3305. Former sections 3190, 3260, 3360, 3460.

5000.3306. Former section 3570. In subdivision (a), deleted substantive provisions in favor of cross-reference to Chapter 5, section 5000.5026, subdivision (c). Changes shown here:

(a) ~~The following provisions apply to all petitions filed pursuant to this chapter:~~

~~(1) The decision of the Board upon a property tax petition is final.~~

~~(2) The Board shall not reconsider or rehear a petition.~~

~~(3) The Board may modify a decision on a petition to correct a clerical error.~~

The provisions of Chapter 5 of this division apply to the finality of petitions filed under this chapter.

In subdivision (b)(2), changed “approval” to “consideration” (Mandel), and in (b)(3), changed “approves” to “adopts” (Kamp).