

TAXPAYERS' BILL OF RIGHTS HEARING APPEARANCE SHEET

If you wish to speak before the Board of Equalization at the public hearing, or have your issues submitted as part of the public record, please **print** your name, title, company, account number, taxpayer's name (if you are representing someone else), a brief description of the issues you would like to discuss, and contact information. This appearance sheet will be used to introduce you to the Board, identify you in the record of this hearing, and to send you information after this hearing. **Signing or completing this form is voluntary. You may speak at this meeting regardless of whether you sign or complete this form** (Government Code section 11124).

HEARING LOCATION Sacramento		HEARING DATE 27 August 2019	<input checked="" type="checkbox"/> I want to speak at the hearing. <input type="checkbox"/> I DO NOT want to speak at the hearing.
TYPE OF TAX <input checked="" type="checkbox"/> Property Tax <input type="checkbox"/> Alcoholic Beverage Tax			
SPEAKER'S NAME Thomas Crandall		TITLE (if applicable) citizen/taxpayer	COMPANY (if applicable)
MAILING ADDRESS (street, city, state, zip code)		EMAIL ADDRESS [REDACTED]	
TAXPAYER'S NAME (if not the speaker)		ACCOUNT NUMBER	
ORGANIZATION	TELEPHONE NUMBER ()		EMAIL ADDRESS [REDACTED]
DESCRIPTION OF ISSUES			

My appearance at this 2019 Taxpayers' Rights Hearing pursues the same taxpayer-issue tabled by the Board at the 2018 Taxpayers' Rights Hearing.

- policy issue: an assessor's disregard of the conveyance of real property (an operative public-record deed).

I may present on the following points and concerns:

- 1) Review the Civil-Code-right of any person to convey real property.
- 2) Review the BOE policy for enrollment of a real property conveyance on the local secured roll.
 - review the policy promoted by the BOE Legal Department, Taxpayer Advocate, & Executive Director
- 3) Review the taxpayer/citizen's critique of the BOE policy for local-secured-roll enrollment.
 - critique the proposed BOE policy.
(reference: Crandall letter to Board 03/26/19, attached)
- 4) This policy issue is now before the full Board for review: resolve this ambiguous enrollment policy to statute.
 - the BOE Bureau refuses to clarify their ambiguous enrollment policy.
 - taxpayer/citizen recommendations for Board oversight/action.
- 5) Crandall critique, from the taxpayer/citizen perspective, of:
 - the BOE's failure to administer the RTC.
 - the BOE's systemic anti-taxpayer bias.
 - the BOE's disregard of taxpayer rights & revenue security.

STATE BOARD OF EQUALIZATION 
Thomas Crandall Item # C1
 Item Name: TBR Hearing
 Meeting Date: 8/27/19 Minutes Exhibit #: 8.2
 PUBLIC COMMENT

BOE USE ONLY

COPY PROVIDED TO: CHAIR ADVOCATE BOARD CLERK SPEAKER

2019 TAXPAYERS' BILL OF RIGHTS HEARING, 27 August 2019

Opening statement by Thomas Crandall, taxpayer

I, Thomas Crandall, appear before *the Board* today to elevate to *Board-level* an unresolvable dispute, an impasse, between taxpayers and the BOE (*the Bureau*) regarding the correct administration of the Revenue & Taxation Code (RTC). In spite of persistent taxpayer inquiry and objection, *the Bureau* has recommended annotating a new “Deed Presumption” policy that advises an assessor may disregard a public-record grant¹ of real property. This proposed policy directly contradicts the letter and intent of the RTC:

- it denies the property owner/taxpayer their rightful assessment (RTC§405);
- it fundamentally undermines the security of public revenue (RTC§2187);
- it offers no rationale beyond a generic caveat that an assessor must be allowed to exercise their judgment in the conduct of their duties.

Taxpayers consider the recognition of a constructively-noticed deed an assessor obligation and a taxpayer right under the Code. We assert both taxpayers and assessors have statutory obligations that require compliance, and not just best effort or judgment. The assessor is bonded and taxpayer property is lien-date-levied specifically to enforce these statutory obligations to secure general tax revenue.

As Mr. McKee and I can attest, the taxpayer-assessor relationship is pointlessly aggravated by an assessor’s disregard of public-record property ownership and such disregard does not serve revenue, taxation, or collection. Our legitimate requests for *Bureau* assistance on this matter are met with misdirection, obfuscation, and misrepresentation of the law and uniform practice; apparently mandatory sections of the RTC may not be taken literally. Our persistence to hold assessors accountable to their statutory obligations ultimately received the dubious “asked and answered” response from *the Bureau* in an attempt to shut-down this taxpayer inquiry.

That elevates this impasse to you, *the Board*. *The Bureau*, representing *Board authority*, has met and agreed that an assessor may disregard public-record property ownership. Taxpayers absolutely disagree. This is a significant policy dispute and Mr. McKee and I have traveled long-distances to ensure *the Board* understands the import of this matter.

- I have a brief presentation on “change in ownership” terminology and the exact policy dispute.
- Mr. McKee will present his taxpayer perspective.
- We (Crandall/McKee) do herein submit a formal taxpayer request for *Board action* on this matter.

¹ Civil Code § 671. “Any person may take, hold, and dispose of real property within this State.”
also see CIV§1039; CIV§1105.

LISTING OF RELEVANT CALIFORNIA CODE SECTIONS

CIV: California Civil Code, Division 2, Property (enacted 1872.)

CIV§671. Any person may take, hold, and dispose of real property within this State.

CIV§1039. Transfer is an act of the parties by which the title to property is conveyed from one living person to another.

CIV§1054. A grant takes effect, so as to vest the interest intended to be transferred, only upon its delivery by the grantor.

CIV§1092. A grant of an estate in real property may be made in substance as follows: "I, A B, grant to C D all that real property situated in (insert name of county) County, State of California, bounded (or described) as follows: (here insert property description, or if the land sought to be conveyed has a descriptive name, it may be described by the name.

CIV§1105. A fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended.

CIV§1217. An unrecorded instrument is valid as between the parties thereto and those who have notice thereof.

EVID: Evidence Code

EVID§662: The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof.

GC: Government Code

GC§27285. The following documents may be recorded without acknowledgment or further proof:

(a) Letters patent from the United States or from the state, executed and authenticated pursuant to existing law.

RTC: Revenue and Taxation Code

RTC§16. “Shall” is mandatory and “may” is permissive.

RTC§60. A "change in ownership" means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

RTC§67. “Purchased” or “purchase” means a change in ownership for consideration.

RTC§255.7. Whenever a change of ownership is recorded in the county recorder's office, the county recorder shall provide the assessor with a copy of the transfer of ownership document as soon as possible.

RTC§405 (a): Annually, the assessor **shall** assess all the taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date.

RTC§601. The assessor shall prepare an assessment roll, as directed by the board, in which shall be listed all property within the county which it is the assessor’s duty to assess.

RTC§602. This local roll **shall** show:

(a) The name and address, if known, of the assessee.

(b) Land, by legal description.

RTC§610 (a) Land once described on the roll need not be described a second time, but any person, claiming and desiring to be assessed for it, may have his or her name inserted with that of the assessee. **(b)** A person is “claiming” property for purposes of subdivision (a) only if he or she provides the assessor with one of the following supporting documents:

(1) A certified copy of a deed, judgment, or other instrument that creates or legally verifies that person’s ownership interest in the property.

RTC§1361. The assessor and his sureties are liable on his official bond for all taxes on property which is unassessed through his wilful failure or neglect.

RTC§1362. Any taxpayer having the necessary knowledge may file with the board of supervisors an affidavit, alleging that certain property has escaped taxation through the wilful failure or neglect of the assessor, and giving the best description of the property that he can.

Crandall filed a 1362-affidavit @ Humboldt County on 7/15/2014; McKee filed a 1362-affidavit on 7/22/2014.

RTC§1363. The board of supervisors shall then direct the district attorney to commence an action on the assessor’s bond for the amount of taxes lost through the assessor’s wilful failure or neglect.

The Humboldt County Board of Supervisors directed no action; lost tax revenue paid with County funds on 1/15/16.

RTC§2187. Every tax, penalty, or interest, including redemption penalty or interest, on real property is a lien against the property assessed.

RTC§2193. Every lien created by this division has the effect of an execution duly levied against the property subject to the lien.

Conveyance of Real Property in California

Assessment Precedents & Uniform Practice

BOE-Ita 2004/025 - Special Topic Survey, Change in Ownership and New Construction
Chapter 2: Overview of Laws Governing Change in Ownership and New Construction:

"It should be emphasized that the term "change in ownership" has a specific legal meaning which refers to an event that results in the reappraisal of real property for property tax purposes. This ["change in ownership"] reappraisal determination has no bearing on legal ownership, income tax consequences, or any other legal purpose."

Sacramento County Assessor's Office - Frequently Asked Questions (FAQs): About Assessor Parcel Maps
8. Is the assessor's parcel map a legal document?

- No. Assessor parcel maps are prepared for assessment purposes only and by law show information AS RECORDED rather than as obtained.

19. I want to sell off a portion of my property, and the lender is requiring a new parcel number on the portion to be sold. Will the Assessor comply with this request?

- No. Assessor's parcels maps are for assessment purposes only. Upon recordation or close of escrow, the assessor will be required by law to assign new parcel number(s) to the newly created parcels caused by the selling of the portion of the property.

Napa County Assessor's Office FAQs - When a parcel is not a parcel?

By State law the Assessor is required to show land by property ownership which is usually set forth by legal description contained in deeds transferring property. If the Assessor learns from an owner, a title company, a surveyor or a governmental agency that a certain piece of land does not belong in its entirety to the owner shown on the current assessor parcel map, the Assessor must create a new assessor parcel showing the newly determined ownership. The creation of that parcel does not determine the "legality" of that parcel.

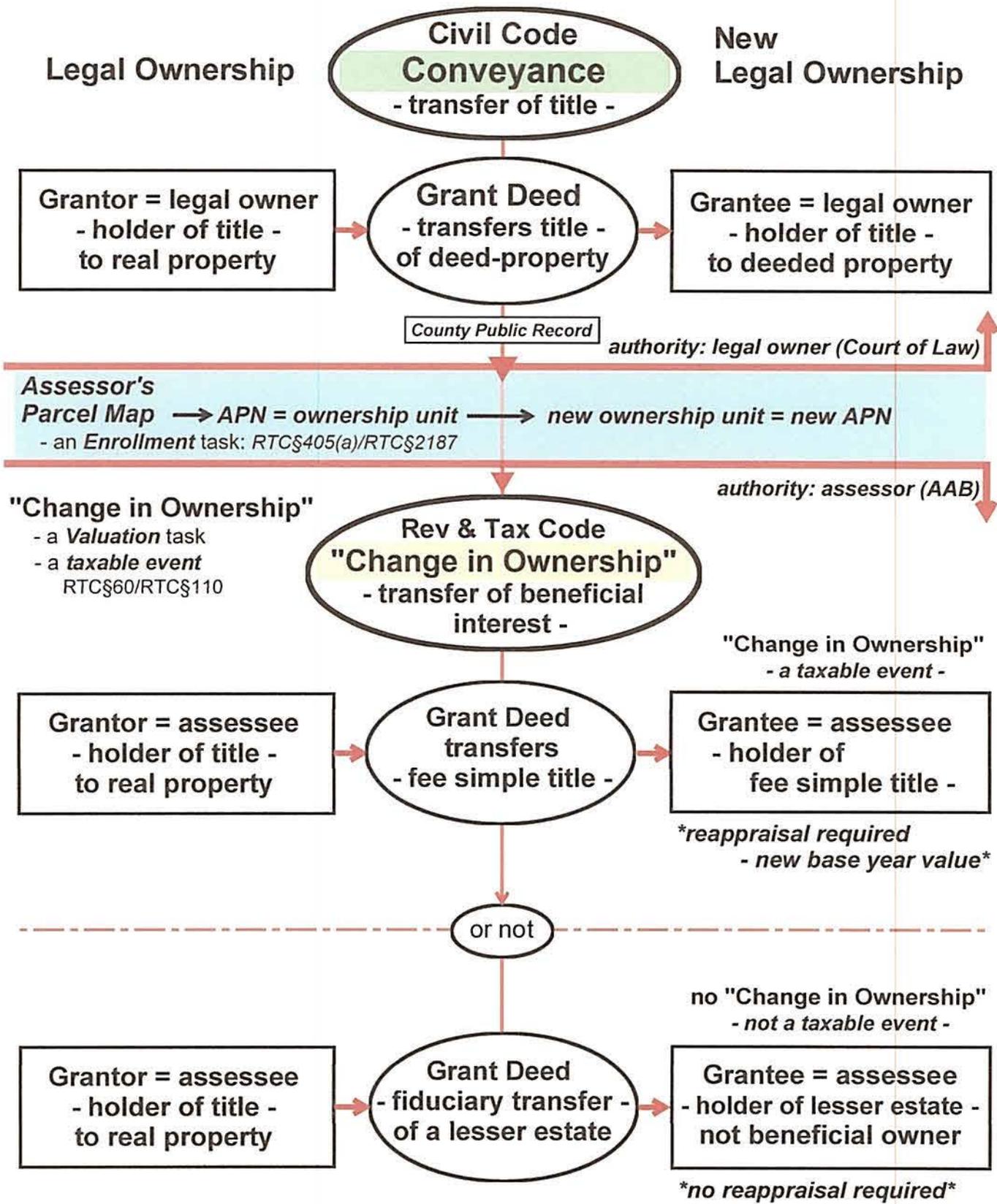
Mallman v. Kneeben, 11 Cal.App.2d 484.

RTC§405(a) - Description: A failure to change the description or valuation of a lot after a conveyance of a portion thereof justifies a holding that the assessment is invalid.

County of Humboldt vs. McKee, Case No. DR020825: Pretrial Transcript 05/21/07

"Court states if the County does not want to assess the taxes for the new buyers, that is up to the County. Mr. McKee, as the seller of the parcels, is no longer responsible for the taxes and no longer would receive a tax bill."

Conveyance of Real Property Title in California



Subject: BOE-Legal Dept will not revise their 4/3/17-clarification statement



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Third District, Los Angeles County
DIANE L. HARKEY
Fourth District, Orange County
BETTY T. YEE
State Controller
DAVID J. GAU
Executive Director

June 2, 2017

Mr. Thomas Crandall
[REDACTED] Kenwood Road
Santa Barbara, CA 93109

Dear Mr. Crandall,

This letter is in response to your letter dated April 21, 2017 wherein you ask that our previous letter dated April 3, 2017 be reissued with the language changes you provided.

The sentences you are seeking to change are found in a portion of our letter that was provided by the Board of Equalization's Legal Department and regarding whether an assessor can ignore a valid grant deed that is constructively noticed. You wish to change the wording because you do not believe it is accurate advice to the county assessors.

The letter you ask to be rewritten is not a letter that would be annotated since it was not a formal legal opinion. Therefore changing the language in that letter would have no value since it would not be relied on by the counties as a formal opinion of the Board of Equalization.

We did however ask the Legal Department to review your language and we also proposed some language ourselves in hopes of reaching some accord. The Legal Department has stated that the changes you were suggesting, along with our suggestions, change the meaning of their opinion rather than merely clarifying it and therefore felt it was unnecessary to redraft their language in our April 3rd letter or in previous legal opinions on this issue.

If you have any further questions regarding this matter, please do not hesitate to contact me at 1-916-324-2798. You may also contact Mr. Mark Sutter of my office at 1-916-556-9257.

Sincerely,

Todd C. Gilman
Chief, Taxpayers' Rights and
Equal Employment Opportunity Division

TCG: ms
Crandall response 060217.docx

27 August 2019

To: the Board Members
State Board of Equalization (BOE)

From: Thomas Crandall, Taxpayer
Robert McKee, Taxpayer

Subject: Clarification of BOE Policy, re: Assessor Disregard of a Deed

Reference: 1) Gilman letter to Crandall, 4/03/17 - Clarification Statement
2) Crandall letter to Gilman, 4/21/17 - Taxpayer edit of Statement
3) Gilman letter to Crandall, 6/02/17 - Decline to redraft Statement

BOE Legal Department Policy Clarification Statement, c 4/3/17):

“An assessor may not arbitrarily disregard a valid deed. If a deed meets all the requirements under Civil Code 1217, an assessor may not, without reason, elect to disregard the deed. If, however, the assessor discovers clear and convincing proof that the owner of the property is other than the title owner on the deed, Evidence Code 662 allows the assessor to find that the property is owned by someone other than the title owner on the deed.”

Taxpayers’ Policy Clarification Statement, c 4/21/17, revised herein):

“An assessor may never disregard an operative and constructively-noticed deed. If a deed meets all the requirements under Civil Code 1217, an assessor may not disregard the deed. If, however, the assessor discovers clear and convincing proof that the beneficial owner of the property is other than the legal title owner on the deed, Evidence Code 662 allows the assessor to find, for reappraisal purposes, that the property is beneficially owned by someone other than the title owner on the deed. An assessor-finding on “change in ownership” has no effect on the deed or legal ownership. Failure to enroll legal ownership appraisal units on the local secured roll may result in an assessor’s-bond liability under RTC 1361 for uncollectible tax.”

Taxpayers herein request *the Board* direct the Executive Director to implement the above *Taxpayers’ Policy Clarification* in order to bring *the Board’s* administration of revenue and taxation into compliance with the Revenue & Taxation Code statute. In particular, the Legal Department’s recommendation to annotate the letter *Yim-to-Crandall-7/22/15 (re: CLD 2017-1)* requires the addition of this clarification statement to resolve the letter/policy’s ambiguity with respect to the proper enrollment of real property.

26 March 2019

To: Malia Cohen (Board Chair & 2nd District)
State Board of Equalization
455 Golden Gate Ave, Suite 10500
San Francisco, CA 94102

From: Thomas Crandall
Taxpayer/property owner
[REDACTED] Kenwood Road
Santa Barbara, CA 93109

cc: Antonio Vazquez (Vice Chair & 3rd District), Ted Gaines (1st District),
Mike Schaefer (4th District), Betty Yee (State Controller), Robert McKee (Taxpayer)

Subject: Board Action Item @ 2018 Property Taxpayers' Rights Hearing

Reference: 1) BOE-TRAO (Thompson) letter to Crandall, 26 December 2018
2) Crandall letter to BOE Chair-George Runner, 25 October 2018
3) 2018 Property Taxpayers' Rights Hearing, 21 August 2018
4) BOE-TRAO (Thompson) letter to Crandall, 03 July 2018
5) Crandall letter to BOE-TRAO (Gilman), 27 June 2017
6) BOE-TRAO (Gilman) letter to Crandall, 02 June 2017
7) Crandall letter to BOE-TRAO (Gilman), 21 April 2017
8) Property Tax Current Legal Digest 2017-1, 11 April 2017
9) BOE-TRAO (Gilman) letter to Crandall, 03 April 2017
10) Crandall letter to BOE-TRAO (Gilman), 27 February 2017
11) BOE Legal (Ang) letter to Crandall, 02 February 2017

To Malia Cohen, Board Chair & 2nd District Board Member:

I appeared before the previous Board on August 21st 2018 (Reference 3) to protest the BOE Legal Department's proposed annotation/policy¹ advising assessors that they may disregard public-record property ownership in the enrollment/assessment of real property on the local secured roll. I represented to the Board that the *California Civil Code* establishes and protects a person's right to own and transfer real property² and that an assessor's disregard of the recorded transfer of real property as intended is an absurd BOE policy that serves no purpose in revenue and taxation. Board Chair George Runner cut my presentation short on August 21st and directed the agency to schedule a special hearing to review this fundamental taxpayer rights issue.

I cautioned Mr. Runner in Reference 2 that an anti-taxpayer bias within the BOE-agency may oppose the Board-level-review of this taxpayer's rights issue. Reference 1 confirmed my concern: the Taxpayer's Rights Advocate (TRA-Lisa Thompson), Chief Counsel (Henry Nanjo), and Executive Director (Dean Kinnee) met privately and agreed that:

- issued TRA and BOE-Legal opinions sufficiently justify and explain said policy;
- the BOE "agency" has sufficiently responded to this taxpayer request/issue;
- the Chief Counsel, TRA, & Executive Director oppose any public Board-level policy review.

The TRA subsequently notified the sitting 2018 Board that the agency recommends no further action be taken; the TRA then delayed notifying the taxpayer (Reference 1) until the sitting Board's last days of tenure.

¹ Property Tax Department CLD 2017-1 (Yeung-11Apr2017): 180.0088, 220.0148.005, 290.0008; (Reference 8).

² Civil Code §671, §1039, §1092, §1105.

Referring to the Reference 1 notice, taxpayer issues and concerns have not been addressed to date for the simple reason that the TRA and the Legal Department refuse to acknowledge the taxpayers' issue. Ms. Thompson falsely states in Reference 1 that "*I believe an assessor must always consider the holder of legal title to real property on the deed as the beneficial owner of the property regardless of any evidence to the contrary.*" This misrepresentation by Ms. Thompson betrays an anti-taxpayer bias within the TRA that neither provides taxpayer advocacy nor represents the taxpayers' perspective.

I have clarified my position repeatedly to the agency³ as follows:

I believe an assessor must always consider the holder of legal title to real property (the grantee) on the deed as the legal owner of the deeded property. period! An assessor's contrary opinion of beneficial ownership is their consideration to make; it has no effect on the holding of legal title or the property deeded and is of no concern to the property owner/taxpayer.

This taxpayer position is based solely upon the holding of legal title and relies upon the *California Revenue & Taxation Code (RTC)* and the *California Civil Code* as follows:

- ① a grant of real property conclusively passes fee simple title as intended. *CIV§1105*
- ② a deeded parcel requires mapping & the assignment of an appraisal unit (APN). *RTC§405(a)*
- ③ the local secured roll requires enrollment of deeded/owned property. *RTC§405(a), RTC§2187*
- ④ the enrollment of the deeded owner (legal owner) as default assessee is required. *RTC§405(a)*
- ⑤ the enrolled parcel must include rights-to-land (legal title) to secure the tax lien. *RTC§2187*

The promoted BOE-agency policy⁴ is based solely upon *California Evidence Code § 662*. This flawed policy effectively subordinates the *Civil Code*, *Revenue & Taxation Code*, and *Morgan Property Taxpayers' Bill of Rights* to an assessor's contrary opinion of beneficial title:

- ① an assessor may disregard legal title based upon their opinion of beneficial title. (*EVID§662*)
- ② the mapping/assignment of an appraisal unit (APN) to a deeded parcel is discretionary.
- ③ the enrollment of deeded/titled property on the local secured roll is discretionary.
- ④ the enrollment of the deeded owner (legal owner) as default assessee is discretionary.
- ⑤ the above actions may yield a defective tax bill/lien, but that is of no concern to the agency.

This agency policy administers compulsory *Revenue and Taxation Code* requirements as mere discretionary suggestions. And the agency offers no explanation or justification for disregarding public-record real property ownership as intended by the grant of real property (*CIV§1105*).

It is telling to note that while the taxpayer position relies on the intent and letter of the *California Civil Code* and the *California Revenue & Taxation Code*, the agency position opines *ad nauseam* that *California Evidence Code §662* subordinates the *Civil Code* and *Revenue & Taxation Code*, allowing an assessor to disregard deeded-legal-title, citizen/taxpayer rights, and their statutory fiduciary duty. This agency subordination of the *RTC* is bereft of due process or transparency:

- no *uniform practice* is cited (or exists) for an assessor's disregard of the public record;
- no *trial-of-fact* is made available to contest an assessor's alleged "evidence to the contrary";
- no agency-recognition of civil property rights (deed intent) or taxpayer rights are evident.

This policy stems from contrived *Legal Department* opinions, wholly endorsed by the *Chief Counsel*, rote-advocated by the *Chief of the Taxpayers' Rights Advocates Office*, as approved by the *Executive Director* (it remains unclear if the *Chief of the County-Assessed Properties Division* is complicit). This policy represents the agency's concerted and persistent effort to subvert taxpayer rights (and civil property rights) to an assessor's discretion at the expense of tax collection, tax revenue security, and the very tenets of California's *Revenue & Taxation Code*.

³ Taxpayer communiques to the BOE: References 2), 3), 5), 7), 10).

⁴ BOE communiques to the taxpayer: References 1), 4), 6), 9), 11).

The Board of Equalization (the five sitting Board Members) is required by *Government Code §15606 & §15608* to advise, direct, and compel assessors as to their duties under the *California Revenue & Taxation Code*. And there is no higher taxpayer rights issue than an assessor's recognition of public-record real property ownership as intended. Taxpayers have repeatedly requested a Board-level-review of the agency's proposed policy promoting an assessor's disregard of public-record real property ownership. To date the agency has suppressed and avoided any public Board-level-review of this contrived and absurd policy.

Taxpayers deserve and require a transparent explanation⁵ of this policy by the agency's proponents before the sitting Board. I herein request the Board schedule a public Board-level-review of this taxpayer-contested policy in either San Francisco or Sacramento before the *2019 Taxpayers' Bill of Rights Hearing*. Alternately, this review may be scheduled as an agenda item at the Sacramento *2019 Taxpayers' Bill of Rights Hearing*. Please contact the undersigned to confirm the Board's preferred date, time and venue for this important policy review.

Respectfully,



Thomas P. Crandall, taxpayer/property owner
phone: [REDACTED]; email: [REDACTED]

attachment: BOE-TRAO (Thompson) letter to Crandall dated 26 December 2018

⁵The Morgan Property Taxpayers' Bill of Rights