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Executive Director

July 28, 2000

TO INTERESTED PARTIES:

UPDATE OF THE
ASSESSMENT APPEALS MANUAL

Enclosed is a matrix compiled from suggestions and comments received in response to our June 9, 2000 letter inviting input on the draft update of the *Assessment Appeals Manual*. Staff's proposed revisions were primarily limited to topics relating to recent statutory changes, regulatory amendments, and judicial decisions.

This information is provided to you in advance of the interested parties meeting since these suggestions will form the primary discussion topics at the meeting. The meeting will be held on August 11, 9:00 a.m., at the Board's headquarters in Sacramento, 450 N Street, Room 122. The update of the *Assessment Appeals Manual* is scheduled to be presented to the Property Tax Committee at its September 13 meeting.

Following the interested parties meeting, staff will post a draft of the manual on the Board's Web site reflecting all agreed-upon changes. Any unresolved wording differences between interested parties and staff will be presented to the Property Tax Committee for resolution.

If you plan to attend the interested parties meeting on August 11, please advise Sherrie Kinkle at (916) 322-2921; email skinkle@boe.ca.gov; fax (916) 323-8765.

Thank you for your continued interest in this project.

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson
Deputy Director
Property Taxes Department

RCJ:sk
Enclosure

ALTERNATIVE LANGUAGE
UPDATE OF THE *ASSESSMENT APPEALS MANUAL*

NO.	PAGE/LINE REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
1	3	5	CA Association of Clerks & Election Officials	Change sentence: Furthermore, an appeals board may not reconsider or rehear its own decision on an application unless a court so orders, except as provided in Rule 326 and discussed in Chapter 9 of this manual.[8]	Accepted
2	11	2	CA Association of Clerks & Election Officials	Table 2 does not indicate if the data in column 3—"No. of Appeals Filed (1998-99)" —is reported in parcels or applications. This should be indicated in the column heading.	Not accepted—Source document does not provide requested data
3	11	2	CA Association of Clerks & Election Officials	In last column of Table 2 with respect to whether the "decision " of the hearing officer is binding on the AAB, the entry for Alameda County should be changed to "Yes" and the entry for Sacramento County should be changed to "N/A" (not applicable). **SBE REWRITE:** Table 2 – HEARING OFFICERS Alameda 1,433,300 4,444 1 ~~No~~Yes Sacramento 1,177,800 1,122 1 No* *The hearing officer makes a recommendation to the board of supervisors, not the assessment appeals board.	Accepted—See rewrite
4	15	10	CA Assessors' Association (Los Angeles County)	Delete sentence: . . . information on the application. ~~The assessor must be prepared to answer questions posed by the applicant and the appeals board members during the hearing, and to present evidence to support the assessor's opinion of value.~~	Not accepted—R&T Code Sections 110 & 167; Rule 2(b), Rule 313(c), & Rule 321(c)
5	17	Fnote	CA Association of Clerks & Election Officials	Delete footnote 32.	When text revisions are accepted, Word software then deletes the footnote

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
6	21	16	CA Association of Clerks & Election Officials	Highlight the word "published" in sentence: A *published* opinion made by the California Court of Appeal, the intermediate level appellate court in California, in a particular appellate district, and for which no conflicting published opinion of law exists in another appellate district of the state, is binding on all trial courts, and other inferior forums, including administration tribunals such as appeals boards in all judicial districts.[39]	Not accepted—text is not significant enough for highlighting
7	22	29	CA Association of Clerks & Election Officials	Change sentence: NOTE: If the application is filed by an agent, other than a California-licensed attorney authorized by the applicant to file the application, written authorization of agency, signed by the person affected, must be included ~~with~~ on or attached to the application form (see also section on Application by Agent following in this chapter).	Accepted—Rule 305(a)
8	23	13	Industry Representative (Bone)	Change sentence: If an applicant files an incomplete application, the board clerk ~~may~~ must, at the discretion of the appeals board, allow an applicant additional time to provide the required information. **SBE REWRITE:** If an applicant files an incomplete application, the board clerk ~~may~~ shall~~, at the discretion of the appeals board,~~ allow an applicant additional time to provide the required information.	Accepted—See rewrite
9	24	Fnote	CA Association of Clerks & Election Officials	Delete footnote 44.	When text revisions are accepted, Word software then deletes the footnote
10	26	28	CA Association of Clerks & Election Officials	Change paragraph: . . . appropriate filing period. Applications must not be submitted directly to the assessor's office for initial review and processing. The appeals board is an independent entity whose function is to resolve disputes between the assessor and taxpayers and a conflict of interest may result if the assessor's office takes an active role in the processing of applications. An application which is not filed within	Outside scope of this update. (See Item 21)
11	29	19	CA Association of Clerks & Election Officials	Change sentence: Applicants who want to appeal a property's base year value have ~~three~~ two filing periods:	Accepted—Rule 305.5(c)(3)
12	29	27	CA Association of Clerks & Election Officials	Change heading: **Filing between July 2 and September 15 (~~July 2 – September 15 filing period~~ Regular filing period)**	Accepted—Rule 305.5(c)(3)

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
13	29	28	CA Association of Clerks & Election Officials	Add new subheading: **a. Filing July 2 – September 15 during the base year (the first year of an appraisable event) or three succeeding years** If the applicant misses the 60-day supplemental assessment filing period	Accepted—Rule 305.5(c)(3)
14	30	17	CA Association of Clerks & Election Officials	Change heading: **~~3. Filing based on erroneous change in ownership determination (July 2 – September 15 in the year discovered)~~** **b. Filing July 2 – September 15 based on erroneous change in ownership determination by the assessor** An applicant may file an application to correct a base year value resulting	Accepted—Rule 305.5(c)(3)
15	30	18	Industry Representative (Bone)	Change sentence: An applicant may file an application to correct a base year value resulting from an erroneous change in ownership determination, not involving an assessor's judgment of value~~, in any year in which the error is discovered,~~ if the assessor declines to make the correction pursuant to section 51.5.	Accepted
16	30	21	CA Association of Clerks & Election Officials	Change sentence: ~~In order for an appeals board to take jurisdiction to hear an application pursuant to section 51.5, an applicant must~~ When an application has been filed, the Board must first determine that the information presented to the assessor is credible evidence of an error not involving the assessor's value judgment.	Accepted
17	30	35	CA Assessors' Association (Tulare County)	Change sentence: . . . at $300,000 or more. When an assessor, as the result of an audit under section 469, discovers property that was not assessed or underassessed, such that the property is subject to an escape assessment, the taxpayer has 60 days from the date of the notice of escape assessment (or the tax bill if no other notice of escape assessment given) to file an application appealing the assessment(s).[58]	Not accepted—This section will be updated following adoption of Rule 305.3.
18	34	32	CA Association of Clerks & Election Officials	Change sentence: An application may be amended, at the discretion of an appeals board, if requested in writing by the applicant and filed with the clerk of the board prior to any scheduled hearing, or an amendment may be requested orally at the hearing.	Accepted—Rule 305(e)
19	35	2	CA Assessors' Association (El Dorado; Los Angeles Counties)	Suggest adding the admonition that the board shall give the respondent to the amendment not less than a 45 day continuance ala Rule 305(e)(2)(c)(iv). Alternatively, a footnote could be added to the end of the sentence referencing this regulation. **SBE REWRITE:** As a condition to granting a request to amend an application, an appeals board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 (see section on Continuance in Chapter 8).	Accepted—See rewrite.
20	35	3	Industry Representative (Bone)	Revise paragraph: An applicant may revise the opinion of value stated on the application at any time up to and during the assessment appeals hearing. In addition, the applicant may present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application.	Accepted—Rule 305(e)(3)

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
21	37	20	CA Association of Clerks & Election Officials	Delete sentences (move text to page 26): ~~Applications must not be submitted directly to the assessor's office for initial review and processing. The appeals board is an independent entity whose function is to resolve disputes between the assessor and taxpayers and a conflict of interest may result if the assessor's office takes an active role in the processing of applications.~~	Outside scope of this update. (See Item 10)
22	39	9	Industry Representative (Bone)	Change heading: ~~**Section 408**~~**Inspection of Assessor's Records**	Outside scope of this update.
23	39	17	Industry Representative (Bone)	Change heading: ~~**Section 441**~~**Information from Taxpayers' Records**	Outside scope of this update.
24	40	2	Industry Representative (Bone)	Change heading: ~~**Sections 469 and 470**~~**Audits of Taxpayers' Records**	Outside scope of this update.
25	40	14	Industry Representative (Bone)	Change heading: ~~**Section 1606**~~**Exchange of Information**	Outside scope of this update.
26	40	18	Industry Representative (Bone)	Change sentence: The information exchanged must relate to the protested valuation of the property as set forth in section1606 (see ~~the section on Exchange of Information~~ information on page 42).	Not accepted—citation is consistent with reference style throughout manual.
27	40	22	Industry Representative (Bone)	Change heading: ~~**Rule 322**~~**Subpoenas**	Outside scope of this update.
28	41	17	CA Association of Clerks & Election Officials	Change sentence: The clerk must also notify the assessor ~~and the county legal advisor~~ of the time and place of the hearing.	Accepted—Rule 307(c)
29	42	20	CA Assessors' Association (Alameda County)	Change sentence: The request for an exchange of information, whether initiated by the applicant or the assessor, may be submitted to the clerk of the board at the time of the filing of the application, or to the other party and the clerk at any time prior to 20 days before the commencement of the hearing.	Accepted—Rule 305.1(a)

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
30	42	29	CA Assessors' Association (Alameda County)	Add sentence: If the appeals board finds willful noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.[75] If the noncomplying party is the applicant bearing the burden of proof, nothing in this regulation shall shift that burden to the assessor and there will be no requirement for the assessor to submit evidence to the board for comment. **SBE REWRITE:** If the noncomplying party ~~is the applicant bearing~~ has the burden of proof, nothing in this regulation shall shift that burden to the ~~assessor~~ other party and there will be no requirement for the complying party to submit evidence to the board for comment.	Accepted—See rewrite.
31	42	—	CA Assessors' Association (Alameda County)	Suggested amendments to Assessment Appeals Manual for *discussion* (Exchange of Information) – Greater specificity as to the meaning of the words *submitted* and *submit* in the context of meeting the time directive required under Rule 305.1.	No alternative text submitted. Not accepted—Suggestion requires major rewrite of entire section.
32	44	2	CA Assessors' Association (Alameda County)	Change sentence: If the party requesting an exchange of data has submitted the information required within the specified time, the other party must ~~mail~~ submit a response to the initiating party and to the clerk at least 10 days prior to the hearing. The responding party must provide information conforming to the requirements set forth in section 1606 with respect to comparable sales, cost, or income information. If the assessor is the respondent, he or she is required to ~~mail~~ submit the response to the address shown on the application ~~for hearing~~ or on the request for exchange of information, whichever is filed later.[79]	Accepted—Rule 305.1(b)
33	44	5	CA Association of Clerks & Election Officials	Change sentence: If the assessor is the respondent, he or she is required to mail, or submit to the clerk for mailing, the response to the address shown on the application for hearing or on the request for exchange of information, whichever is filed later.[79]	Accepted

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
34	45	1	Industry Representative (Bone)	Change section: **Disqualification of a Board Member or Hearing Officer** Every board member and hearing officer should endeavor to maintain the integrity of the appeals process by disqualifying himself or herself from participating in proceedings when appropriate. In this regard, section 1624.2 provides: No member [or hearing officer] of an assessment appeals board shall knowingly participate in any assessment appeal proceeding wherein the member [or hearing officer] has an interest in either the subject matter of or a party to the proceeding of such nature that it could reasonably be expected to influence the impartiality of his judgment in the proceeding. Violation of this section shall be cause for removal under Section 1625 of this code. The assessor or the applicant may challenge the participation of an appeals board member or hearing officer in any proceeding.[82] A written statement objecting to the hearing of a matter before a member of the board or hearing officer and setting forth the facts constituting the ground of the disqualification of the member or hearing officer must be filed with the clerk of the board. The statement should be submitted at the earliest practicable opportunity after discovery of the facts on which the disqualification is based, and in any event prior to commencement of a hearing on any issue of fact before the challenged member or hearing officer. The clerk will provide copies of the statement to all parties of the hearing, as well as the board member or hearing officer alleged in the statement to be disqualified. Within 10 days after the filing of the statement or 10 days after being served with the statement, the board member or hearing officer being challenged may file with the clerk a written answer either consenting to the appeal being heard by another member or hearing officer, or denying the disqualification by admitting or denying the allegations contained in the statement and setting forth any additional relevant facts. If the challenged board member or hearing officer does not consent to the disqualification, the question of the member's or hearing officer's disqualification shall be heard and determined by a member other than the challenged member or hearing officer who is agreed upon by the parties who have appeared in the proceeding, or, in the event the parties fail to agree within five days after the expiration of the time allowed for the challenged member or hearing officer to answer, by a member assigned to act by the clerk of the board.	Not accepted—Suggestion requires major rewrite of entire section.

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
35	46	7	Industry Representative (Bone)	Change section: ~~**Disqualification of a Hearing Officer**~~ ~~Hearing officers are bound by the same legal and ethical requirements as board members regarding potential conflicts of interest. rule 305.5, subsection (a), provides:~~ ~~In those counties having assessment appeals boards or hearing officers, the party affected or the party's agent, or the assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the board or a hearing officer. The statement shall set forth the facts constituting the ground of the disqualification of the member or hearing officer and shall be signed by the party affected or the party's agent, or by the assessor, and shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground of the member's or hearing officer's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member or hearing officer . . .~~ **New Subheading** A challenge to disqualify a hearing officer is resolved in the same manner as a challenge of a board member whereby a disinterested board member decides the merits of the disqualification. However, in a county in which the board of supervisors has adopted a resolution implementing the provisions of sections 1640.1 and 1641.1, the board may elect to schedule the application before the appeals board in lieu of resolving the disqualification challenge of the hearing officer.[84]	Not accepted—Suggestion requires major rewrite of entire section.
36	46	33	CA Association of Clerks & Election Officials	Change sentence: An application filed by a hearing officer, or an application in which a hearing officer will represent his or her spouse, parent, or child, ~~are~~ is subject to the same restrictions as a board member.	Accepted

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
37	47	6	SBE Staff	Add new sections: **EMPLOYEES OF THE CLERK OF THE BOARD REPRESENTING APPLICANTS** No current employee of the office of the clerk of the board may represent an applicant for compensation on any application for equalization filed pursuant to section 1603.[Footnote] [Footnote] Section 1612.5. **APPLICATIONS FILED BY EMPLOYEES OF THE CLERK OF THE BOARD** An application filed by an employee of the clerk of the board, or an application in which the employee will represent his or her spouse, parent, or child, must be heard before an appeals board comprised of three special alternate members appointed by the presiding judge of the superior court in the county. The employee of the clerk must notify the clerk when the employee files an application or when the employee intends to represent his or her spouse, parent, or child in an assessment appeal matter.[Footnote] [Footnote] Section 1612.7.	Accepted
38	50	24	CA Association of Clerks & Election Officials	Change sentence: However, the board has jurisdiction to determine the classification of property that is the subject of the hearing even when such classification may result in the property so classified being exempt from property taxation.[100]	Not accepted—Rule 324(b)
39	51	4	Industry Representative (Bone)	Change heading: **Classification and Allocation of Value Within ~~A Correct Total~~ an Assessment**	Not accepted—Suggestion requires major rewrite of entire section. Classification section is on page 54 of the manual.

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
40	51	6	Industry Representative (Bone)	Change section: The total value of a property is comprised of the separately assessed values of land, improvements, and personal property.[103] Proper classification and allocation are important parts of the assessment process. In many situations, an error in classification or allocation can have an impact on the taxes calculated. In some cases, property may be exempt by its nature or due to its ownership, such as inventory or personal property owned by banks and financial institutions. In some areas, there are different tax rates for land, improvements, and personal property. Also, correct initial classification is very important any time new construction, damage, or property removal occurs. Because a misallocation of value may result in adverse tax consequences, appeals boards are authorized to determine the proper classification of property and the correct allocation of total value within an assessment or appraisal unit. **Base Year Value Allocations** Article XIII, section 13 of the California Constitution requires that an assessor separately assess land and improvements. Thus, when establishing a base year value upon a change in ownership or completion of new construction, the assessor must determine a new base year value for land and/or a new base year value for improvements. The total of the separate base year values become the total base year value for the entire property. The correct allocation of the total base year value is important because subsequent adjustments resulting from an event such as removal of an improvement must be correctly reflected by the separate base year values so as to avoid an overallocation of the total base value to the land. The possibility that a misallocation made at the time the base year value is established may result in adverse tax consequences at some later time requires that a taxpayer have the right to appeal the allocation of the base year value within the time limitations period of either section1605, subdivision (b), for supplemental assessment or section 80 for base year value appeals.[104] Once the base year value has been determined by an appeals board or is presumed to be correct because the value was not appealed within the statutory time limitation period, then the allocation may not be appealed. ~~However, an applicant who appeals a decline in value of the property should not be allowed to appeal the allocation. Pursuant to section 51, the taxable value of real property shall be the lower of the adjusted base year value or the current fair market value as of the lien date. Decline in value appeals are made on an annual basis and the value determination made as a result of such an appeal is typically effective for only the year appealed. This value determination applies to the entire property, without regard to the separate components, and a recalculation of the allocation would have no effect on the tax liability.~~	Not accepted—Suggestion requires major rewrite of entire section. Classification section is on page 54 of the manual. See Item 41.

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
41	51	25	Cal-Tax (Doerr)	Delete paragraph: ~~However, an applicant who appeals a decline in value of the property should not be allowed to appeal the allocation. Pursuant to section 51, the taxable value of real property shall be the lower of the adjusted base year value or the current fair market value as of the lien date. Decline in value appeals are made on an annual basis and the value determination made as a result of such an appeal is typically effective for only the year appealed. This value determination applies to the entire property, without regard to the separate components, and a recalculation of the allocation would have no effect on the tax liability.~~	Accepted—Rule 302(a)(5)
42	56	21 & 23	CA Association of Clerks & Election Officials	Delete hyphens that precede items (4) and (6).	*Hyphens* are Word software indicators to delete spaces
43	56	22	CA Association of Clerks & Election Officials	Add a footnote to point out that this extension of the two-year deadline is for a finite period specified in law	Outside scope of this update.
44	56	24	CA Association of Clerks & Election Officials	Add a footnote to point out that this extension of the two-year deadline is for a finite period specified in law	Outside scope of this update.
45	79	16	CA Association of Clerks & Election Officials	Restore deleted paragraph: ~~The provisions for exclusion of any sale occurring more than 90 days after the lien date is restricted to fair market value assessments and does not apply to use of the capitalization of income method and evidence of income earned more than 90 days after the lien date.[151]~~ The provisions for exclusion of any sale occurring more than 90 days after the lien date is restricted to fair market value assessments and does not apply to use of the capitalization of income method and evidence of income earned more than 90 days after the lien date.[151]	Not accepted—Cited court case relates to Section 402.5 and application of the capitalization of income method for Williamson Act values, not fair market values.
46	87	3	CA Assessors' Association (El Dorado County)	Add footnote. However, if the applicant has failed to supply all the information required by law to the assessor, the assessor maintains the presumption of correctness.[Footnote] [Footnote] *Domenghini* v. *San Luis Obispo, supra.*	Accepted

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
47	87	32	Industry Representative (Bone)	Add Rule 321: (a) Subject to exceptions set by law, it is presumed that the assessor has properly performed his or her duties. 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 present independent evidence relevant to the full value of the property or other issue presented by the application. (b) If the applicant has presented evidence, and the assessor has also presented evidence, then the board must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the assessor's determination is incorrect. The presumption that the assessor has properly performed his or her duties is not evidence and shall not be considered by the board in its deliberations. (c) The assessor has the burden of establishing the basis for imposition of a penalty assessment. (d) Exceptions to subsection (a) 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 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. (e) 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. (f) 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. **SBE REWRITE:** Unless otherwise provided by law, the required standard of proof in California is proof by a preponderance of the evidence.[161] This standard also generally applies to assessment appeal proceedings.[162] Thus, with respect to the assessor's presumption of correctness and its exceptions, the party with the burden must prove his or her case by a preponderance of the evidence.[Footnote] A *preponderance of evidence* is usually defined "in terms of probability of truth" and as evidence which, when weighed against evidence offered in opposition to it, "has more convincing force and the greater probability of truth."[163] [Footnote] Rule 321.	Accepted—See rewrite.
48	92	7	CA Association of Clerks & Election Officials	Change sentence: The chair may request that either or both parties briefly describe the subject property, the issues the board will be requested to determine, any recommendation by the assessor, and any agreements or stipulations agreed to by the parties.[170]	Not accepted—Outside the scope of Rule 313(b)

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
49	92	Fnote	CA Association of Clerks & Election Officials	Delete footnote 183.	When text revisions are accepted, Word software then deletes the footnote
50	96	19	CA Association of Clerks & Election Officials	Add new sentence: . . . cause to the board.[186] Any information exchange dates established pursuant to Rule 305.1 remain in effect based on the originally scheduled hearing date, notwithstanding the hearing postponement, except when a hearing is postponed due to the failure of a party to respond to an exchange of information (see subsection (d) of Rule 305.1 and subsection (a) of Rule 323). **SBE REWRITE:** Any information exchange dates established pursuant to Rule 305.1 remain in effect based on the originally scheduled hearing date, notwithstanding the hearing postponement, except when a hearing is postponed due to the failure of a party to respond to an exchange of information.[Footnote] [Footnote] Rule 305.1, subsection (d); Rule 323, subsection (a).	Accepted—See rewrite.
51	97	23	Industry Representative (Bone)	Add sentence: . . . a synonym for appraisal. An appraisal unit of property is a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law. **SBE REWRITE:** An appraisal unit of property is a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law.[Footnote] [Footnote] Rule 324, subsection (b).	Accepted—See rewrite.
52	102	11	Industry Representative (Bone)	Add sentences: . . . restrictions imposed by law. For real property, full value is the lower of the property's fair market value, its base year value, or where applicable its restricted-use value. For personal property, full value is the property's fair market value.	Not accepted—Rule 301(j) does not define *full value* as the lowest value.

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
53	102	14	Industry Representative (Bone)	Add sentence: An appeals board's value determination is not limited by either party's opinion of value. Nor is an appeals board's value determination required to choose between the opinions of value promoted by the parties to the appeal, but shall make its own determination of value based upon the evidence properly admitted at the hearing. The board may establish its own value insofar as the value conclusion falls within an acceptable range from the evidence presented and is not based on speculation and conjecture.[201] **SBE REWRITE:** An appeals board's value determination is not limited by either party's opinion of value. The board is not required to choose between the opinions of value promoted by the parties to the appeal, but shall make its own determination of value based upon the evidence properly admitted at the hearing.[Footnote] The board may establish its own value insofar as the value conclusion falls within an acceptable range from the evidence presented and is not based on speculation and conjecture.[201] [Footnote] Rule 324, subsection (b).	Accepted—See rewrite.
54	105	7	CA Assessors' Association (El Dorado County)	The manual refers to the term "ministerial clerical error." While not entirely sure just which such an error consists of it is certain that an official definition does not exist. There are no specific suggestions for such a definition, but it is urged that the SBE staff create one. It could easily be placed in the "Glossary of Terms" section of this manual. **SBE REWRITE:** The board may, however, amend a decision to correct a ministerial clerical error,[211] and may reopen a hearing when it was previously closed due to nonappearance by the applicant.[212] Correcting a *ministerial clerical error* involves instances only when there is no occasion to use judgment or discretion, such as correcting a mathematical error made while computing the value of a property.	Accepted—See rewrite
55	151	16	CA Association of Clerks & Election Officials	Restore deleted sentence: ~~The rule prohibiting an appeals board from considering data of sales occurring later than 90 days after the lien date is restricted to fair market value assessments and is inapplicable when the data is used to determine value by using the capitalization of income method.~~ The rule prohibiting an appeals board from considering data of sales occurring later than 90 days after the lien date is restricted to fair market value assessments and is inapplicable when the data is used to determine value by using the capitalization of income method.	Not accepted—Cited court case relates to Section 402.5 and application of the capitalization of income method for Williamson Act values, not fair market values.

No.	Page/Line Reference		Source	Proposed Language	SBE Staff Position
56	156	9	CA Association of Clerks & Election Officials	Restore deleted sentence: ~~A taxpayer may amend a pending application to assert alternative opinions of value, any of which an appeals board may determine according to its findings on the evidence, because such relief is not different from or in addition to that requested; it still relates only to the quantum of relief embraced under the original request.~~ A taxpayer may amend a pending application to assert alternative opinions of value, any of which an appeals board may determine according to its findings on the evidence, because such relief is not different from or in addition to that requested; it still relates only to the quantum of relief embraced under the original request.	Not accepted—Case interpreted former Rule 305.