



County Assessors' Perspectives on Intangible Asset Assessments

Key administrative, valuation, and policy considerations

Presentation to the
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For discussion purposes only – not intended as legal advice or representing the position of any county or the California Assessors' Association

Statewide Perspective



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Navigating Intangible Assets Across Property Types



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What is an Intangible Asset?

Assessor Handbook 502 — Intangible assets and rights include such items as goodwill, patents, certain licenses and franchises.

Appraisal Institute—“nonphysical assets, included but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, securities, and contracts as distinguished from physical assets such as facilities and equipment.”

International Association of Assessing Officers (IAAO) defines **Intangible Personal Property** — “Property that has no physical existence beyond merely representational, nor any extrinsic value; includes rights over tangible real and personal property but not rights of use and possession.”

Asset is defined as any item (tangible or intangible) having value to its owner; a source of wealth.

Common Property Types Where Applicants Have Claimed Intangible Assets



- Hotels
- Golf Courses
- Amusement Parks
- Assisted Living / Senior Housing
- Student Housing
- Self-Storage
- Marinas
- Wineries
- Campgrounds/RV Resorts
- Entertainment Venues/Sports Stadium
- Expanding to other property types...



Intangible Assets and Rights - Primary Approaches to Value



Income Approach

- A valuation method that estimates value based on the income a property is expected to generate in the future.
- Is value derived using operating income or rental income?
- Valuation using operating income might include income attributable to intangible assets and rights.

Sales Comparison Approach

- A valuation method that estimates a property's value by comparing it to similar properties that have recently sold and adjusting for differences between them.
- Do comparable sales prices include the value of intangible assets and rights?
- How do we make adjustments to comparable sales for intangible assets and rights?

Cost Approach

- A valuation method that estimates value by calculating the cost to replace or reproduce a structure or improvement, minus depreciation, plus the value of the land.
- Since the appraisal unit for the cost approach typically includes only the taxable property, the appraiser generally is not faced with the exclusion of the value of intangible assets and rights when using the cost approach.

Income Approach - When Using Operating Income



What is a going concern valuation? “Generally, the total value of an operating business enterprise.”

- Tangible Property
 - Real Property
 - Tangible Personal Property
- Intangible Personal Property
 - Franchise Agreements, Management Agreements, and Other Contracts
 - Patents, Trademarks, and Copyrights
 - Assembled Workforce
 - Trade Name
- Financial Assets and Working Capital
 - Cash
 - Marketable Securities
 - Accounts Receivable
 - Supplies and Inventory

Examples of Applicant's Claimed Intangible Assets Using Operating Income



Applicant #1

Luxury Hotel with Golf Course

- Return on Flag & Franchise
- Return on Furniture, Fixtures, and Equipment (FF&E)
- Return on Management
- Food & Beverage Operations
- Assembled Workforce

* Applicant's Value of Claimed Intangible Assets = 22% of Total Value

Applicant #2

Luxury Hotel with Golf Course

- Return on Brand / Trade Name
- Return on Tangible Personal Property
- Return of & on Initial Investment Costs
- Return of & on Advanced Bookings
- Return on Resort / Membership Fee
- Return on Other Intangibles Assets

* Applicant's Value of Claimed Intangible Assets = 28% of Total Value

Examples of Applicant's Claimed Intangible Assets Using Rental Income



Student Housing

- Return of & on Initial Investment / Stabilization Costs
- Return on Tangible Personal Property
- Return on Brand / Trade Name
- Return on Non-Real Estate NOI
- Return of Other Intangible Assets

* Applicant's Value of Claimed Intangible Assets = 14% of Total Value

Create Fair and Equitable Guidance for Property Owners, Tax Representatives and Assessors



1. More guidance on assessing the value of the real property when using operating income, while excluding any nontaxable intangible assets and rights, if present.
2. Distinguishing between intangible assets and rights necessary for the productive or beneficial use of the taxable property and those that only enhance its value.
3. Clear guidance on how to identify nontaxable intangible assets and rights, along with establishing requirements for documentation and valuation evidence.
4. Creating a process where information on intangibles assets and rights is provided in advance from Applicants.
5. When property valuation involves operating income and significant intangible value is asserted, a methodology focusing solely on the real property should be considered.

Recent Case Law: Putting Legal Developments into Practice



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Recent Case Law: Putting Legal Developments into Practice



INTRODUCTION

Case law spans a broad range of properties, businesses, and intangibles

Roehm v. County of Orange (1948) 32 Cal.2d 280 (liquor license)

Michael Todd Co. v. Los Angeles County (1962) 57 Cal.2d 684 (film negative)

County of Stanislaus v. Assessment Appeals Bd. (1989) 213 Cal.App.3d 1445 (cable television franchise)

Service America Corp. v. County of San Diego (1993) 15 Cal.App.4th 1232 (concession)

GTE Sprint Communications Corp. v. County of Alameda (1994) 26 Cal.App.4th 992 (state-assessed wireless telecom)

American Sheds, Inc. v. County of Los Angeles (1998) 66 Cal.App.4th 384 (landfill permit)

Recent Case Law: Putting Legal Developments into Practice



Case law spans a broad range of properties, businesses, and intangibles (cont.)

Elk Hills Power, LLC v. Bd. of Equalization (2013) 57 Cal.4th 593 (state-assessed power plant)

SHC Half Moon Bay, LLC v. County of San Mateo (2014) 226 Cal.App.4th 471 (hotel)

DFS Group, L.P. v. County of San Mateo (2019) 31 Cal.App.5th 1059 (concession)

SHR St. Francis, LLC v. City and County of San Francisco (2023) 94 Cal.App.5th 622 (hotel)

Olympic & Georgia Partners, LLC v. County of Los Angeles (2025) 18 Cal.5th 739 (hotel)



Current State of California Law

California law permits assessors to:

- Assume the presence of operational intangible rights
- Include income generated by the real property or the beneficial use thereof

BUT prohibits:

- Taxation of intangible assets of the enterprise or the business

Judicial Trends

Courts increasingly focus on:

- The nature of the claimed intangible
- Its relationship to the real property and conduct of the business
- Evidentiary proof
- Appraisal methodology

Recurring Appraisal Questions and Legal Guidelines



1. Income Approach

- Income generated by the property and its beneficial use
- Assumptions that impact income such as competent management and the presence of intangibles needed for productive use

Cases: Olympic & Georgia Partners, LLC v. County of Los Angeles (2025) 18 Cal.5th 739; SHR St. Francis, LLC v. City and County of San Francisco (2023) 94 Cal.App.5th 622 (hotel)

Recurring Appraisal Questions and Legal Guidelines



Income Attributable to Real Property vs. Attributable to the Business (“Enterprise Activity”)

- “[T]he assessor must deduct from its income stream analysis any revenue that is ‘derived in large part from enterprise activity...[but must include] the earnings from the [taxable] property itself or from the beneficial use thereof.’”

Cases: *Olympic & Georgia Partners, LLC v. County of Los Angeles* (2025) 18 Cal.5th 739; *Elk Hills Power, LLC v. Bd. of Equalization* (2013) 57 Cal.4th 593

Recurring Appraisal Questions and Legal Guidelines



2. Assume the presence of intangible assets or rights necessary to put the taxable property to productive use

- Licenses
- Permits

Cases: *Roehm v. County of Orange* (1948) 32 Cal.2d 280; *American Sheds, Inc. v. County of Los Angeles* (1998) 66 Cal.App.4th 384

Recurring Appraisal Questions and Legal Guidelines



3. Income Attributable to Real Property

- Intangible attributes of real property shall be reflected in the value including zoning, location, and other related attributes (110(f))
- Payments derived from intangible assets that are primarily attributable to the real property or on account of its beneficial use constitute income and should be included
- Example: a 14% of room rate payment every time a guest rents a room is income that is generated from the real property or the beneficial use thereof.

Case: *Olympic & Georgia Partners, LLC v. County of Los Angeles* (2025) 18 Cal.5th 739

Recurring Appraisal Questions and Legal Guidelines



3. (cont.) Income Attributable to Enterprise Intangibles

- “If the taxpayer is able to show that **an intangible asset** such as franchise rights or customer goodwill **allows the business operating on the property to generate more revenue than would be expected from a generic business operating on the same property without such assets**, the **additional revenue** deriving from those assets is nontaxable and must be deducted from the income stream analysis.”
- Example: Burger restaurant with national franchise vs. generic burger restaurant – additional revenue is not included

Case: *Olympic & Georgia Partners, LLC v. County of Los Angeles* (2025) 18 Cal.5th 739

Recurring Appraisal Questions and Legal Guidelines



4. Case-by-Case Analysis

- Each valuation dispute turns on its specific facts
- Legal principles provide general rules, but courts require individualized, evidence-driven analysis in each case
- Outcomes depend on how income sources, valuation methods, and intangible evidence interact

Case: *Olympic & Georgia Partners, LLC v. County of Los Angeles* (2025) 18 Cal.5th 739

Recurring Appraisal Questions and Legal Guidelines



A Note on the So-Called “Rushmore Method”

- The term is used loosely for the concept that payments for “management” (or sometimes the franchise) of a hotel can account for the value of some or all intangibles related to the hotel’s enterprise activity.
- No court has categorically rejected this method.
- The trend appears to be that the courts seek evidence as to each identified intangible asset that is claimed to be accounted for by a management/franchise fee.
- Assessors, taxpayers, and appeals boards need to consider methods and evidence on a case-by-case basis.

Cases: Olympic & Georgia Partners, LLC v. County of Los Angeles (2025) 18 Cal.5th 739; SHC Half Moon Bay, LLC v. County of San Mateo (2014) 226 Cal.App.4th 471; SHR St. Francis, LLC v. City and County of San Francisco (2023) 94 Cal.App.5th 622

Practical Implications for Assessors and Taxpayers



For Assessors

- Must consider credible evidence of existence and value of intangibles
- Need to analyze nature of intangibles and relation to real property and enterprise
- Rushmore approach remains valid with appropriate analysis

For Taxpayers

- Offer credible evidence of existence and value of intangibles
- Cannot exclude value based on categorical rules
- Taxpayers have the evidence needed for accurate assessments

Closing Theme



After decades of statutory development and judicial interpretation, the recurring question remains:

“Are we valuing the productive use of the real property, or are we including value attributable to intangible enterprise assets?”

This question provides a practical framework for applying recent legal developments in California property tax valuation.

Operational Challenges of Intangibles Valuation



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Presentation Scope

Discuss operational challenges County Assessor's encounter when valuing properties where non-taxable intangibles may be present.

1. **Identifying non-taxable intangibles** for different properties and events
 - Re-assessable event (transfer, new construction) vs. Decline in Value (lien date)
2. **Assessment Appeals evidentiary issues:** burdens of production and proof, access to information
 - Presenting an analysis is not the same as providing evidence. Evidentiary issues remain common.
3. **Resource constraints** in Assessor's offices
 - Complex valuations requiring all approaches to value, time and expertise

Areas where BOE guidance and clarification may be helpful in support of county assessment administration

- A. **Each assessment varies case-by-case**, each requiring evidence from the property owner
- B. **Training, guidance and clarifications for Assessor's staff and Appeals Boards**, identifying and clarifying reliable sources of information (R&T, BOE)
- C. **Basic rules for intangible valuation methodologies** that guide identification, taxability, and value.

Operational Challenges



Identifying Intangibles

- Many purchases involve a going concern, but there is no clear trigger indicating when an assessor should investigate potential intangible assets
- There is not a universal approach for all properties or assets. Information about the properties and assets is essential
- Significant staff time may be spent investigating transactions where no meaningful intangible value exists
- Conversely, intangible value may be overlooked because it is not obvious from recorded documents nor information the taxpayer has provided

Lack of Evidence

- Whether a transfer, new construction or appeal: burdens of production and proof rest with the property owner, who must grant Assessor's access to accurate and truthful information
- Assessor can apply applicable methodologies, but we need the evidence. Able to interpret agent analyses, but need evidence to show whether there is merit
- Under Section 501, the Assessor can only move forward with the best information they are given by the property owner
- Entitled to quantitative and qualitative information

Resource Constraints

- Intangible asset property valuations are highly resource intensive. Whether documentary evidence is provided, review and preparation for appeals are extremely time consuming
- Varying property and event types require breadth of complex analyses
- Focus is on real property for tax purposes
- The work is getting done despite the pressures that may delay or extend the timeline of resolving these assessments
- Taxpayers can help by providing requested information on a timely basis

BOE Guidance



Standard Framework

- Guidance regarding intangible analysis and documents reasonably necessary to analyze intangible claims
- Standardized screening criteria and checklist of property types where intangible analysis should be considered
- Standard statewide information request template and reporting structure

Clarifying Resources

- Updating BOE guidance and educational resources to reflect modern transactions, information sources, valuation methodologies, and case law principles
- Make available for the benefit of Assessors, Assessment Appeals Boards, and property owners

Market Evidence

- Examples of actual market data and information typically relied upon by valuation professionals
- Verifiable, real market examples illustrating accepted methodologies, using all approaches to value
- Discussion of strengths and weaknesses of primary approaches
- Specialized training programs and advanced appraisal courses
- No one approach or method fits all, but basic rules needed for identifying and valuing property with intangibles



Operational Challenges of Intangibles Valuation

"In the middle of difficulty lies opportunity."
— Albert Einstein

Thank You