BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

651 BANNON STREET

SACRAMENTO, CALIFORNIA

STATE BOARD OF EQUALIZATION

JUNE 25TH, 2026

CALIFORNIA STATE BOARD OF EQUALIZATION

BOARD WORK GROUP MEETING

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REPORTED BY: Jillian M. Sumner, CSR NO. 13619

APPEARANCES

For the Board of Equalization:	Honorable Sally J. Lieber Chair
	Honorable Ted Gaines Vice Chair
	Honorable Antonio Vazquez Third District
	Honorable Mike Schaefer Fourth District
	Hasib Emran Appearing for Malia M. Cohen State Controller (per Government Code Section 7.9)
For the Board of Equalization Staff:	Richard Moon Chief Counsel
	Yvette Stowers Executive Director
	David Yeung Deputy Director Property Tax Department
	Cathy Taylor Chief, Clerk Board Proceedings and Support Services
Scheduled Speakers:	Hon. Joaquín Torres Assessor City and County of San Francisco California Assessors' Association
	Albert Tapia Division Chief I Commercial Valuation San Diego Assessor's Office

APPEARANCES CONTINUED

Scheduled Speakers: Michael Trigueros
Supervising Appraiser II
Appeals Division
San Diego Assessor's Office

Carole F. Ruwart
Deputy City Attorney
City and County of San Francisco

George Renkei
Chief Deputy Assessor
Los Angeles County Office of the Assessor

Michael Daly
Chief Deputy Assessor
Santa Barbara County Assessor’s Office

Jennifer Tydingco
Chief Appraiser
Napa County Assessor's Office

Breann E. Robowski
Partner
Pillsbury Winthrop Shaw Pittman LLP

David C. Lennhoff
MAI, SRA, AI-GRS
Principal
Lennhoff Real Estate Consulting, LLC

Chris Daniel
SRA
Certified General Appraiser
Chris Daniel & Associates LLC

James R. DePasquale
President & Chief Executive Officer
DePasquale, Kelley and Company

Cris K. O'Neall
Shareholder
Greenberg Traurig, LLP

APPEARANCES CONTINUED

Scheduled Speakers: Jason Chao
CFA, Managing Director
Stout LLC

Mary O'Connor
Principal
Sikich LLP

Public Speakers: Jeissy Lee
Policy Advocate
California Taxpayers Association

Kate Bell
Lobbyist
Ryan, LLC

Daniel Wiedenhoff
Director/Agent
Protax LLC

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BOARD WORK GROUP MEETING

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MS. LIEBER: Okay. If our services in the rear of chambers are ready at this point, we'll go ahead and call the meeting to order.

I'm not sure what that hand signal means.

Maybe it's, "Go ahead."

It's all good?

Okay. Thank you so much.

We are back today for the Board Work Group Meeting, and we're convening at 10:08 a.m.

And we'd like to ask Ms. Cichetti to please call the roll.

MS. TAYLOR: Good morning.

This is Ms. Taylor, Chief of Board Proceedings, acting as clerk today.

We'll start by recognizing Member Schaefer.

Member Schaefer, if a Member of the Board attends the meeting by teleconference from a remote location, the Member shall disclose whether any other individual 18 years or older is present in the room --

MR. SCHAEFER: Do I just talk, or do I have to do something with this?

Hi. I have Dr. Cody Petterson, my Chief of Staff, with me. He's the only other person of age, and we all know him.

Thank you very much.

MS. TAYLOR: At this time, I'll call the roll.

Chair Lieber.

MS. LIEBER: Here.

MS. TAYLOR: Vice Chair Gaines.

MR. GAINES: Here.

MS. TAYLOR: Member Vazquez.

MR. VAZQUEZ: Present.

MS. TAYLOR: Member Schaefer.

MR. SCHAEFER: Here.

MS. TAYLOR: And Deputy Controller Emran.

MR. EMRAN: Present.

MS. TAYLOR: A quorum is present.

Our first order of business is our safety and informational announcements.

Welcome to the May Lee Office Complex.

First, I would like to remind audiences to silence their cell phones and other wireless devices.

Our safety announcement:

In the auditorium, the exits are located on each side of the stage at the front, with additional exits at the rear.

Please take a moment to locate the exit sign and the nearest exit in the event of an emergency.

This Board Meeting will be live-streamed to the public and posted on the BOE website.

Public comments are taken on agenda items.

If there are any members of the public wishing to speak before the Board on any of the agenda items in person, we ask that you complete and submit to the Sergeant-at-Arms a public comment appearance sheet located at the entrance of the auditorium.

If you wish -- if you wish to speak before the Board by telephone, please dial the phone number and access code provided on our public agenda notice, and follow the instructions of the AT&T moderator.

When giving public comments, please limit your remarks to three minutes.

We also ask all speakers in the auditorium or on the AT&T phone line to state their names before speaking for the record.

This concludes the safety and informational announcements.

Thank you.

MS. LIEBER: Thank you, Ms. Taylor.

And I'd like to turn over the proceedings to Mr. Emran, Deputy Controller.

MR. EMRAN: Thank you so much, Madam Chair.

And good morning to you all.

And welcome to the California State Board of Equalization Board Work Group here.

It's a very historic and exciting day at the State Board.

So my name is Hasib Emran. I'm the California Deputy State Controller.

I'm honored to chair today's proceeding on behalf of our great State Controller, Malia Cohen.

Controller Cohen established this Work Group because she believes, and has directed this office to act on that belief, that California's property tax system deserves guidance that is current, consistent, and fairly applied in every county in this state.

To the Members of the Board, your participation brings the full authority and responsibility of the Board of Equalization to this process. I want to thank you all.

To our County Assessors, County Counsels, practitioners, and taxpayer representatives, you are the reason this Work Group can produce something meaningful.

The knowledge in this room, accumulated through years of appraisals, hearings and litigation, is exactly what updated guidance requires.

We are grateful for your time and your commitment to this process.

This Work Group has clear origin. At the Board's August 2024 TRA Hearing, Taxpayer Bill of Rights, the Board received several hours of testimony from taxpayers and taxpayer organizations raising serious concerns about inconsistencies on how intangibles are identified, valued, and excluded.

Those concerns were not abstract. They reflected real disputes, real litigation costs, and real uncertainty about whether California's property tax system was being applied uniformly.

Controller Cohen heard that testimony and acted upon it. In October 2025, we went ahead and formally proposed to establish this Work Group, tasked with exploring methodologies and developing recommendations to address those concerns. The Board approved that proposal, and today is the result of that.

This Work Group's central task is clear, Assessor Handbook Section 502, Chapter 6, the Board's primary guidance on the treatment of intangible assets and rights has not been updated since December 1998.

In the nearly three decades since, 30-plus years, the California Supreme Court and the Court of Appeals have issued a significant body of decisions that have shaped, clarified, and in some areas substantially changed how assessors are required to approach these questions.

The handbook that assessors consult as their primary reference, and that Courts, themselves, have cited as authoritative guidance, no longer reflects the law as it stands today.

The consequence is inconsistency. Without current uniform guidance, County Assessors exercise judgment differently.

Taxpayers with comparable properties in different jurisdictions may encounter methodology and different outcomes.

Assessment Appeals Boards adjudicate disputes without a reliable common framework. That inconsistency is contrary to the Board's constitutional mandate to ensure that assessment practices are uniformly and fairly applied throughout the state.

This Work Group's purpose is to address that gap systematically, to examine current methodologies, hear from the full range of stakeholders, and develop recommendations that will allow the Board to issue updated guidance reflecting where California law actually stands.

And this moment matters. The urgency of this Work Group is underscored by the California Supreme Court case August 2025 decision, *Olympic and Georgia Partners, LLC v. County of Los Angeles*.

It was a 4-3 majority.

And then the scope, structure, and what we're asking for, the Work Group's mandate is to develop recommendations to the Board on methods of valuing intangible assets and rights.

Those recommendations should address the legal standards that govern the exclusion of intangible value from taxable assessments, the methodologies assessors should apply to identify and quantify that value, and the evidence standards that govern disputes about enterprise assets.

The goal is guidance that assessors can apply with confidence, and that taxpayers and practitioners can rely on for predictability.

Today's agenda is designed to build a complete record from three distinct perspectives:

The legal and historical development of the doctrine; the operational realities facing County

Assessors; and the experience of taxpayers and private practitioners.

Each perspective is essential. The recommendation that this Work Group produces will be only as sound as what we record here today on record.

So on behalf of the Controller, I ask every participant to engage fully and candidly.

This is a formal process, and the Controller and myself intend to treat it as one.

Our office will prepare and circulate the minutes of today's session.

And I encourage everyone, in your oral presentation, get as much onto the record as you can, and then also we will allow time for written submission afterwards as well.

So I'm really looking forward to this. And the final recommendations will be presented to the Board in a timely manner.

The Controller and I are both confident that the expertise assembled here today is more than equal to the task.

So on behalf of our great State Controller, I will invite each Board Member to offer opening remarks, and we will proceed directly into Agenda Item 2.

Thank you.

MS. LIEBER: Thank you, Mr. Emran.

I'll go ahead and go first with my opening comments.

And I wanted to thank Controller Cohen and her staff, and particularly Mr. Emran, and many others in the leadership of her staff for bringing forward these very important issues for the Board's attention.

This hearing has really been a long time coming. It's been under discussion by the Board.

And I particularly look forward to presentations on intangibles by our Board staff, presentations by members and leadership of our membership organizations, which are very active in policy in California, as well as our assessors, and presentations by other practitioners, and by members of the public.

As administrators of California's property tax system, it is critical that assessors, the public, stakeholders, and practitioners all receive clarity in the treatment of intangibles.

Recent court cases have added complexity regarding the treatment of intangibles. And for decades there's been robust discussion that may be on the treatment of intangibles that may be found on personal property.

Examples of nontaxable intangible property include notes, corporate securities, shares of capital stock, solvent credits, bonds, deeds of trust, mortgages, liquor licenses, insurance policy, club memberships, and copyrights.

So this is a very complex area of property tax administration that demands that we give our attention to it.

And with that context in mind, and our desire to see that there is clear guidance going forward, I very much look forward to this Work Group.

I know that today is just the beginning of the process for us. But I so much appreciate everyone who has traveled here to give comment.

And as the Deputy Controller remarked, also providing written comments after this hearing.

Thank you so much.

MR. EMRAN: Thank you so much, Chair Lieber.

Vice Chair, Ted Gaines.

MR. GAINES: Yeah.

Thank you very much for what I think is a very important hearing, and the lack of clarity in terms of intangibles.

And I remember when we were hearing some of the facts on the -- the *Olympic and Georgia*

Partners, LLC v. County of LA, and the intangible aspect of the naming of a hotel.

And then the Supreme Court really providing a split decision. Which, again, shows that we need -- need more clarity.

So if we can provide the clarity and figure out how to land on that as a Board, and then have that clarified maybe through an LTA, or whatever the right pathway is to provide guidance in the future, I think that would be very helpful.

And look forward to hearing more about intangibles.

Thank you.

MR. EMRAN: Thank you so much, Vice Chair Gaines.

Member Vazquez.

MR. VAZQUEZ: Thank you.

And thank you to the Controllers's office and to Deputy Controller Emran for putting this thing together.

Appreciate it. I know it's been tough to try to put all the pieces together.

And not to repeat several -- you already stated some of the cases and some of the importances. And the fact, you know, I think you mentioned, which is

I think a key thing, the Assessor Handbook, you know, that it's so outdated.

And the one thing that I guess kind of jumps out is, you know, since there's been several cases over the years that I think impact the intangible assets, the rights, and are crucial that we should vet these as we move forward to make sure that we're providing the right guidance and incorporating some of these most recent cases as we move forward.

And I also just want to thank especially all the speakers and the stakeholders that are here today that'll be coming before us -- I understand most of them are in person -- for traveling and making the time to come out and share their thoughts and ideas, so we hopefully get it right as we move forward.

And appreciate and looking forward to hearing feedback, especially those that are on the ground implementing these rules.

Thank you.

MR. EMRAN: Absolutely. Thank you so much, Mr. Vazquez.

Mr. Schaefer, if you can hear us, do you have some opening remarks?

MR. SCHAEFER: Thank you. Yes, I do.

I've always considered all the various aspects that you refer to as intangibles as summed up as goodwill. But I see now goodwill is really half a dozen different names.

We do have an obligation to increase the tax revenue to help pay for our highways, hospitals, schools, etc.

But it's also very important that we consider to be business-friendly. We have a lot of businesses leaving the state, and we have a reputation as being one of the most unfriendly business atmospheres in the United States.

So I would just want to be sure that the things that we go after, like locations and zonings, that we have a good reason to find that there's a taxable value there.

I'm all for fair taxation. But I also don't want to upset any of our business interests, because they're having enough trouble surviving as it is.

Thank you.

MR. EMRAN: Thank you so much, Member Schaefer.

So with that, I want to thank the Board Members for their remarks.

Let's move right on to Agenda Item No. 2.

Madam Secretary.

MS. TAYLOR: Agenda Item No. 2, History and Legal Development of Intangibles Assessment in California.

Presentation of a comprehensive overview of the historical development of California law relating to the identification, valuation, and assessment of nontaxable intangible assets and rights.

Our speakers today, David Yeung, Property Tax Deputy Director, State Board of Equalization; and Richard Moon, Chief Counsel, State Board of Equalization.

MR. EMRAN: Wonderful.

Thank you so much, gentlemen.

Appreciate your time today.

We can go ahead and kick this off.

Can I do -- Madam Secretary, can I ask if there are going to be some slides, can we play it on this back projector here?

MR. GAINES: Yes, please.

MR. EMRAN: And, Mr. Yeung, Mr. Moon, appreciate it. And you guys can go ahead and get started.

MR. YEUNG: Of course.

Thank you. Thank you very much.

For the record, my name is David Yeung, and

I'm the Deputy Director of the Property Tax Department here at the Board.

Mr. Moon, you want to introduce?

MR. MOON: I'm Richard Moon, Chief Counsel for the Board.

MR. YEUNG: Yes. Thank you.

Thank you again for this opportunity to present before the Board.

I also want to echo your gratitude to all the speakers, all the stakeholders that are here today.

I look behind me and I see just a wealth of knowledge and experience behind me. So I just wanted to say thank you for that.

So my -- my goal here today is very, very simple. And to be very, very frank with you, it will be the easiest part of your day.

All I want to do is give you a little bit of framework, and a little bit of background in which to hear and to receive the testimony that's going to come after us.

So what I'm going to do is I'm going to go over a little bit of the -- of the history and the legal framework, and give you a brief overview of where we stand today with our guidance on intangibles.

So with that, I'll go ahead and start.

So the legal framework for intangibles, next page, please. Thank you. If you can -- okay.

Not -- next slide.

Oh, perfect. Thank you.

So the legal framework basically comes -- stems from our Constitution, the California Constitution.

Article XIII, Section 1, provides that all property is taxable unless specifically exempted by law.

We're going to touch on Article XIII, Section 2. But I'm going to go -- I'm going to save that just for a little bit later.

If you can also hit the next slide.

Thank you, Mary.

The modern history of property taxation intangibles actually truly begins right at 1933.

So prior -- prior to that, with that Article XIII, Section 1, all property is taxable, it included intangibles.

In 1933, the Constitution was amended to add what is now Article XIII, Section 2.

That section provides that only certain types of intangibles are taxable. Those are notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, mortgages, and any legal or equitable interest, therein.

So they basically said these types of intangibles are now -- are taxable.

So what that actually did, in essence, was basically made everything else that is not named, nontaxable.

So that was 1933. The next -- things were relatively quiet for a little bit. And then the next case that -- of note was in 1948.

And that is *Roehm v. County of Orange*.

The facts are the Courts taxed a liquor license in its assessment of a -- of real property.

The 1933 amendment allowing taxation for certain types of intangibles, effectively exempted all types -- all other types of intangible property.

That meant that the courts could not directly -- the county could not directly tax that liquor license.

However, the Court did include an important clarification, that intangibles that cannot be separately taxed may be reflected in the value of that taxable property. So you can basically assume its presence.

MR. GAINES: Can you clarify that?

MR. YEUNG: Yes.

So in the -- in that instance where they said a piece of commercial property, it's being run as a liquor store, the license itself has a value. You can buy it, you can apply it, and you can sell it. That cannot be included in the value of the store.

Let's just say the store is worth $500,000. And you can -- and you can actually attribute a value to that liquor license. You have to take it out of that.

If you can show that when you appraised that store, it included that liquor license, if you can identify it, and it's in there, you have to take it out.

MR. GAINES: Okay.

MR. YEUNG: So -- and the other instance is that you cannot say that, hey, this countertop, all the -- all the amenities in there, the property in there, it can be used as a liquor store. It's just that you can't include it. You can't include the value of that license.

MR. GAINES: Okay. Thank you.

MR. YEUNG: Of course.

So I think we just got -- jumped ahead and covered the next one. But we're gonna -- we're --

Mary, if you can skip to the next one after that.

Okay. So there were a couple other court cases that happened after '48.

The next one was Michael Todd.

Michael Todd, at issue was the value of the negatives of a film. Basically, it's "Around the World in 80 Days."

The courts held that the copyright cannot be directly taxed. But the market value, which is the value of the property put to its beneficial or productive use of the negatives, could be enhanced by the presence of the copyright.

It is not merely the salvage value or the scrap value of that film. So it can be, at that point, valued as the actual film itself.

There is, later on, development in the taxation of films. But that's a little bit -- they did enact a law that changed that later on. But that's the -- what Michael Todd found.

And then the next -- the next case I wanted to highlight was GTE Sprint. And that's in '94.

So we're going down quite a -- quite a few. There were many cases in between. But I'm only highlighting the ones that I think are -- are truly illustrative.

GTE Sprint involves certain enterprise-related intangibles, such as the trade name, the customer base, and assembled workforce and favorable leases and goodwill.

The value of intangible -- the value of intangible assets is not always only the enhancement to the intangible property. Thus, the Board had to consider evidence of intangible value of these enterprise-related intangibles when presented with it.

So what that basically said was that when there is evidence of intangibles, not everything is merely -- you can't just assume it all went to enhance the value of the taxable intangible property.

You have to consider what is -- what the intangibles are, and how they contributed or added.

Are they embedded in the value of the taxable property?

And I will remind you that the GTE case was actually a state assessee at that point, and they still are.

MR. GAINES: Could I ask another clarification question?

MR. YEUNG: Sure.

MR. GAINES: Because on this GTE, you're talking about trade name, customer base.

MR. YEUNG: Mm-hm.

MR. GAINES: And then you mentioned goodwill.

Would a trade name be considered goodwill and a customer base?

I'm just trying to get clarification on --

MR. YEUNG: Yeah.

MR. GAINES: -- what is -- what is goodwill?

MR. YEUNG: Goodwill tends to be a much broader category. And it may subsume some of that.

But usually a trade name is something that's identifiable.

Like Nike, you -- everybody knows that brand name. And there's certain value to being associated with Nike.

If I marketed a shoe as a "Dave Yeung" shoe versus a "Nike," there is a -- there is real value to being attached to that name.

And customer base is basically -- who basically subscribes to your services. And that is -- that is an intangible that -- that should be considered.

MR. GAINES: Would that be considered goodwill?

MR. YEUNG: Yeah.

MR. GAINES: Would a list of customers be considered goodwill?

MR. YEUNG: Could be. It could be.

MR. GAINES: Okay. Trade name?

MR. YEUNG: Yeah.

MR. GAINES: Could or could not be?

MR. YEUNG: Mr. Moon, is there --

MR. MOON: I think you've identified one of the issues that come up in the consideration of intangibles, and that's identifying whether a particular intangible is discrete on its own, or does it -- is it subsumed by a different type of identified intangible, or can you even identify this particular intangible, and what does it all consist of?

What, for example, contractually shows that it's there?

Or what's -- what about the business, or the income stream, or the property demonstrates that it's there, and that it's part of the property, or it's part of the business?

So I think this is all part of the difficulty.

MR. GAINES: Okay. Yeah.

Copyright has value.

MR. YEUNG: Yes.

MR. GAINES: Right?

I don't know in terms of whether that's defined as an intangible or not. But I'm just thinking of Disney, right? Didn't they have a 100-year copyright that just expired, or something like that?

MR. MOON: So --

MR. GAINES: So now anybody can use those Disney characters.

MR. MOON: Right.

So I'm not sure about the Disney particular example. But a copyright is certainly an intangible. I don't think there would be any doubt about the fact that it's an intangible.

MR. GAINES: Okay.

MR. MOON: The issue with property taxation is the fact that you cannot tax that copyright directly, but you can assume its presence in tangible property.

MR. GAINES: Okay.

MR. MOON: So the Michael Todd case that Mr. Yeung referred to is a good example of this.

So there was a film negative that had a copyright attached to it, the right to reproduce that film.

MR. GAINES: Mm-hm.

MR. MOON: And so the copyright by itself had some value, but the assessor could not tax that directly.

MR. GAINES: Mm-hm.

MR. MOON: But they could ascribe a value to the negatives that include the right to make reproductions of those negatives.

MR. GAINES: Okay.

MR. MOON: So that's the distinction.

And I think that's sort of, even for 100 years, that's sort of, you know, what's been argued about.

MR. GAINES: Yeah. Is more -- more valuable than the film itself, then --

MR. MOON: Well, the film with the right to it is more valuable than the film without the right to it.

MR. GAINES: Right.

MR. MOON: Yes.

MR. GAINES: Okay. Very good. Thank you.

MR. YEUNG: Okay. Thank you, Mr. Moon.

So now we jump to 1995.

With those couple court cases, there were some legislative changes. Chief amongst those was basically the amending of Revenue and Taxation Code 110. So there were a couple provisions added.

Revenue and Taxation Code 110 provides the directive to remove the value of nontaxable intangible assets or rights. So that became basically in -- in law.

110(e) further defines that -- further provides that, however, despite 110(d)'s directive, taxable property may be assessed and valued by assuming the presence of intangible rights, assets or rights necessary to put the taxable property to beneficial or productive active use.

Additionally, it also amended Revenue and Taxation Code 212(c). It added 212(c).

It's pretty similar. It states that intangible assets and rights are exempt from taxation and, except as otherwise provided in the following sentence, the value of the intangible assets and rights shall not enhance or be reflected in the value of taxable property.

The next sentence reads:

Taxable property may be assessed and valued by assuming the presence of intangible assets or rights necessary to put the taxable property to beneficial or productive use.

So basically it's embedded in two portions in 110 and 212.

So with that change in law and clarification in law, the Board started a project to update our guidance on it. And that started, I believe, in end of '95, beginning of '96.

The original manual was a 1988 guidance. And it was titled, "The Income Approach to Value."

It focused heavily on -- heavily on standard real estate math, and offered minimal and often ambiguous guidance on how to extract complex business intangibles. So there was a pretty comprehensive rewrite.

1998, we started an interested parties process in which we got stakeholders, assessors, practitioners, the public to basically weigh in on the intangibles.

We were able to get to a certain point, and the Board adopted that addition in December, on December 10th, 1998.

The part that was added, it was a -- it was pretty much a very comprehensive rewrite of the whole Assessors' Handbook.

What we did do was we added Chapter 6. And Chapter 6 dealt with the treatment of intangible assets and rights.

The chapter was considered a milestone, and it was basically drafted through an open contested process involving heavy debate amongst the County Assessors and industry groups.

At the time, the assessors, the CAA actually produced and wrote their own guidelines that varied from ours.

So what is actually covered in Chapter 6 of our handbook?

Basically, it describes how to isolate and to exclude intangible properties. And it establishes that while the appraisal can assume the presence of a permit or license to value the physical structure at its productive capacity, and cannot -- but it cannot capture the standalone cash value of that intangible asset.

So what we basically did was we laid out the very, very fundamental groundworks of how to treat intangibles.

And those steps are basically:

First, you got to know what an intangible is. We identify some of them. Then you got to basically see if they're embedded in the value of the property that you're appraising.

If they are, how to value it and to remove it. So that's the basic guidance.

Now comes the hard part. We have given you basically the skeletal framework in which to basically analyze this. We're looking at now '98 to 2026, 20, going on 30 years -- not quite -- 28 years.

Has there been enough development in either court cases, guidance, changes in industry?

How do we augment what we have given -- what we given as advice? How do we go ahead and add a little more clarity and uniformity?

So there are two court cases that I think are fairly illustrative. The first one is a court case in 2013.

And that's the *Elk Hills Power, LLC v. the Board of Equalization*.

Once again, our state assessee.

So the facts were -- are to build and run a 500-megawatt power plant, Elk Hills had to buy roughly about 11 million worth of emission reduction credits, ERCs, that essentially -- essentially, intangible pollution permits required by the local air districts.

So in order for them to run it -- they had to buy basically these -- these credits in order to run it.

So in the cost approach, the Board added the replacement costs of these ERCs directly to the assessment, arguing that because the plant could not legally operate without them, they simply assumed the presence under section 110(e).

So they assumed its presence.

The Board appraisers made no deduction from the net income for the ERCs.

So we basically appraised it with two approaches to value; the cost approach, in which we added that value, and then in the income approach where we did not remove an increment from the taxable income.

What the court holdings were -- so the Supreme Court holdings ERCs are quantifiable, independent, intangible rights that may not be directly -- may not be directly taxed.

The Court stated that assuming the presence of an intangible does not permit the appraiser to add the independent value to the tax roll.

So the findings, the assets -- the asset can make the real estate useful, but the distinct value may not be added to the cost approach.

So they found that it had a distinct value, you can't add it in the cost approach.

They also found that the -- in the income approach, the Court agreed with the Board that no deduction for the ERC was necessary, since Elk Hills had not shown that the ERC had a separate income stream attributable to it.

So they said, "Hey, you did not show that it was embedded in the income stream; therefore, you didn't have to remove it."

So what follows is a lot more litigation, including several hotels. In which one of the -- in which the Board actually filed an amicus brief on one of them.

But the hotel cases, basically, the one I wanted to highlight was -- was the most recent one.

It's the *Olympic and Georgia Partners, LLC v. County of Los Angeles*.

And that's a 2025 court case.

Most recently, the Supreme Court weighed in on intangibles issued again in one of those hotel cases, Olympic versus -- Olympic and Georgia Partners v. LA.

The facts.

The dispute involved the valuation of a luxury -- of luxury JW Marriott and Ritz-Carlton Hotel complex at LA Live.

Taxpayers argued that two unique revenue streams should be deducted from the taxable income streams as exempt intangibles.

Those two streams are a multi-million dollar Transient Occupancy Tax city subsidy paid to incentivize the project's construction in the form of a rebate.

So the city collected these occupancy tax, and actually rebated it back to the -- to the property, and a $36 million "key money" paid by Marriott to the owners to just secure the lucrative right to manage and to brand the hotel as one of theirs.

MR. VAZQUEZ: Excuse me.

MR. YEUNG: Yes.

MR. VAZQUEZ: So this one was LA Live, you mentioned. So at the end of the day, how did -- what was -- what was the ruling on the intangibles on that one?

MR. YEUNG: I think in one more slide after this --

MR. VAZQUEZ: Oh, you got it. Okay.

MR. YEUNG: We're going to get to it.

Okay. And, additionally, the owners challenged the county's valuation of its enterprise assets.

Those are it's, you know, the flag and franchise, food and beverage operations, the workforce in place.

The county did not dispute that assets were intangibles, and that their values to Olympic must be removed.

It relied on what is called the Rushmore Method, an appraisal methodology in which deducting the standard management fee to remove the value of those hotel enterprise assets.

So that's -- so there were a couple of things. They challenged whether they can -- whether the rebate of the occupancy tax was a valid part of the income, and whether the "key money" was also part.

And then they also challenged whether that method of valuing the income method was accurate. Just removing the franchise fee, or was that -- did that remove all of the value of the intangibles?

MR. VAZQUEZ: So is a TOT tax considered moving forward, or is that a separate issue?

MR. YEUNG: No, those are -- those are the three main issues at heart; the tax, the key money, and the method in which they used to value it under the income approach.

Did it remove enough of the tangible assets and rights?

So the Supreme Court's holdings.

Here we are. We're going to get to them.

The Supreme Court issued basically a split decision. The counties won on the revenue streams. The courts held that both the tax rebate and the key money could be included in the taxable assessment.

The majority reasoned that the specific contractual rights did not stem from the independent business operations, but rather from the beneficial use of the property itself.

If the contract revenue effectively flowed from the real estate's attributes rather than from independent enterprise activity, it's taxable.

The taxpayer won on the methodology. So they split. The courts unanimously struck down the county's application of the Rushmore Method. Which did not -- while it did not rule that the Rushmore Method was, per se, invalid, they ruled that the counties cannot blindly assume that the management fees wiped out all of the intangible assets at intangible franchise value.

They remanding -- they remanded the case to present evidence that the methodology accounted for the full value of the assets.

So it was remanded back to the Superior Court. And I think it's probably going to go back to the AAB for further findings.

So those are the two cases that have -- I believe are very, very pivotal since we last updated the handbook in 1998.

Next is basically a list of current Board guidance on intangibles. Some are in our 501, our Basic Appraisal, Chapter 3. We have some, the majority of it is in the 502, that is the Advanced Appraisal, and that's in Chapter 6.

And then we have a couple of LTAs out there. And we also have the Board's Unitary Valuation Methods, Appendix A. And that's exempt intangibles. And that is more for our essential assessment duties that is carried out by the SAPD state assessment entities.

So in summary, the taxation of intangibles have a very long history. There are two fundamental principles: Intangible assets may not be directly taxed, and assets may be valued by assuming the presence of intangible assets necessary to put the property to beneficial and productive use.

How these principles are practically effectuated is heavily fact-dependent.

So when I said our basic guidance in our 502, Chapter 6 recognized intangibles, identify it, value it and remove it. All of that is very, very fact-specific.

The guidance and the rules should be uniform. The application depends heavily on the facts.

So with that, I conclude my presentation. Mr. Moon and I are both available for any questions you may have.

MR. EMRAN: Wonderful.

Thank you so much. Really appreciate the time to put those slides together and present to this Board and to the public on a very important history that dates back many, many years.

I'm going to look to the Board Members.

Do we have any questions? I know we're asking questions during.

Vice Chair Gaines.

MR. GAINES: Just trying to understand this aspect of intangibles where there's a scenario where it's included in the valuation and then later subtracted.

Is the valuation of that intangible and the amount subtracted, is that the same number, or can that be interpreted in a way that it may not be a full deduction?

MR. YEUNG: Yeah. So that's the crux of what we're going to probably talk about in the next -- for the rest of this afternoon.

Just to bring it back to its most simple -- to its most simple case, in that instance where we talked about a liquor -- a liquor license, it's a pretty clear -- it's a pretty clear example. And it's pretty -- it's pretty easy to -- it's a little easier to grasp in some of the very, very complex properties that we're going to talk about next.

In the case you have a liquor license, it's a bar. You can sell liquor. If you appraise the property with the income approach, and you actually use the income to the bar itself, how it's being operated, then there's a strong, strong argument that the liquor license is included in there. Because you have to operate with the liquor license in order to sell -- in order to sell the alcohol.

Now, how do you -- you've identified it. It's a liquor license. It's an intangible. It should be removed. You got a couple ways of doing it.

For a liquor license, it's amongst the easier of intangibles, because there's actually a cost to a liquor license. You hold it, and you can actually probably sell it. You can sell the liquor license. So there's a value to it.

So if you think the bar is worth a million dollars, and the liquor license alone is worth $100,000, then the taxable value of the -- of the real taxable tangible property should be $900,000.

But that's the easiest it's going to get. Everything from here gets tougher. How to basically identify, segregate, value, and to remove.

MR. GAINES: And then also the type of valuation, whether it's cost or income.

MR. YEUNG: Whether it's cost or income.

In our -- in our guidance in the 502, one we actually begin with, if at all possible, you know, when possible and when appropriate to use a -- to use a valuation method that excludes intangible values in it already.

The easiest one to point to is basically the cost approach. Typically, the cost approach would not -- if you're looking at the cost of something, it probably would not involve an intangible.

If you're looking to use an income approach, to use an income approach, an income that's directly related just to that taxable property, just that real property.

In this case, in the case of a bar, if you're using enterprise value, then enterprise income, then, you know, then there's probably -- then the task becomes identify the intangible value and to take it out.

MR. GAINES: Are there -- are there challenges to the method used then?

MR. YEUNG: There are many, many. Yeah. There's many, many challenges.

I think the -- I think both the assessors and the practitioners are going to have -- they're gonna, like, I hate to say this -- again, this is the easiest it's going to get right here. Everything else from here --

MR. GAINES: Okay.

MR. YEUNG: -- it's going to be permutations and complexities on top of how to identify and how to remove.

MR. GAINES: Thank you.

MR. YEUNG: Of course.

MR. EMRAN: Thank you, Vice Chair Gaines.

Any other Members have any questions?

If not, I just want to pitch one myself.

So in the Olympic and Georgia Partners case, there's a distinction drawn between intangibles that increase the going concern value of the business operating on the property, as you described, franchise rights, customer goodwill, favorable management contracts, and intangibles that increase the revenue-generating capacity of the property itself, like the occupancy tax agreement.

The current Handbook 502 gives examples of the first category, but not the second.

So how should updated guidance describe and illustrate both categories?

And what factors should an assessor analyze to determine which category a particular asset falls under?

MR. MOON: So I hate to deflect, but I think that's all part of what -- what we would all like to hear. Even as staff from some of the testimony today about -- about the kinds of things that have been developed since '98, the kinds of things that they look at, the kinds of things perhaps there's agreement on between assessors and the industry on what's available and what's helpful.

And I think that's all part of the information that we'd like to consider.

MR. EMRAN: Yeah.

And that goes kind of into my next point about the updated guidance being structured as an amendment to the Chapter 6, a standalone new handbook section we should create, or a series of property-type specific guidance documents, and what format would be most useful moving forward?

And I leave this question open to the entire audience as we move forward.

So I want to thank you gentlemen. Really appreciate.

Thank you, Executive Director Stowers, as well for letting us borrow your staff for this.

We're going to close out Agenda Item 2. But first let's go to public comment.

Are there any members in the public in person that would like to comment on Agenda Item No. 2?

Please come on up. Come on up.

I believe we have Ms. Lee.

And you can just come up on any of these microphones over here.

MS. LEE: Good morning.

Good morning, Chair, Members of the Board.

My name is Jeissy Lee with the California Taxpayers Association.

Thank you for having me here today.

CalTax has been involved in this issue for a long time, and we thank you for convening this Board Work Group on valuing intangibles.

Going back to 1991, CalTax and others in the taxpayer community engaged with the Board on intangibles, both on the administrative and legislative sides.

As the Board reflects on the long, difficult battle that eventually led to the passage of SB 657 and the adoption of Assessors' Handbook 502, we urge you to focus on the principle that became clear during this fight: Do not tax what the law says is not taxable.

California continues to struggle with the question of whether assessors are valuing taxable property, or additionally capturing the value of the business enterprise operating on that property.

Such a distinction is not a mere technicality, but rather the difference between fair property tax administration and the taxation of value that the law says is not taxable.

Particularly in light of disagreements between assessors who may misinterpret or disagree with existing case law, there is some urgency for the Board to act to distinguish with -- sorry -- to distinguish income attributable to taxable property from income attributable to enterprise activity or other intangible assets and rights.

CalTax urges the Board to take advantage of this Work Group to begin updating statewide guidance informed by lessons learned from California's history of disputes over the inconsistent treatment of intangible assets and rights.

Thank you for the opportunity to speak, and CalTax looks forward to continuing our collaboration with the Board to make clear that property tax remains a tax on real property and business personal property and nothing more.

Thank you.

MR. EMRAN: Thank you so much.

Are there any other members of the public that would like to comment in person?

Seeing none, Mr. Vazquez.

MR. VAZQUEZ: Yeah. Real quick. Just a quick question.

I wanted to -- just want to thank Mr. Yeung and Mr. Moon for their presentation.

But in listening and in going over, especially some of the challenges we have moving forward, and I know staff is kind of limited in terms of their resources right now with other projects they're working on.

Is it something that we -- and maybe it's more of a question for our Executive Director moving forward.

Do we have the capacity to bring on, like, consultants to help in this?

Especially as we hear -- I'm sure we're going to hear from a lot of folks, stakeholders that are looking at some issues.

And as I'm looking at, especially this -- the fact that we haven't even revised, you know, the 502, I believe it was, you mentioned, in the handbook.

And I know it's something that's probably on your list. But I'm sure with everything else that's going on in your workload, it must be a challenge. And I'm just wondering if that's even a possibility moving forward.

MR. MOON: It is certainly a challenge. I don't know that it's a, quote, unquote, "hiring consultant issue."

There's a plethora of expertise, even today in this room, and on Zoom, from which we'll hear a lot of information.

But, regardless, I think it will take a long -- so just as an example, when the 502 was done, that took two, three years.

I think prior to that, in '91, '92, '93, there was rulemaking that went on that it didn't end up in a -- in a final rule. That was promulgated.

But, you know, that effort took two to three years. The handbook took two to three years. And so, regardless, I think this will be a -- it will take a long time.

MR. VAZQUEZ: A long process.

MR. MOON: Depending on what the Board decides they want as sort of the final product.

MR. VAZQUEZ: Thank you.

MR. EMRAN: Thank you so much, Mr. Vazquez.

So seeing no other members of the public in person, let's go to the phone line.

AT&T operator, are there any members of the public that would like to comment on Agenda Item No. 2?

AT&T MODERATOR: If you would like to make a comment, please press one, then zero.

Once again, for comments, please press one, then zero.

And one moment please for your first comment.
And you have a comment from Kate Bell.
Please go ahead.
MS. BELL: Good morning.
This is Kate Bell on behalf of the property tax agent firm Ryan, LLC.
I just wanted to say I appreciate the conversation. We're very much in support of a continued intangibles Work Group with the goal of updating the BOE Assessors' Handbook 502, Chapter 6.
We look forward to coming to a resolution on this, and greatly appreciate all the work of the Board Members and staff.
Thank you very much.
MR. EMRAN: Thank you.
Thank you, caller.
Operator, are there any other speakers on the line that would like to comment on this agenda item?
AT&T MODERATOR: There are no other comments at this time.
MR. EMRAN: Thank you so much.
I want to thank both Mr. Yeung and Mr. Moon.
We're going to go ahead and close out Agenda Item No. 2 here.
Before we move on, Assessor Torres, it's okay?

We're going to take maybe a 5, 10-minute break. And then you can get your team together, and we'll jump right into Agenda Item No. 3.

So it is 11:02. Let's all come back here maybe 11:10, and we can all set up.

See you in a few minutes.

Thank you.

(Whereupon a break was taken.)

MR. EMRAN: Good morning, everyone.

Thank you. Thank you for taking the time.

Hope everyone got a little caffeine, a little dessert.

But we're going to go ahead and get started, in the words of Mr. Yeung, on the more challenging parts of this.

So, Madam Clerk, can we call Agenda Item No. 3, please?

And I want to welcome everyone back from break.

MS. TAYLOR: Certainly.

Next up is Item 3, County Assessors Perspectives on Intangibles Assessment.

Presentation and discussion from County Assessors and County Counsel on current county practices, challenges and recommendations relating to the identification, valuation, and assessment of nontaxable intangible assets and rights.

Our opening item will be a statewide perspective presented by the Hon. Joaquin Torres, Assessor, City and County of San Francisco, and California Assessors' Association.

And then our Item B will be, Navigating intangible assets across property types: Common examples in valuation.

And with us today we have Albert Tapia, Division Chief 1, Commercial Valuation, San Diego Assessor's Office; Michael Trigueros, Supervising Appraiser II, Appeals Division, San Diego Assessor's Office.

And then we will also have: Putting legal developments into practice.

And our speakers will be Carol Ruwart, Deputy City Attorney, City and County of San Francisco; and George Renkei, Chief Deputy Assessor, Los Angeles County Office of Assessors.

And wrapping up this topic will be: Operational challenges of intangible evaluation, with Michael Daly, Chief Deputy Assessor, Santa Barbara County Assessor's Office; Mike Munoz, Senior Deputy County Counsel, Santa Barbara County Counsel; and

Jennifer Tydingco, Chief Appraiser, Napa County Assessor's Office.

And I believe they've brought additional folks with them, so I'm sure they will introduce themselves if they will be speaking.

MR. EMRAN: Thank you so much, Madam Clerk.

All-star squad here.

Welcome you all to the chamber as well.

Mr. Torres, is there anybody online that you wanted to recognize?

MR. TORRES: Not at this time, no.

But as speakers are making their way to make comment, they will also be introducing themselves as well.

MR. EMRAN: Thank you so much.

So want to hand it off to you, Assessor Torres.

Really appreciate it. Great, great representative coming out of the City and County of San Francisco, and also the CAA.

And I'll let you lead this group how you want to. So the floor is yours.

Thank you.

MR. TORRES: Great.

Thank you so much, Deputy Controller Emran.

Good morning, Chair Lieber, Vice Chair Gaines, Member Schaefer, Member Vazquez.

I hope that we have a nice flow for you today in terms of our presentation.

I'm Joaquin Torres, the Assessor-Recorder for the City and County of San Francisco, speaking on behalf today for the California Assessors' Association.

I want to thank you all again for the invitation to join you in this discussion.

This working group brings together assessors, County Counsel, property owners, taxpayer representatives, Board of Equalization staff, and the Board, because we share this common objective: Ensuring the California's property tax laws are applied fairly, equitably, and transparently.

As you've just heard from David Yeung and Richard Moon, the California Constitution and state law are clear, assessors must value all non-exempt real and personal property at fair market value, while not directly assessing so-called intangible rights and assets.

California has a long history in this area, grounded in two fundamental principles; intangible assets may not be directly taxed, and assessors may assume the presence of the intangibles necessary for property to be put to productive use, as you've just heard.

But applying those principles is highly fact-dependent, and that is precisely where the real complexity lies.

The core question is straightforward:

When a unit that is bought and sold in the marketplace, such as a going-concern business operating on land and buildings, derives value from both taxable property and nontaxable intangibles, where does a taxable property end and where do the intangibles begin?

In a going-concern sale, the purchase price reflects both tangible assets and complex intangible elements. Which is why separating these components correctly requires a judgment of trained appraisal experts.

This is a challenge that's -- isolating the challenge for us is isolating, measuring, and separating those intangibles from the taxable property. Doing that well requires careful application of established appraisal techniques across the income cost and comparable sales approaches to find the true value of the taxable property within the operating business.

While the framework is well established, applying it across different property types, business structures, and information sources can be complex. It is complex. Especially when the data available wasn't created for property tax assessment purposes, and doesn't reflect the distinctions assessors and appeals boards are required to make.

Our role today is not to advocate for a specific outcome. Our role today is to share practical context that's grounded in our collective experience, which is substantial.

You're going to hear from assessors' offices and County Counsel with decades of that experience, administering these principles across a wide range of property types, market conditions, and assessment appeals.

These issues are not theoretical. They arise every day in the practical administration of California's property tax system and the application of its laws.

Our presentations are going to focus on three questions:

First, what -- where do these issues arise?

Second, what do the law and recent cases actually tell us?

And, third, what practical challenges still remain?

Ultimately, our goal for this workshop is to help establish a shared foundation for the Board's ongoing discussions, and to identify opportunities to improve clarity, transparency, and understanding throughout the assessment process.

So as we continue this dialogue in future sessions, one of our aims is to promote a common understanding of evidence and analyses needed to address intangible asset issues, clear expectations, support productive, good faith engagement.

And the more we can align around a shared understanding of these issues, the more constructive and collaborative the discussions will be for everyone involved.

So thank you very much. And I will now hand it over to our first section of our presentations.

MR. EMRAN: Thank you.

MR. TAPIA: Good morning.

Good morning, Honorable Members of the State Board of Equalization.

And thank you for this opportunity to share a comment on such an important topic and give our perspective.

My name is Albert Tapia. I'm a Division Chief with San Diego County Assessor's Office. I have about

25 years of experience, and I hold an advanced certification from the State Board of Equalization.

I also have here with me Mike Trigueros, Supervising Appraiser II, heading one of our appeals teams.

So he's -- he's got front-row experience of dealing with this issue on a daily basis.

This experience that we both have, which is approximately more than 50 years of appraisal experience, has given us a front-row view of how intangible issues emerge in these complex valuations.

And these issues can have a significant impact on the taxable value.

With that in mind, I'm going to jump to our first slide and define intangibles.

What are -- what are intangible assets?

Can we proceed to -- that one there.

Thank you.

As I look across -- across industry resources, I see that a concise dictionary-style definition doesn't appear in Assessors' Handbook 502.

However, the handbook does provide examples, noting that intangible assets and rights include such items as goodwill, patents, certain licenses, and franchise.

I also looked at the Appraisal Institute, and the Appraisal Institute describes these as nonphysical assets like trademarks, copyrights, and similar rights distinguishing them from physical assets, such as facilities and equipment.

I also looked at the International Association of Assessing Officers that offers a more detailed definition, framing intangible property as property with no physical existence that may represent rights over real property and personal property.

Across the three resources, the consistent takeaway is that intangible assets and rights are nonphysical items, such as trademark, patents, licenses, and franchises.

Overall, these concepts are fairly consistent, and we look forward to continued guidance from the State Board of Equalization to ensure we identify these intangible assets consistently and remain aligned with the appraisal community.

Having discussed what intangible assets are, the following slide represents a list of common property types, which applicants often claim intangible assets.

Next slide, please.

So this is -- this is not a comprehensive list of all the asset types. But this is -- these assets --

these property types, we commonly see claimed intangibles.

In San Diego County, the type of properties we commonly see intangible assets claimed are hotels, amusement parks, golf courses. And that's due to our strong tourism sector.

But we've also encountered significant intangible claims in assisted living facilities and student housing projects.

What varies widely though are the categories of intangibles being asserted, as well as the percentage of total value applicants claim.

Okay. We are also continuing to see claims that expand into additional property types. This trend makes it even more important that we -- that we clearly distinguish taxable property from the nontaxable intangible components.

With that in mind, how these in -- how these issues interact with the three approaches to value.

Next slide, please.

On this slide, I'm providing a quick overview of the three approaches to value and the issues that arise with each when intangible assets and rights are involved.

With the income approach, the first question is whether the valuation is based on operating income or rental income.

The distinction matters because operating income from a business enterprise may include revenues tied to intangible assets, not just the real property.

On the next slide, you don't -- you can -- sorry. You can -- you can go back. Apologies.

On this slide though -- on the next slide, I'll show examples of intangible items that often appear in -- when you use operating income to derive a going-concern value.

In contrast, rental income, like the one you would see in an apartment building, reflects income attributed to the real property itself, not the business operation.

This makes rental income-based valuations generally more -- more aligned with isolating the value of the taxable real property.

With the sales comparison approach, a method that estimates property value by comparing sales prices of similar properties, the question is whether sales prices include intangible assets.

And, if so, how do we -- how do we adjust those sales prices?

With the cost approach, the property value is estimated by calculating the cost to replace and reproduce structures or improvements, less depreciation, plus the land value.

Since this method only focuses on taxable real property, the cost approach avoids the issue of excluding intangible assets and rights.

Next slide, please.

As I mentioned earlier, when using operating income in a valuation, it might capture components beyond the taxable real property.

This can be intangible -- can be tangible personal property, intangible personal property, financial assets, and working capital.

These elements collectively contribute to the going concern value, which is appropriate for some valuation purposes, but it may require adjustments for property tax assessment.

The key challenge for assessors in -- is ensuring that only taxable property is included in the assessment.

Now I'm going to hand it over to my colleague, Mr. Mike Trigueros, to provide you some real-world examples of what we're seeing every day, and the reason we need more guidance so that we can have uniformity.

MR. TRIGUEROS: Good morning, Board.

Thank you for having us here today.

Michael Trigueros with the San Diego County Assessor's Office.

Can you flip to the next slide, please?

So we thought there was some benefit in giving you a visual of some real-world examples of what -- what I'm seeing on the ground as I'm doing my job on a daily basis.

This is an example of two luxury hotels with golf courses. On the left box you'll see that's Applicant 1, and on the right box, we've identified that as Applicant 2.

These properties were valued by the applicant using operating income to derive a going-concern value, basically the top-line value of that enterprise running the hotel property.

And within that value, or after arriving at this going-concern value, the methodology is to identify value and remove the value of the identified intangible assets. And this is from the applicant's perspective here.

On the left, Applicant No. 1 identified an intangible asset for a flag and franchise agreement.

Applicant No. 2 on the right identified a similar asset; however, named differently, a return on brand and trade name.

And this is one of the things that we wanted to highlight, is that there's a sea of terminology that's being applied here.

Those are, essentially, at least appearing to be the same intangible that they're claiming.

On the next bullet point on Applicant No. 1, they claimed an intangible asset for return on furniture, fixtures, and equipment, or the FF&E.

Applicant No. 2 on the right claimed a similar intangible. He called it, "Return on tangible personal property."

Going down to the third bullet point for Applicant No. 1, they claimed an intangible asset for return on management.

Applicant No. 2 notably did not claim this same intangible asset.

Again, these are very similar properties. Both luxury hotels with golf courses. One applicant's claiming return on the management; Applicant No. 2 is not.

Going down to the fourth bullet point for Applicant No. 1, they've claimed an intangible asset for food and beverage operations.

Looking to Applicant No. 2 on the right, they have not claimed this intangible asset.

So, again, we have two similar properties, similar amenities. Applicant No. 1 claims an intangible for food and beverage; Applicant No. 2 does not.

Going down to the last bullet point for Applicant No. 1. They've claimed an intangible asset for the assembled workforce.

Applicant No. 2 on the right did not identify this intangible asset.

So you see the incon -- I don't want to say they're inconsistencies. But they're just differences, I guess, in what the applicants are seeing in their analysis and presenting to my office to consider as intangible adjustments.

Applicant No. 2 on the right also identified several additional intangible assets that Applicant No. 1 did not.

Applicant No. 2 identified an intangible for return on and of initial investment costs.

This is a hotel that is probably 40 years old.

And so Applicant No. 2 also identified a return of and on advanced bookings; which Applicant No. 1 did not return on resort membership fees, and return on other intangibles.

In total, Applicant No. 1 claimed about

22 percent of value of intangible assets from their going-concern value estimate; Applicant No. 2's claim for intangible is about 28 percent.

Flipping to the next slide, please.

This is another example of a property that was valued by the applicant using a rental income. So this is student housing property.

The prior -- the difference here is the prior slides was -- they were using operating income to value, the hotels. This is rental income from a student housing property.

Yet, they've also identified intangible assets here. They've identified an intangible asset for return on and of initial investment stabilization costs, return on tangible personal property, return on brand and trade name, return on non-real estate, NOI, and return of other intangibles.

And this -- the total value of the intangible assets claimed here was 14 percent of their total top-line value that was derived using rental income.

So these are the sort of intangibles that were being presented to us that we're required to grapple with and try to sort it out. So that's the -- one of the main issue that I face in my daily work.

Flipping to the next slide, please.

And I think maybe a better title for this slide would be, "What can we do as a working group to create fair and equitable guidance for property owners, tax representatives and assessors?"

And we can provide more guidance on assessing the value of a real property when using operating income while excluding any nontaxable intangible assets and rights if they are present.

We can distinguish between intangible assets and rights necessary for the productive or beneficial use of the taxable property, and those that only enhance its value.

We can provide clear guidance on how to identify nontaxable intangible assets and rights, along with establishing requirements for documentation and valuation evidence.

And we can create a process where information on intangible assets and rights is provided in advance from applicants, so that the assessor's office can grapple with those intangibles.

And when property is -- property valuation involves operating income, and significant intangible value is asserted, we can focus on a methodology that isolates the real property value only.

And with that, I thank you for your time today. I'll pass it on to Mr. Renkei.

Thank you.

MS. RUWART: Good morning, Madam Chair.

Good morning, Members of the Board.

My name is Carole Ruwart, and I am a Deputy City Attorney with the City and County of San Francisco, here representing the City's Assessor-Recorder, who you just heard from.

By way of background, I've been practicing property tax law for over 20 years, including at the State Board of Equalization.

I served as counsel for the First District Board Member and Senior Tax Counsel in the Legal Department.

And my colleague, George Renkei, will provide his introduction.

MR. RENKEI: Thank you.

George Renkei, Chief Deputy Assessor for the County of Los Angeles. Been with the county for 37 years now.

So I've been through much of the recent history of these developments and the case law, and obviously the most recent decision that was discussed previously that we'll also touch upon.

MS. RUWART: We really appreciate Mr. Moon and

Mr. Yeung's overview of the general legal principles and the history of how we got here. So we won't go over that again.

And our colleagues from San Diego have shared with you the framework of intangibles analysis, which we really appreciate.

We're here today to talk about: Why is case law so valuable? What role does it play?

Here's a reference. This first slide is a reference to some of the cases that you may hear being referred to today.

It's not a complete list. But as you can see, there are quite a few. And they cover various and possibly unexpected property types. Everything from the cable television franchise, to a concession, to a state-assessed wireless company, to a landfill permit, to a liquor license, a film negative.

And it's -- if you please go to the next slide, there's even more.

The case law spans a broad range of properties and businesses and intangibles, with Elk Hills Power being discussed previously.

As you can see, many of the more recent published cases have been involved hotels. Although, we do want to note that although those recent cases are usually involving hotels valued using an income approach that we're going to focus on in our presentation just as an example, that there are -- there are a number of Superior Court and Court of Appeal cases currently pending. So the law does continue to actively and timely develop.

And it's not just historical property types in these pending cases, hotels, cable television. But new property types, such as data centers and embedded software, are involved in these -- these court cases that are pending.

So we're looking forward to even more judicial analyses coming relatively quickly down the road.

The next slide.

Here are the general principles that Mr. Moon and Mr. Yeung explained.

And as more and more of these cases are being litigated, what we're finding is that the courts are increasingly focused on the nature of the claimed intangible.

In other words, how is it related to the real property versus the conduct of the business?

What evidentiary proof is being offered and what is needed?

What intangibles exist?

What are their values?

And does the appraisal methodology appropriately value the taxable property?

Remembering that all of this discussion of intangibles is merely to -- it is to assist the assessors and to isolate the value of the taxable property that the assessors are charged with taxing.

We hope to give you a sense of what County Assessors look for in these cases to help them accurately value taxable property.

We're going to emphasize, use the example of separating out value from an income stream of what derives from the real property itself versus the operation of the business enterprise using the property.

And we're also going to take this opportunity to explain a few more terms that you may end up hearing in this process.

Next slide.

MR. RENKEI: All right. So our initial focus was on the income approach. And much of this has already been discussed, so I won't go over it in detail again. We'll just try to add to what's already been discussed.

So our focus on the income approach is the income generated by the property itself and its beneficial use.

The assumptions in the income approach that involve some intangibles is the assumption, the legal assumption that the property is being managed competently, and the presence of intangible assets or intangibles that were previously discussed that are necessary to put the property to productive use.

MS. RUWART: Next slide.

So to that end, we're focusing on this general applic -- generally applicable rule.

What must the assessor do?

The 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 the beneficial use, thereof.

This is a fairly clear statement that comes from Elk Hills Power, and was repeated in the Olympic and Georgia Partners case.

This is just a reminder that what we are doing is we're starting from the overall income of the -- of the business as a whole, and then trying to remove intangible-derived and enterprise-derived income, while keeping in the income from the real property.

I thought this might be a good place to

address Board Member Gaines' question earlier where he -- I believe the question was:

When you have an income stream that has -- that there's income included for a, quote, "intangible," can the deduction for the intangible be less than what was included in the first place?

So here's where the courts have shown us and confirmed for us that as -- that the data that businesses have for their own operational purposes does not always align exactly with the distinctions that the County Assessors need to make in order to isolate the value of the real property.

And so it is entirely common to have a particular profit and loss statement income stream that's labeled something, food and beverage, or whatever, that at least has some acknowledged intangible attributes.

But the job of the assessor is to recognize, as the courts have, that part of those earnings are related to the real property. Part of them are related to the operational business.

And this derives most directly from the Elk Hills Power case, but it predates that Service America concessions, etc.

And what the courts teach us here is that we have to find a way, even if it's difficult, to impute income to the real property, or parse the income between the two. That it may not be very easy, but the courts are inviting the assessors to do so.

And so that is another area where I think there can be some productive discussion between all of the parties as to how do we take the data that's presented to the assessors, and understand why the inclusion is one amount, the deduction is less?

That's because some of that income is properly associated with the real property.

Next slide.

MR. RENKEI: Okay. And then expanding a little bit further on the assumption of the presence of intangible assets necessary to put the property to productive use, couple of those examples are licenses and permits.

We talked about licenses earlier in the example of the liquor license. An example came to mind as we were discussing that and the assumption of a sale. And I believe the amounts that were put out in the previous example were, you know, assume that the bar is worth a million dollars, and the liquor license is $100,000.

I could then also look at the sale of the bar.

I don't know basically on the sale itself, whether or not the liquor license may have been included in the sale, or may not have been included, and may have been done separately.

So I may have the bar and the license selling for, let's assume, a $1,100,000.

If that was the sales price, then I would need to look at the agreement, see that the liquor license was included in the total sale, and then deduct the value of the liquor license itself from the total sale to get to the million dollars.

So I would deduct the $100,000 value of the liquor license, and I would enroll the million dollars.

I may have another scenario. Same property selling, where I have an agreement to sell the bar for a million dollars, and a separate agreement for $100,000 for the liquor license.

So now in this case, I have a sales price for that property, the million dollars, which represents just the real property with no consideration for the liquor license.

But, again, I would need to analyze the contracts to recognize that the million dollars was for the property, and that there was a separate agreement for $100,000 for the liquor license to know that I didn't have to deduct anything further from the million dollars. And I could enroll that as the total sales price for the property.

MS. RUWART: Next slide.

MR. RENKEI: Oh, sorry.

Going on then to income attributable to real property.

Again, that other examples are attributes, such as zoning and location. We've touched upon that a little bit.

We also had the topic of payments derived from intangible assets that are attributable to the beneficial use of the property.

This came up as the occupancy tax that was returned to the developer of the property. And the Court's conclusion that this -- these payments were based on the beneficial use of the property; and, therefore, it was appropriate for the assessor to include that in the income for this property.

MR. GAINES: Just clarification on that.

The 14 percent that's a total occupancy, is that a tax?

MR. RENKEI: Yes.

MR. GAINES: Yeah. Okay.

So that would be returned to the jurisdiction.

MR. RENKEI: To -- to the developer.

So that -- that amount would usually go to the city. This is a city tax.

MR. GAINES: Okay.

MR. RENKEI: In this particular property to give an incentive for the property to be built --

MR. GAINES: Okay.

MR. RENKEI: -- that amount is returned to the developer.

MR. GAINES: Okay. All right.

Thank you.

MS. RENKEI: And the helpfulness of that example, I think, reaches to Mr. Emran's point earlier about the case law, up until the more -- the most recent cases, has perhaps tended to focus on the intangibles, the identification and valuation of the -- of the intangible and enterprise assets, and where the Olympic and Georgia case, and to also some extent the SHR St. Francis case, are very helpful is, is that they -- they identify assets that are an income that is attributable to real property, and why it's attributable to real property.

So, for example, this 14 percent room rate tax, that's a Transient Occupancy Tax that's paid. It's, you know, supposedly by the, you know, by the customers -- paid by the customers, the guests to the city.

The city entered into an agreement with the developer that they would rebate this for this tax every time a guest rented a room.

And there were contracts, and, you know, all kinds of intangible, not just assets that you could identify, but you can -- you could separately value it.

And, in fact, in this case, the income stream was able to be transferred separately from the hotel, supposedly.

So a lot of the theoretical attributes of nontaxable intangible assets could be ascribed to this agreement.

But what the Court was, I think, very thorough in their analysis about, was to say, regardless of all of those attributes, and regardless of the fact that according to the evidence, the pay, the agreement was made in order to help the hotel get constructed, and not necessarily for guests to stay there. Although that was a part of it too.

The actuality of the -- the way that the income flowed to the developer, was it only flowed when guests actually used the property. The property was beneficially used.

And so that was a very helpful description and framework, and -- and a concrete example of where we find an income stream that's attributable to the property and should be included.

MR. VAZQUEZ: Excuse me.

What happens when, in some cities, where they pass a tax that they attached to the TOT tax?

For example, in Santa Monica, we had a bond or a measure on the ballot that increased, you know, the TOT tax, I think might have been 12 percent or something. And they attached an additional 2 percent to that, that was earmarked for the schools.

Does that get calculated, or -- or is that a ding on the owner?

Because you're saying right now the -- it's being returned to the developer.

MS. RUWART: So here -- here's the -- the distinction about this Olympic and Georgia agreement is normally a Transient Occupancy Tax is imposed, you know, on the guest, or in connection with the guest stays, and it's paid to the agency that the city or the county --

MR. VAZQUEZ: The city.

MS. RUWART: -- that -- that imposes the tax.

It doesn't go to the owner of the hotel.

MR. VAZQUEZ: Right.

MS. RUWART: Here, the tax did go to the city. Structurally, it went to the city. And the city agreed that it would take that money, and pay it back to the developer.

So the income isn't in the tax from the guest to the city. The income to the property is the city giving money to the developer every time a guest stays at the room. It happens to be measured by the Transient Occupancy Tax.

But that's almost immaterial. They could have agreed to pay $14 to the developer every time a guest stays at the room.

And that was the helpfulness of the analysis. If you -- if you, as the owner, are getting money from somebody every time the property is beneficially used, that's income that should be included in the tax when calculating the taxable value of the real property.

MR. VAZQUEZ: Even though you have a measure that restricts some of that?

For example, like I said, you know, we had measures that were on the ballot where they earmarked the dollars.

So even though you're saying they have to return it back to, in this case, I guess it's the developer, right?

MS. RUWART: But that was -- that was -- my understanding from reading the case, is that was contract -- that was more contractual.

In other words, the tax went into a fund. And then the city said, "We have money in this fund. We're going to pay -- write a check to the developer every time that the guest stays in the room."

MR. GAINES: Incentive to -- to build the hotel?

MS. RUWART: That was the underlying purpose, but that was not -- again, it -- it's easy to kind of look at that part of it, and not look at the -- the final fundamentals.

Which is every time the guest stayed in a room, the owner would get whatever the guest paid, and they'd get whatever the city paid, 40 percent, $14. Whatever it is.

And what the analysis, why it was so helpful was, it really talked about, regardless of where the income comes from, it's still income to the developer, and it still only arises, only comes to you when the property is beneficially used.

And this mechanism of "it was through a tax," and "there was a contract," and all this, is it's important to analyze -- sometimes it's important to analyze all that complication to understand what is not relevant to taxing the real property.

And this is where the nuances really come -- come forward, is that to get to that point, for the Court to get to that point, they had to, you know, the assessor and the taxpayer and the lower courts and the Assessment Appeals Board really had to look at a lot of information, both contractual and factual, about what this arrangement was all about.

And we came up with a very clear rule. But, boy, was it a hard row to hoe to get there.

I mean, I -- I'm not speaking for Los Angeles County; but would you say so?

MR. RENKEI: Yes, definitely is.

And that really takes us to the next slide, and, you know, really leads us right into it. Which is --

We can go to the next one.

That really these need to be evaluated on a case-by-case basis.

You know, the topics that we were discussing with this particular property, with the -- the occupancy tax, and also the key money, were very unique issues to this particular property that needed to be analyzed and understood, and, you know, compared to the market in general as to how those things should be handled in this particular case, as opposed to other cases that would likely not include those particular issues, so that we have general framework, and ways, and, you know, the courts have given us guidance also on how this should be evaluated.

But it's very difficult to just come up with a general rule as to, "You can do this every time, and you'll get to the right answer."

The real key to this is -- is really looking at the particulars of the situation. With the one I gave you earlier with the liquor store is, as was mentioned, that's as simple as it gets.

With the hotels, it becomes much more complicated, where, you know, it requires us to really look into the particular facts of, you know, the subject property, as well as our comparable sales in comparison, how the comps were analyzed, how the subject should be analyzed, how the methodology is being applied, and to make sure that it's being done in a consistent manner throughout the state.

So that -- that's really the bottom line challenge that we face.

MS. RUWART: And to be fair to the Olympic and Georgia Court and how the assessors and taxpayers need to interpret it is, even with that occupancy tax analysis, the Court was quite clear that they were limiting their holding to the facts of that particular situation. And they stated quite clearly that we do not opine as to how any other types of agreements, even if they look similar, might turn out.

And so the courts, themselves, are giving and taking away at the same time.

But the central message is it is absolutely case by case, and intensely analytical and fact-specific.

MR. EMRAN: Going back to Mr. Renkei's point, so in your opinion, do you believe the most difficult property type is hotels when it comes to intangibles?

MR. RENKEI: I would say more so that the topic of intangibles, you know. And we run into it fairly often with hotels. So that adds a complication to hotel valuations.

But it does come into play on other types of properties also.

MR. EMRAN: Okay. Thank you.

MR. RENKEI: Yes.

MR. VAZQUEZ: You know, along those lines, I think earlier one of the speakers was talking about -- I think it was you and San Diego, Mr. Tapia.

You mentioned, you didn't give the names, but you cited an example of a hotel with a golf course.

I'm assuming you're talking, like, Torrey Pines, for example, which is in San Diego.

Is that connected to one of the hotels where you were referring to?

MR. TRIGUEROS: No. No, sir. That was not --

MR. VAZQUEZ: That was totally different?

MR. TRIGUEROS: Yeah. It was separate from Torrey Pines. The golf course in Torrey Pines is owned by the city and leased separately.

MR. VAZQUEZ: It's separate, right?

MR. TRIGUEROS: Yes.

MS. RUWART: Next slide.

Okay. This is just a little a break in the heavy analytical action maybe.

This is hopefully a helpful note on some of the terms of vocabulary that you're going to hear in these, and you already have heard today.

We're calling this a note on the so-called, quote, "Rushmore Method."

This is a term, the Rushmore Method, that, in our experience, we found can be used rather loosely.

It's often used, and the originating concept was that payments in a hotel for management, maybe sometimes the franchise, that that can account for all of the intangibles related to the hotel's enterprise activity, the business of the hotel.

You paid somebody to manage it, that's -- that takes care of every single intangible asset related to the hotel's business side.

And so once you deduct that value, however you do that, then everything else that remains is taxable, real or personal property.

It can also be used to describe a method where the management agreement and franchise value accounts for some of the intangibles related to the hotel's enterprise activity, but not all of them.

We noted that -- and Mr. Yeung noted that no court has categorically rejected this method, either version of it.

But what we've noticed is, is that the trend appears to be that the courts are seeking evidence as to each identified intangible asset that is claimed to be accounted for by the management or franchise fee.

And that they're looking very closely at both the methodology and the justification of how these claimed intangibles and the management and franchise fees are being related and accounted for.

And so we just wanted you to be mindful that when you when you hear the term "Rushmore Method," just, you want to verify exactly which Rushmore Method are we talking about.

Are we talking about, categorically, as a matter of law, management fee takes care of all intangibles related to the business, or is it more nuanced and applied a little more finely?

Next slide, please.

So practical implications for assessors and taxpayers. For assessors, there's the need to consider credible evidence of the existence of intangibles when it's presented to us, the need to analyze the nature of the intangibles, and the relation to the real property and the enterprise.

Again, as was mentioned just a moment ago, Rushmore approach still remains valid, but requires appropriate analysis of, you know, the particulars, as we were saying before, on a case-by-case basis.

For taxpayers, you know, the offer of credible evidence of the existence of the intangibles in question cannot exclude value just based on categorical rules, and also the necessity of the information that the taxpayer possesses about the particulars of how the property operates, or the particulars of a sale of a property that includes intangibles.

MS. RUWART: And, finally, the next final slide.

So after the decades of statutory development and judicial interpretation, we still have the recurring question: Are we valuing the productive use of the real property, or are we including valuable that's attributable to intangible enterprise assets?

This is the essential framework that the recent legal developments in California are focused on, and that is why assessors look to case law to help them.

Case law is valuable and essential to applying these abstract principles to the evolving real-world developments.

And perhaps the most important principle that we glean from all these cases is, as we keep saying, it's a fact-specific, case-by-case exercise that relies on factual information and analysis that's tailored to different properties and assets.

But all of this focus on the intangible and business enterprise assets is in the service of reaching a fair and equitable and accurate assessment of the property that the assessors and this Board are constitutionally charged with assessing.

This is why we are here.

Now we will hear from our colleagues from

Napa County and Santa Barbara County on the operational challenges in reaching accurate assessments.

MR. DALY: Good afternoon, Chair Lieber, Members of the Board.

Really appreciate the opportunity to be here today to present.

My name is Michael Daly. I'm the Chief Deputy Assessor in the Santa Barbara County Assessor's Office.

I have an advanced appraiser certificate. I started as an Appraiser I 13 years ago. So I've been with our office 13 years. It's been a -- it's been a fun 13 years dealing with intangibles.

I'll have Jennifer introduce herself.

MS. TYDINGCO: Good morning, Board.

Jennifer Tydingco. I'm the Chief Appraiser for Napa County Assessor's Office. I'm also the President of the Organization of Chief Appraisers under the CAA. And I have, gosh, close to 30 years appraisal experience, 20 -- nearly 20 in the assessor's office.

Fun fact, my initial interview was September 11th, 2001. So that was a really interesting day for a job interview. And I'm very thankful to where it got me now.

And together, Michael and, I we -- Mike Munoz is not here. He is present online, I believe. But he is not here with us today.

So Michael and I will be presenting the operational challenges that assessor's offices face when dealing with properties that may include nontaxable intangible assets. And the ways that we believe that the BOE can help guide us so that we are able to alleviate some of the challenges we all face, and then that we are doing it in a fair and equitable manner.

MR. DALY: Thanks, Jennifer.

Yeah. Mike Munoz is our County Counsel, and he couldn't make it today. But he did help contribute to our presentation today.

So just let me briefly frame what we're going to cover. You know, this -- our presentation is about a practical problem: How do County Assessors identify, analyze, and properly determine the assessed value of real property, while not including the value of nontaxable intangibles?

What makes that difficult?

You'll hear a lot of what you've already heard today, unfortunately. But we're -- we're hoping to bring it from the perspective of the operational challenges assessors' offices see, the staff that are working on these assess -- these valuations and assessments.

So we're going to go through three areas. This is -- first, we'll start with the operational challenges we encounter; identifying the intangibles, dealing with evidentiary gaps. This is a -- that's a big one.

You've heard a lot today about facts and evidence. So you'll hear more about that.

And then the resource burden, and the resource constraints we have in our offices around this issue.

MS. TYDINGCO: And then after that, we will cover areas where we believe updated BOE guidance could meaningfully support county assessment administration.

MR. DALY: So let's start with the challenges.

And we can go to the next slide.

Here's the three categories I mentioned.

So starting with identifying intangibles.

Many property purchases of this -- of this nature involve a going concern. You've heard that term today. A hotel, a winery, a medical practice. You saw all the different property types.

But there's no universal clear trigger that tells an assessor to investigate whether intangible assets are present.

Every property, every transaction is different. We don't have a checklist that says, "This type of purchase always warrants an intangibles review."

We can spend -- our staff can spend significant hours investigating transactions where ultimately no meaningful intangible value may exist.

And on the flip side, intangible value can be overlooked entirely, because it simply isn't apparent from the recorded documents, or from what the taxpayer or property owner has voluntarily provided to us.

On the lack of evidence, this is the central operational tension. Whether we're dealing with a transfer, or new construction, or an appeal, or a lien date, all these different event types that these assessments come up in, the burden of production and proof rests with the property owner.

The assessor needs accurate, truthful information to do this work. And that means the property owner must grant us access to it.

We can apply the applicable valuation methodologies. We can interpret an agent's analysis. But we need actual factual evidence to evaluate whether a claim has merit.

And purchase price allocations are not in and of themselves a valuation method.

Under the R&T code, Revenue and Taxation Code Section 501, we can only move forward with the best information we've been given. We're entitled to both quantitative and qualitative information. And when that's withheld or delayed, we're simply left to make assumptions.

Finally, the resource constraints. These valuations, these assessments, and often appeals cases, that's where they end up. They're very resource-intensive.

They often require all three approaches to value; that's the cost, income, and sales comp approach you saw earlier.

And the review and preparation work for appeals can be extraordinarily time-consuming.

Our primary focus, as you've heard today, is real property for tax purposes. And these complex cases can stretch timelines considerably.

We want to be clear about this, we get the work done. The work's getting done. But it would get done faster and more accurately if property owners provided the requested information in a timely manner.

MS. TYDINGCO: All right.

Thank you, Michael.

Next slide, please.

So now what we would like to do is to -- oh, next slide. Is that --

MR. DALY: Oh, it was back.

MS. TYDINGCO: Oh, back one. Sorry.

There we go. Thank you.

So now what we'd like to do is to address these challenges. And we'll organize this around three main areas; standard framework, clarifying resources, and market evidence.

What we're asking for is guidance from the BOE regarding intangible analysis and the documents that are reasonably necessary to support intangible claims.

Beyond that, we'd benefit from standardized screening criteria, a checklist of property types where intangible -- intangible analyses should routinely be considered.

And, practically speaking, a standard statewide information request template and reporting structure would go a long way for consistency and efficiency across counties.

On clarifying resources, the existing BOE guidance -- and I think this is why we're all here -- and educational materials need to be updated to reflect modern transactions, current information sources, valuation methodologies, and the most recent case law principles.

The landscape has changed significantly, and our staff, as well as Assessment Appeal Boards and property owners, deserve resources that reflect where we actually are today.

We'd like to see those materials made broadly available to all stakeholders, not just assessors.

On market evidence, examples of actual market data and the applied side of the work, we need real-world examples of market data and information that valuation professionals actually rely on.

We need illustrations of accepted methodologies using all approaches to value, along with honest discussions of the strengths and weaknesses of each of the primary approaches.

We'd also welcome specialized training and advanced appraisal courses tailored to this work.

And we want to underscore this point; no single approach or method fits every situation.

We're not asking for a rigid formula. But we do need -- we do need basic, agreed-upon guidance on how to identify and value property that includes intangibles, guidelines for our staff to inform the appeals boards, and to give property owners a fair and transparent process.

MR. DALY: I just want to add real briefly, you heard from Mr. Yeung this morning something that definitely, I think, warrants reiterating.

On his very last slide, he said, you know, how these principles are applied is heavily fact-dependent.

That's a really important -- important point we're stressing here. Facts and evidence.

You know, absent accurate, truthful facts about what's going on, particularly when there's a change in ownership of a purchase, it makes our jobs exceedingly extraordinarily difficult, and we're left to just operate with assumptions, which the law prescribes to us.

So to wrap up, we can go to the closing slide.

You know, the issues we've discussed today are real and difficult. They're recurring. But they're manageable with the right support.

We're committed to doing this well. You know, we're committed to -- it's not just about the assessor. We see the property owner. We see the appeals boards. We see the struggle, the difficulty with this. It's not -- it's not one-sided.

We just -- we all need the tools, the guidance, and the cooperation to do it efficiently and consistently across the state.

So we look forward to continued dialogue and future workshops and the opportunity to participate.

MS. TYDINGCO: Yeah.

And to conclude, thank you for your time today. And we're here for any questions that you may have.

MR. EMRAN: Thank you. Well -- very well done.

Assessor Torres, I'll let you close this out.

MR. TORRES: Oh, no. I -- I think we're -- we're ready to take any questions that you may have.

And, again, thank you for the opportunity.

I hope that we presented with you a very, kind of, cogent flow of the issues at hand, so we can continue to be part of a productive conversation on addressing the issue of intangibles.

MR. EMRAN: Wonderful. Thank you so much.

I'm going to turn to our Board Members.

Do we have any questions?

I know we're chiming in, in between the presentations.

Member -- Chair Lieber.

MS. LIEBER: Thank you.

I have a question for Assessor Torres.

In your experience in working with the CAA, how are less-populated, less well-resourced counties meeting these challenges?

MR. TORRES: I think it all depends on the counties that we are speaking of.

But I'm going to defer a little bit to counsel over here in terms of the conversations that she is having with counterparts in those counties as well.

MS. RUWART: Well, I can certainly do that. But perhaps first we can hear from our colleague in Napa, a classic small county.

MS. TYDINGCO: Yeah.

So how we're dealing with them in our office, we're a small office. Napa is well known. Napa is a high-value county. And we are a very small office.

It is me, a supervisor and eight appraisers tackling every assessment in the county.

And when we have appeals, it often ends up in appeals on these really interesting properties. It is so time-consuming, and we're just doing the best we can.

As President of the Organization of Chief Appraisers, small counties end up in the organization like what I'm the president of.

We're -- we're meeting. We're having to travel all over the state, you know, to get together so we can figure out how the best to do it. And it is a struggle, you know, to be perfectly honest. It is a significant challenge.

And there is, like, a lot of money on the line. And we just want to do what is right, and what is fair, and in accordance with the law, and in accordance with the guidance that we have.

MS. LIEBER: Okay.

I was thinking of a small county as Trinity, or, you know, much smaller than Napa. But I'm -- I'm surprised by the size of the staff in Napa. Because that is a high-value county for sure.

Yes.

MR. DALY: If -- if I may, Chair Lieber. I think that's a really fair question.

And, you know, of the 58 counties, it's, you know, there are certainly smaller counties that don't -- I don't think they really deal with this issue the way other counties do that have these, you know, property types.

But -- but it is a -- it still remains a statewide issue.

MS. LIEBER: Mm-hm. Great. Thank you.

MR. TORRES: And also -- and also, Chair Lieber, certainly for the counties, I mean, the resource constraints are real.

I mean, many of us are having ongoing conversations that are unfortunately concluding right now, not favorable completely in our direction around having our legislative bodies understand the resource needs that we have, and the associated benefits to counties that are provided when we are well-resourced to do our jobs efficiently.

So I think this is an ongoing conversation for us across the state, in addition to our individual conversations within our own counties.

But I -- but also just want to make sure that, you know, we -- we also assembled a group here across the state. So you get some both geographic and differentiation from counties who can express both their at-large experience with this issue, but also add some of their own individual texture that the counties are experiencing as well.

MS. LIEBER: Yeah. Absolutely.

And it's always very valuable for us to understand the statewide resources challenges and requests of the Legislature, and those associated issues.

So we'll keep in touch.

MR. TORRES: Thank you.

MR. EMRAN: Thank you, Chair Lieber.

Member Vazquez.

MR. VAZQUEZ: Thank you.

And thank you, Assessor Torres, for putting together this all-star team here before us today.

And as we look at the topics, especially the hot topics under the intangibles, what would you say are, like, the top priorities statewide?

Because, you know, we got the small, the medium, and the large, it looks like, all represented here.

MR. TORRES: I think -- I think just based on the presentation that we -- that we've had in the slides of listing the major key challenges for us in those three areas that we've discussed thus far.

But I also want to be clear, this has been a joint effort. It's not one singular person.

I want to thank Los Angeles County in addition for helping to organize us being here today.

To that end, Mr. Renkei, do you have anything else that you would add here in terms of any additional detail around challenges, other than what we presented right now in terms of those large comprehensive issues that we're seeking to address?

MR. RENKEI: I think we've given a good representation of the issues.

I'm -- I'm sure the subsequent conversations will get much more detailed. And we're prepared to engage in those conversations.

MR. VAZQUEZ: Okay.

MR. EMRAN: Thank you, Member Vazquez.

We have a person with their hand up online.

Assessor Torres, do you recognize Daniel Wiedenhoff?

MR. WIEDENHOFF: Wiedenhoff?

MR. EMRAN: Yes.

MR. TORRES: Certainly.

MR. EMRAN: Yeah. Are you -- sorry.

Are you part of the Agenda 4 Item?

MR. WIEDENHOFF: I am not. I thought this was a point at which I could interject an idea that might be helpful.

MR. EMRAN: Is it the private sector folks?

I just want to identify who you are, and if it's going to be a public comment.

MR. WIEDENHOFF: I'm Daniel Wiedenhoff, an agent with Protax. I'm a director.

And I just wanted to interject if possible something that I think might be helpful to the situation.

MR. EMRAN: Assessor Torres, if that's okay?

MR. TORRES: If it's more appropriate for public comment, we can -- we can hear it there.

MR. EMRAN: Yeah.

We're just going to come up --

Daniel, we're going to come up to public comment in just a few moments. So we can wait for that and --

MR. WIEDENHOFF: Okay.

MR. EMRAN: Appreciate that.

Thank you so much.

So let's actually go to public comment if there's no other questions.

Are there any members of the public that would like to comment on this agenda item, Agenda Item No. 3 in person?

Seeing none, I'm going to close public comment in person.

Let's go to the phone line.

AT&T operator, are there any members of the public that would like to phone in on Agenda Item No. 3?

AT&T MODERATOR: To make a comment, please press one, then zero.

And at this time, no one is queuing up.

MR. EMRAN: Thank you so much.

So, Daniel, you can go ahead and give public comment. I believe it is three minutes.

When you're ready, okay?

MR. WIEDENHOFF: No problem.

Okay. My public comment is this, I think one of the things you ought to consider in dealing with the situation statewide is something like the ownership department that specializes in a very narrow band of legal issues as -- and usually gives -- hands it over to the appraisers after the fact.

I think a group of specialists that handle intangibles would be highly valuable. Because to try and train your entire state of assessor appraisers in the area of intangibles, when it, in fact, is not a static, but moving kind of target based on property by property.

And the changes that are -- seem to be flowing from the courts, legally, it might bode well to, you know, specify a group that handles those.

And then, you know, within that group, you could break it down to apartments -- I'm sorry -- hotels, fast foods, car washes, restaurants, whatever grouping seems logical and beneficial.

Because that way, people can stay in their lane, and -- and be specialists, rather than, you know, being a Jack of all trades and an ace of none.

That's really my comment and suggestion. Because I think in the long run, it would probably be more productive if not everyone worked on intangibles, but people that were really knowledgeable worked on them.

Thank you.

MR. EMRAN: Thank you.

And we're going to go ahead and see if there's any other members of the public that would like to comment on the Zoom call.

Seeing none, I'm going to go ahead and close public comment on Agenda Item No. 3.

And now, Assessor Torres, I do like to give -- if you want to close out your side.

And really appreciate you bringing this whole team together. It's really insightful.

MR. TORRES: Certainly. Certainly.

I, again, just want to thank the Members of the Board here today for giving us the opportunity just to, again, lay this -- lay this foundation of understanding, so we can have a comprehensive approach with a shared understanding of what our challenges are, the principles that play in our work, so that we can move through this methodically with a lot of thoughtfulness.

I think that's what's going to be required to best engage in this issue, and also address what the commentator made in terms of all the moving parts that are still in play right now that have an influence on -- and may have an influence on how we do our work, and the level of specificity that is or is not provided in that flow of outcomes.

And also in the various bodies, whether it's the courts, whether it's in our Assessment Appeals Boards, or in our day-to-day practice, just making sure that we're -- we're, together, seeing the same elements and coming to the same conclusions about what it is we're talking about that needs our attention today.

We are here for you. We are here to engage in this process productively.

And, again, I want to thank everyone for making the time, again, from Napa County, from Santa Barbara, from San Francisco, Los Angeles and San Diego.

It has been a joy to work with this group from across the state to begin this dialogue with you, and to create the presentation that you've heard today.

So thank you very, very much for the opportunity.

MR. EMRAN: Thank you so much, Assessor Torres.

The work product certainly speaks for itself.

I believe now is a great time to break for lunch, everyone.

We're going to come back -- we're going to take an hour lunch, come back at about 1:25, and hear Agenda Item No. 4.

So take your -- take your break. There's a cafeteria across the street. And let's all reconvene here in about one hour at 1:25.

We are in recess. Thank you.

(Whereupon the lunch recess was taken.)

MR. EMRAN: Good afternoon, everyone.

We are just about at the 1:25 mark. Well, five seconds away. But I do want to get started just in the sake of time.

So I want to welcome you all back. I hope it was a great, great lunch.

And we're going to go ahead and get started with Agenda Item No. 4.

So, Madam Secretary, may you please call the next item.

MS. TAYLOR: Certainly.

Our next item is Item 4, Private Practice and Taxpayer Perspectives on Intangibles Assessment.

Presentation and discussion from private practice and major taxpayer representatives on real-world intangible assessment issues and recommendations.

Our speakers today, Breann Robowski, Partner, Pillsbury Winthrop Shaw Pittman LLP; David Lennhoff, MAI, SRA, AI-GRS, Principal; Chris Daniel, SRA, Certified General Appraiser, Chris Daniel & Associates LLC; James DePasquale, President and Chief Executive Officer, DePasquale, Kelley and Company; Cris O'Neall, Shareholder, Greenberg Traurig, LLP; Jason Chao, CFA, Managing Director, Stout LLC; Mary O' Connor, Principal, Sikich LLP.

MR. EMRAN: Wonderful.

Thank you so much, Madam Secretary.

Mr. DePasquale will be leading this group here.

I understand you have maybe a few people online you want to recognize as well.

And you can go ahead and take it away when you're ready.

MR. DePASQUALE: Thank you, Mr. Emran.

And thank you, Board Members. And a special thanks to Malia Cohen's team for spearheading this and making this actually come to a reality for us.

The Executive staff here for conducting a very professional process.

Recognizing part of our team, our remote participants, David Lennhoff and Chris Daniel.

Here before you will be speaking first, and then we'll let David Lennhoff and Chris Daniel add anything to what we are presenting today.

So we've heard a lot in the morning session. I am encouraged by the collaboration, first of all, and as Chair and President of the California Alliance of Taxpayer Advocates, also a practitioner in my own group, with a combined career in this industry of 36 years now, I was shocked to read here that this is a 100-year-old issue.

So I can no longer say that I pioneered this matter. So I have to give up that title. I just wanted to make that known on record.

So it's great that this is a constant conversation, although decades have passed since we've dealt with it before.

But I will tell you this, before I get into my submission, which I understand has been made part of the public record already, and each of you Members have a copy before you, I will just read through it.

The intent behind it is not to lay blame. This -- this is an open discussion about what we can do to improve the transparency, the accountability, and the uniformity when it comes to valuation of taxable property.

This happens to be an issue specific to intangibles today. But there are multiple other ancillary aspects that come to -- into this conversation that are not just intangibles.

So what I'm going to present is really going to be a broad-stroke recommendation, identifying the problem, and a recommendation to the Board that I think will at least set us on the right footing, regardless of where we end up as far as methodology and application on the back end.

So that being said, as I mentioned, James DePasquale, I am the Chair and President of California Alliance of Taxpayer Advocates, otherwise known as CATA.

I'm also a Principal of DePasquale, Kelley and Company. And for 31 years, we have been taking the charge on mitigating intangibles for our clients.

That being said, it's been an uphill battle. I won't deny it. But we have made progress in open discussions with various assessors.

And there is a recognition of the topic. But as was discussed earlier this morning, it's a complex issue. So we don't have easy answers.

Which oftentimes we end up in the appeals process, and then ultimately in court, as we've seen the breadth of cases that have come forward.

So let me just read so I don't get off track.

So today, in addressing the important issue regarding the treatment of intangible in property assessment and why updates to the Assessors' Handbook and related processes are necessary.

At its core, this issue centers on inconsistency, lack of transparency, and gaps in current procedures when it comes to recognizing and valuing intangible assets in property transfers or annual assessments.

The overview of the problem: Number one, lack of uniformity across counties.

First, there is no consistent approach among counties on how intangibles are recognized or treated.

Some assessors have informal or unspoken processes for handling intangible value, while others take the position that intangibles should not be recognized at all.

However, this morning, I will opine, I think we're past that point.

However, within the same county, there can be conflicting interpretations.

For example, an appraiser may attempt to quantify intangible assets collaboratively with taxpayers or its representatives only for that work to be rejected at the supervisory level.

In some cases, policies effectively force disputes forward. For instance, limiting reductions and requiring escalation to Assessment Appeals Board.

Often, assessors will not grant reductions that exceed a certain percentage, forcing the issue to the AAB.

If a valuation is supported by the data and evidence presented, there should be no threshold of value for resolving the matter on its evidence and merits.

The result is a system where outcomes depend more on location and personnel, rather than on consistent standards, which undermines fairness and predictability throughout the state.

No. 2, gaps in reporting forms and initial data collection. And I was very pleased to see assessor -- deputies -- Assessor Daly bring up the point of information.

This is very critical and probably at the forefront of the cog in this process.

It begins on the front end of the acceptance process that was mentioned earlier. If information or data is not mentioned to the assessor on the front end, how would they know that they need to address intangibles or any other factors in the transaction or valuation that should be addressed?

Key forms, such as Preliminary Change of Ownership Report, otherwise known as PCOR, Change in Ownership Statements, or COS, and 441(d) questionnaires.

These forms have no place throughout that even ask the question whether they're intangibles. They ask every other question.

They ask what sort of debt do you have; they ask what personal property do you have. But nowhere on the form does it ask the question, "Are there intangibles or some other aspect that we should consider?"

There's another one line that my firm and I know other colleagues have adopted, squeezing in as much as we can to tell the assessor, "Hey, this transaction has special issues. We need to talk about it."

But there's only one county in my career that's ever paid attention to that, picked up the phone and asked, "What do you mean here?"

And that county has been very collaborative over my three decades of practice. In fact, they're the only county that's ever reached out.

So it's important that we place more importance on these documents that are at the forefront of letting the assessors know what's happening with this transaction or this valuation.

These statutory forms do not request any information about the intangible assets. Currently, they only include the prompt regarding the personal property value, and no requirement to identify, allocate or document intangible components of a transaction or annual valuation.

This creates a systemic problem, whereby assessors are expected to determine taxable value under Prop 13 without a complete picture of what was actually purchased or subsumed in the annual determination of assessment.

In essence, assessors are merely -- assessors merely push the inflation button without regard for the nuance of inclusion of business value, goodwill or other intangible elements.

And, again, this is not laying blame. There's just no mechanism by which to inform them ahead of time.

So, in my opinion, by updating those forms, we will at least create a mechanism by which it can be dealt with on the front end.

As a result, intangibles are often overlooked at the outset, continuing in annual assessments and leading to inaccuracies that must be corrected through appeals or through the court system.

No. 3, challenges of Assessment Appeals Board level. There's a knowledge gap of the Assessment Appeals Board level. Many administrative boards are not fully familiar with intangible asset concepts, accepted valuation methodologies, or legal and transactional structures behind these assets.

Because of this, outcomes can vary significantly from case to case. For example, in some counties -- in the same county, the outcome can vary, whereby one AAB determines in favor of taxpayer, another AAB in the same county denies it.

I have personally been in front of AABs that categorically deny the existence of intangibles, resulting in litigation that ultimately remands back to the Board for proper treatment.

In both instances, we prevailed, but not without great legal expense to the taxpayer.

This inconsistency often forces taxpayers to costly and time-consuming litigation.

And I would like to add a footnote after hearing this morning, similarly, for the assessors and county resources, it stretches everybody to resolve disputes that could have been addressed earlier in the process.

We are at a point where the issue should not be a question of whether it exists, which I believe we've answered that answer. I think everybody agrees it's there. But more specifically, it should be about the value attributable to intangibles and nontaxable components.

If reasonable data and evidence is presented, it should not be presumed the assessor is correct, when they, themselves, have presented no evidence.

Recommended solution: To address these issues, a structured and practical solution is proposed.

First, the BOE should update standard forms like the PCOR, the COS, and the 441(d) to include a dedicated section for intangibles, value allocation details, and relevant transactional and cash flow information.

Second, assessors should be required to consider all elements of transaction value, including both taxable and nontaxable components when determining assessed value.

And, third, taxpayers should provide documented evidence supporting any claimed intangible value allocation.

So it's a two-way street. We can't expect the assessor just to believe that there's intangibles. The taxpayer and representative must provide them the proper evidence and documentation.

Finally, once sufficient documentation is provided, the burden of proof should shift to the assessor consistent with case law, such as *SHR St. Francis v. City and County of San Francisco*.

I'm going to leave that comment up to Mr. O'Neall, who's going to talk about the legal implications there.

In summary, the current system lacks consistency, clarity, and completeness in how it treats intangible assets.

By improving forms, data collection, standardizing practices across counties, ensuring informed decisionmaking, we can create a more fair, transparent, efficient assessment process for all concerned.

So the endgame here is that we have a transparent process that both sides, working at the benefit of the taxpayer, gets to the right result.

Because that's why we're here. It's not for us. It's for the taxpayers.

So with that, that ends my presentation.

I'm happy to address any specific questions before we move on. Or we can have everybody go forward, and we can do the questions afterwards.

MR. EMRAN: Yeah. If we can keep rolling, and then --

MR. DePASQUALE: Okay. I will turn it over to a colleague, Mr. O'Neall.

MR. EMRAN: Thank you.

MR. O'NEALL: Thank you, James.

Good afternoon, Chair Lieber, and Mr. Emran, Member Vazquez.

I'd say Member Gaines, but I don't think he's here.

And Member Schaefer, who I'm assuming is with us.

Thank you for this opportunity.

And I think that when Controller Cohen put this together, it was very insightful in a number of ways.

This is an area that does cry out for more guidance. And I think that's the key, guidance from the State Board of Equalization.

I think it's timely. Even before Olympic and Georgia Partners was around, it was timely, because there's a lot of history that's gone -- gone by.

And I think this is exactly in the wheelhouse of the State Board of Equalization. This is providing help to assessors, taxpayers, Assessment Appeals Boards on how do we do it uniformly statewide.

How do we ensure that equalization is happening the same way, whether at the assessor level or at the AAB level statewide?

So it's perfectly in the State Board's wheelhouse.

Let me -- let me give you a little background about myself.

I'm a Senior Shareholder and attorney with the law firm of Greenberg Traurig. Part of a seven-member state and local tax group in California with Greenberg.

I've been practicing law for 42 years; 35 of those years have been exclusively property tax in California, both in -- and I've mostly presented cases before Assessment Appeals Boards, both in Northern California, Southern California, hundreds of cases, major cases, some of which have gone on to the courts.

In fact, I probably brought 100 court cases, Superior Court, Court of Appeal into the Supreme.

There are a number of decisions. And I'm going to show you all the decisions on intangibles that have been issued by the Court of Appeal, the appellate courts in California.

About a third of those, I was either counsel for the taxpayer, or in -- in the Elk Hills Power case, I represented -- I was counsel for the California Taxpayers Association as amicus curiae, a friend of the court.

And, in fact, that brief, a good portion of that brief was incorporated into the history section of the Supreme Court's decision in Elk Hills Power.

I also currently represent the owner of the property in *Olympic and Georgia Partners v. County of Los Angeles*.

I tried that case at the Assessment Appeals Board level, presented the intangibles evidence.

The witness who presented that evidence is Ms. O'Connor, who sits next to me. And she's going to talk in a bit.

So you have firsthand before you the people who are involved in the Olympic and Georgia Partners case.

And I've been involved in quite recent decisions, SHR St. Francis in San Francisco that came out two years ago; SHC San Mateo -- I mean, it's versus San -- *SHC Half Moon Bay v. San Mateo*; *DFS Group v.*

County of San Mateo.

Those are all cases which I handled on behalf of the taxpayer, all the way through either the Court of Appeal or the Supreme Court.

When SB 657 was passed in 1995, I was part of the team of attorneys who were working alongside CalTax to get that passed.

When AH 502 was amended in 1998, I worked with Doug Mo. Doug Mo and I, and I think one other attorney, were the primary authors of the industry version of that portion of Chapter 6, pages 150 to 165.

A good part of that I wrote along with Doug Mo. I know what's in there. And I'm going to have some comments about why I think it's still good -- a good a good guidance document.

I've written a seminal article on intangibles that's been published by the *California Tax Lawyer*.

I am the coeditor of the leading treatise on California property tax law called Taxing California Property. Chapter 4 of that is mostly about intangibles. I wrote that chapter.

And I've mentioned, I'm involved in the Olympic and Georgia Partners case, which is on remand from the Supreme Court, and currently waiting for a remand hearing before the Los Angeles County Assessment

Appeals Board.

And I think to answer your question, Mr. Vazquez, a decision on what is the value of those three intangibles that have -- were at the Board before, and have gone up to the Supreme Court and back down again, still hasn't been reached. That we -- we need to have a hearing to determine what is the value of the management agreement, what is the value of the assembled workforce, and what is the value of the food and beverage operation.

That still has to be done, because it was not decided by the Assessment Appeals Board the first time around.

So let's talk a bit about property tax. Some of this is going to, you'll see, follow a bit of what Mr. Moon had to say.

Property tax is Constitution-based. That makes it different than a lot of other taxes.

What property gets taxed, the value standard, the requirement for equalization statewide, all of the -- the right to or the possibility of getting exemptions, the origin, the basis for this organization existing comes in -- out of the Constitution. And even Assessment Appeals Boards are found only in the Constitution.

The Legislature had no creation of any of these things, nor did the governor, nor did the executive branch. This is a constitutional area of law, of property, of tax law.

Because of that, who interprets the Constitution?

The courts.

Because of that, most of our law in the property tax field in California comes out of the courts.

That means we have to be able to read opinions, understand them, follow them. And I'm glad to see that's part of what we're doing here. Because that needs to be done.

The concern -- I have the same concern that Mr. DePasquale has, and that is that I meet a lot of people who say, "Oh, oh, I've read Olympic and Georgia Partners, and I think it says this."

And then I'll say, "Have you been to law school? Do you have a bar -- did you pass the bar? How many cases have you read and studied?"

And, generally, it -- you have to read those cases over and over again, and hours and hours and hours.

On the way -- I was on an airplane coming back from overseas three days ago. I read *Roehm v. County of Orange*. It took me two hours to read a 10-page case to understand it fully.

I say this because most of the Assessment Appeals Boards that we -- I go in front of, with maybe the exception of Los Angeles and a few other metropolitan counties, are not staffed by attorneys.

They are staffed by appraisers, realtors, accountants. And they do not know how to read a case.

So they have -- and many times, you'll walk in, and at the end of the case, someone will throw three cases on the -- on the desk of the board and say, "Read those. That supports my decision. That -- this will support what I've said, and it'll be the basis for your decision."

Those board members have no ability to read those cases and fully understand what they mean.

The same thing -- and I don't mean to pick on assessors, but most assessors are not lawyers. I have known a few who were, but most are not.

And recently I tried a case in one of the Southern California counties in front of an Assessment Appeals Board. And I had an assessor say to me, we -- the issue was, you know, an assembled workforce, which is an intangible.

And the -- you know, we said, "We think there's an assembled workforce here."

And that particular appraiser who was working on the case that day said, "Well, California doesn't recognize assembled workforce as an intangible."

And my mouth dropped open, because there's six published Court of Appeal decisions that recognize assembled workforce, plus the Assessors' Handbook.

And then -- and then you get the -- I got the, "And we have to look at everything on a case-by-case basis, because that's what Olympic and Georgia Partner says."

We can't have this kind of -- of misdirection occurring in Assessment Appeals Boards.

And I -- and I realize assessors' offices have attorneys. Those attorneys are very busy. Los Angeles has two attorneys assigned to help the boards. And I think you have one or two assigned to us to help the assessor's office. That's not enough lawyers.

So what do we do?

Well, we have to have guidance from this body on how we interpret these cases, and then establish the principle.

And once the principle is set, and Mr. Moon did a nice job, and Mr. Yeung did a nice job of setting forth some of those.

That goes into a document, a guidance document that this -- this Board issues, and it's done. And we don't need to deal with it anymore. We don't need to have wild interpretations of what a case says or what a case means.

Before I go on, I want to say something else. And having been an author of AH 502 section on intangibles, and having used it regularly in front of Assessment Appeals Boards, the Assessment Appeals Boards very much glom onto those 16 pages in Assessors' Handbook 502, and look at them, and usually often decide cases based on those.

Let's not change the guidance in 502. It is still good guidance.

I don't -- probably not me, but Mr. Mo, Doug Mo, when he helped write it, he must have been thinking 15 years ahead. Because a lot of what is said in there has since been followed by our courts.

And I don't -- I think it would be a mistake for the Board to say, "We're going to gut that portion of the handbook and rewrite it."

In my opinion -- besides, the courts have relied upon it. It's been quoted by several courts in several court decisions.

Assessment Appeals Boards are relying on it regularly. And -- and I think instead of going down that road, I would say, let's supplement.

I would ask the Board, consider seriously supplementing what's in Assessors' Handbook 502. Affirm what's there, and then supplement it.

Now, sitting before you is a document that I prepared and submitted -- submitted it yesterday, but been working on this document for about four months.

This is a proposed letter to assessors. And it is -- it is in the form of a guidance document.

You may know, but if you go on the State Board's website, the State Board web has published about 20 guidance documents. They're on their website.

"How to assess billboards. How to assess cable television and video service. How to assess solar energy. How to assess wind energy."

The one I think that's very pertinent here is, "How to substantiate additional obsolescence for personal property and fixtures."

If you go and you look at that particular guidance document, it is all about appraisal, and it's very detailed. And it tells people, how do you determine, basically, obsolescence and depreciation when you're evaluating personal property.

I'll get to it in a little while, but I think that's where the Board needs to focus. And I think that should be the direction that this project or this Work Group heads in down the road.

But first, I just want to walk you through very briefly this proposed LTA.

It contains a brief history of the valuation of intangible assets and rights. I'm pleased to say it almost mimics what Mr. Moon and Mr. Yeung presented this morning. So I think we're very consistent on that.

I've taken a little extra time and footnoted some things just to tie it back to the case law. But I think a lot of things are established.

Like Roehm says, "We're going to exclude or exempt all intangibles," for example.

I'll get to a few -- yeah, we're going to exclude all intangibles.

Other principles that I'm going to get to are also in the history. And that's why I think we need to chronicle this history going back to 1998, and cases coming forward.

It next talks about the identification of nontaxable intangible assets and rights.

We're not in a Never-never land. We're not lost there. There are actually treatises issued or published by appraisers who specialize in -- in valuing intangible assets and rights.

And there are detailed lists of the -- the requirements that have to be met for you to have an intangible.

Ms. O'Connor actually uses those when she's valuing intangibles for her property tax cases here in California.

Then I went and I put in a section about valuing, specifically, identified nontaxable intangibles.

And I put that there, because there are some general principles that the courts have given us that we can use, that the Board can use as a starting point in drafting the guidance, I think, that's needed in the area of valuation. Which is our topic really for today.

That carries over for several pages. I do have a section about burden of proof. And I -- I commend that to your review.

The courts have told us, actually, that the burden of proof on -- in intangibles is on the assessors, not on the taxpayers. There's three cases that tell us that now.

And, finally, and this is where I think the really important information can come from, approaches for valuing specific types of intangible assets.

You've heard about hotels today. Almost every hotel has a management agreement, a franchise agreement, like a Marriott or a Hilton, a workforce in place, especially if it's a large hotel, and probably a large food and beverage operation.

Those are the primary four intangibles in every large, luxury hotel, resort hotel.

We don't have to go off into, "Was there a TOT agreement for development of that property?"

That's a one-off. Olympic and Georgia Partners, there probably will never be another case come forward that talks about using TOT to pay a developer to build a convention center hotel in downtown Los Angeles.

Matter of fact, when we put that case on, we went out and looked, "Are there other TOT agreements out there?"

There are a couple, maybe. So -- but these four always exist. Well, what if the Board said, "We're going to put out guidance on how you value a management agreement"?

Every hotel's got one. Let's just tell people how to do it, or a franchise agreement, or a workforce, or even a food and beverage operation in a large hotel.

Finally, I've concluded this with what I think is important. Like the handbook for possessory interests, which has a summary of all the possessory cases, I put at the back of this a summary of all the cases in the intangibles area. There's 25 of them. I put a short, oh, three-to-four sentence summary of each one.

I think that's helpful. It will be helpful to the Board just to be able to look through that.

And, finally, I conclude with a short bibliography also, which is a resource.

So that having been said, let me -- let me talk about -- we've talked about what questions are remaining out there.

Well, I don't think there are really any questions, except how do you value a Hilton franchise in a hotel?

Or how do -- how do we determine the value of a workforce that's operating a petroleum refinery?

The questions -- the issues I think that are already resolved are these: All intangibles are exempt from taxation with limited exceptions.

And those exceptions, I put to you, are found in Revenue and Taxation Code section 110(f), which are the intangible attributes of real property, location, zoning, architecture.

No. 2, the value of intangibles is the full value, and it's the full value of every intangible that must be removed when valuing property.

There's a lot of discussion that it centers around this beneficial or productive use. I'm going to talk about that in a minute.

And people will say, "Well, we've got a real property that's using an intangible. And there -- and those intangibles are causing the property to be put to its beneficial and productive use."

So we have to take that intangible, and we have to split it somewhere. Forty percent on the -- on the real property and sixty percent is the intangible.

That's not the guidance of the courts. If you read Elk Hills Power in particular, if you read the statute. If you read GTE Sprint, the standard -- the standard is identify that intangible, determine its full value, and subtract that full value out.

We don't split the intangible. California made a decision, the courts made a decision 20 years ago that we don't do that anymore. And that was a big issue. In 1995, that was a question. That was a big issue.

GTE Sprint, in 1994, solved that problem. And Elk Hills Power confirmed it in 2014 when the

Supreme Court issued that decision.

Here's an important one. This, "assuming the presence," we hear about it. We read it in the statute. So it was the center of the case, and the Supreme Court's decision in Elk Hills Power.

You know what the Supreme Court told us in Elk Hills Power? Everyone overlooks this. It's in a footnote.

Beneficial productive use just means we value the real property in its highest and best use.

Okay? So we're going to value that hotel as if it's got a Marriott franchise, it's got a workforce in place, and it's got a big food and beverage operation, as opposed to not having any of those.

That's how it gets valued.

Highest and best use is a common thing. It's the first step in any appraisal assignment.

What's that property's highest and best use?

Highest and best use is not a value element. So what it's saying is, when you value a real property, just make sure you're valuing it as a hotel, and not an empty apartment house, for example. Or not a refinery that's not in operation, because it's dark, because it's been closed down, and there's no workforce there.

That means, of course, that then we remove the entire intangible. We don't remove a part of it, right?

The overarching -- I think I've given this already to you.

The overarching methodology for valuing intangibles is set forth in GTE Sprint, and it is identify, value, and deduct. It's literally -- that's what the case says. Identify, value, and deduct.

Well, we've already taken care of identification. It's not hard to identify intangibles.

Now, granted, okay, an agreement using Transient Occupancy Tax to rebate to a developer through a complicated financing scheme, which is what we had in Olympic and Georgia Partners, that one is an uncommon, unique, off on one side. But otherwise, they're pretty easy to identify.

And I'm going to talk to Ms. O'Connor about that in a minute.

Deduct -- everyone -- everyone can agree, okay. Well, we're going to -- we're going to subtract whatever -- whatever that intangible is, we're going to subtract its value out.

What are we left with?

We're left with value. We have to value that intangible. Once we all know how to value it, whether it's a small county like Glenn County, or a big -- the big behemoth, Los Angeles County, once we're all on the same page on how to value it, it's done.

And if those intangibles are common ones, like every hotel has a management agreement, or a franchise, or a workforce, and the Board has told us how that's done, and maybe provided a training to assessors on how to do that from credible resources, that solves the problem. And that's the guidance that I think we need.

Well, let me see. I'm going to skip some of these other ones.

Other -- other issues have been clearly -- we know, for example, an income approach always captures the tangibles, if you use the entire income coming off the property.

And why is that?

Because if the income coming off the property has a stream that's going to return to real property and a return to the building, and then a return to the Hilton franchise, and a return to the workforce in place, and a return to Wolfgang Puck, who's operating the hotel's food and beverage operation, well, three of those are the intangibles.

Those income streams should not be included if we're going to value the hotel. So we value those separately.

What's the value Wolfgang Puck's name on a restaurant?

What's the value of the workforce that's there in place?

What's the value of that Marriott franchise?

You pull those -- actually, this was Olympic and Georgia Partners. Those were the three intangibles.

You pull those off, and you're left with real property, taxable real property, land and improvements.

I'm not going to talk about the Rushmore Method. I think there's a -- there's still a dispute there.

What -- what I would like to do, is I'd like to introduce Mary O' Connor, who's sitting next to me.

And I'm just going to briefly talk about Miss O'Connor.

Ms. O'Connor has been -- you've been practicing, I guess, more than 45 years in the --

MS. O'CONNOR: You don't have to put too --

MR. O'NEALL: Okay. I want to -- a long time.

And the thing about Mary O'Connor is she's not an MAI appraiser. She doesn't value real property.

She's what we call an ASA appraiser. She's certified by the American Society of Appraisers, a very large appraisal certification organization. And they train appraisers to value business intangibles. And she actually has a specialization in that.

And I want to ask Mary, ask you a few questions, I guess.

Is there a segment of the profession then that actually focuses on intangibles appraisal?

MR. EMRAN: Before you go on, Mary --

Cris, I appreciate that presentation.

I want to do a time check here.

We're allotted 90 minutes --

MR. O'NEALL: Yeah.

MR. EMRAN: -- for the presentation. We're just about 35, 40 minutes.

MR. O'NEALL: What is my time right now?

MR. EMRAN: The group's time is 90 minutes total.

MR. O'NEALL: What are we at?

MR. EMRAN: We're about 35, 40 minutes?

Yeah.

MR. O'NEALL: Okay. As soon as I introduce --

MR. EMRAN: I know we have about five more speakers to go. So however you guys want to keep the pace going. But I'm gonna have to stop --

MR. O'NEALL: You're reading my mind just now.

MR. DePASQUALE: He tends to go on.

MR. EMRAN: However you guys want to continue to go. Okay?

MR. O'NEALL: I want to give us an overview of intangibles appraisal profession, and what -- what intangibles appraisers do, and how that's been -- how that's been brought into the California property tax world or arena.

MS. O'CONNOR: The valuation of intangible assets really got started in 1934 with the publication of several learned treatises, the entrance of the Internal Revenue Service into regulating that particular space.

Utility ratemaking picked up the appraisal of intangibles, the litigation of intellectual property across the country, financial statement reporting. It uses the appraisal of intangibles -- intangibles extensively.

In financing, we always want to identify and exclude intangibles. Certainly in federal income tax, it's extremely important. Since around 1934, generally speaking, out of academic universities in the economics departments and in the finance field, appraisers who specialize in the valuing of businesses and intangible assets, for the most part, we subscribe to Standards 9 and 10 of USPAP, which they mention intangible asset appraisal quite often. And that's -- that's -- those are the standards that I'm regulated under.

It is -- there are literally thousands of people like me with my credentials, serving in various aspects of the business community, particularly in mergers and acquisitions.

I suppose I'm a bit unique in that I have -- I took that background and applied it to California in property taxation.

Property tax is a unique purpose. You need to always appraise per the unit that we're appraising, not as if it's part of a larger corporation.

It also -- I think it needs to be simple. It needs to be easy to explain. It needs to be -- it can be templated in ways that could be universally used throughout the assessment community and the taxpayer community.

I think -- I think people get right up to the subject and get a bit scared of it, like this is going to be horribly complex.

The principles of appraisal never change. It's the income, the market, and -- and the cost approach. Doesn't change.

How it's applied per purpose changes. Certainly in California, we have a rubric. You identify the intangible, you value it, and you exclude it. It is not necessarily done that way in other states.

So for 25 years, I have been -- I have been providing this service. I have been the expert in most of the cases that we have brought up today.

The template that I use is simple, and it is not particularly complex. I think if generally applied, 85 percent of cases could reasonably -- you could come to a meeting of the minds between taxpayer and assessor relatively easily.

What is occurring throughout, particularly in California, is that my template, few other appraisers templates, they're now kind of in general circulation.

And people who don't understand the appraisal theory behind it, who aren't certified in it, who don't understand the information sources that are required, there's a lot of winging it out there. And that's not serving the community either.

I think the BOE could be -- could do a tremendous service in being able to move these cases along to where we're not talking about 15, 20-year-old cases.

We're moving them along where taxpayer and assessor can discuss assumptions within a template, come to a meeting of the minds and move on. Something that's also easily trainable.

It's -- it's just something that property tax in California needs.

Now, also congratulate yourselves. You do realize that in the other -- in the other 49 states, they all talk about your cases, your templates, your reports. And they -- they use that as a standard.

That's where the Disney cases in Florida have come out of. They extensively discussed your state's leadership in this area.

And you're also the first group of people that say, "Well, we -- we need to -- we need to bring this up to date."

And within the assessment community, your work will be looked at by 49 other states.

So the -- this is not a -- this is not an unknown issue. This is not a new form of appraisal. This is USPAP, three-approach appraisal that has thousands of certified practitioners that can assist in the -- in this process.

It needs to be tailored to property tax. But that is a relatively -- I'm not going to say easy. It's easy to understand once it's articulated.

MR. O'NEALL: Thank you.

MR. DePASQUALE: Thank you, Mary.

We're going to move on to Breann Robowski. She has some comments to make, and maybe something special to add.

MS. ROBOWSKI: Perfect.

MR. EMRAN: If you could put the mic a little closer, Breann.

MS. ROBOWSKI: Sure. Yeah. I'm used to -- I usually talk really loud, so I'm not used to having to be mic'd.

So good afternoon, everybody. I'm Breann Robowski. I am a state and local tax partner at Pillsbury Winthrop Shaw Pittman. So I'm an attorney.

I have specialized in complex California property tax for the last 15 years or so, pretty much exclusively. I've handled a number of different intangible cases during that time, both at the Assessment Appeals Board level and at the court level. Some including currently, and some cases that are being watched very carefully.

So thank you very much for having me, and thank you for spending the afternoon with us focused on this.

So I like to fancy myself sort of a problem-solver. I like to be somebody who comes to the table with a suggestion, and looking at both sides of this. And what I really hear coming out of this afternoon is a deep-seated desire by both sides for guidelines and, to the extent practicable, bright-line rules.

And it's really interesting, because if you take a step back, and you look at the body of law that makes up the 25 cases that Cris talked about, they can be quite confusing at first blush. They feel like they're all over the place. And you kind of can't make sense of them immediately.

And you might find yourself wondering, well, how can there be cases in which an intangible is identified, and there's even a value for that intangible, but yet the court finds that no deduction is needed?

And so this has sort of permeated and created this real set of confusion throughout the assessment community and the taxpayer community. And it's where you see most of the issue sort of butting heads.

But I have really good news, because I think that there is a bright-line rule. And I think that that bright-line rule really was heavily punctuated out of Olympic Georgia and Partners by the California Supreme Court.

So what I'd like to do today, and I'm going to try and keep my comments pretty pointed and pretty short, is I'd like to explain this bright-line rule to you.

I'd like to explain how the case law aligns with it. I'd like to briefly tell you why this is the rule, and then how it fits within the parameters of Olympic Georgia and Partners, and help demonstrate the rationale that sits behind it.

So let's first start with what is this mysterious rule that I've been referring to.

Well, it's really the division within the case law between a government-created intangible and a privately-created intangible.

And there are lots of examples within California case law that really demonstrates that really bright dichotomy.

So if you start on the government side, and on the government side here, we see if it's a government-created intangible, the cases say no deduction is generally required.

There are some -- some nuances to that, but generally no deduction is required.

If it's a privately-created intangible, there, we do see a deduction routinely required by the courts.

So government-created intangibles, in the case law, are things like the land use permit out of American Sheds. It's the FCC license out of Los Angeles SMSA. It's the standard-offer contracts that are talked about in the Freeport and Watson cases. All of which, I trust, are in Mr. O'Neall's draft LTA.

Those cases demonstrate government intangibles. Those cases don't require, ultimately, a deduction.

Let's move to the other side and start to understand the other side of the coin.

Here, we have privately-created intangibles. And here, we have a very robust set of case law that helps demonstrate this.

In fact, both parties have talked extensively about multiple examples. We've talked about goodwill since early this morning. Numerous cases identifying goodwill, and the classic effort that goes into private companies building out goodwill out in the community and building that value.

We've talked extensively about workforce in place. We've talked extensively about many other things, including favorable operating contracts. Which come in many different flavors and sorts.

And the list really goes on and on. But, therein, lies sort of the dichotomy. The government-created intangible versus a privately-created intangible.

So I indicated that I was going to help you understand why. Why is there this dichotomy? Why does this make sense?

Well, let's start on the private side. A privately-created intangible is really something that needs to be deducted, because it's reflective of enterprise activity.

You see, all of the cases talking about whether or not an intangible is largely derived from enterprise activity, private parties seek out, engage in enterprise activity, that value must be deducted.

There really is only the government-created intangibles that aren't created generally by enterprise value. Instead, it's a government allowance, effectively.

So we see things like licenses and permits. We see cases coming up with no need to deduct there, because it's a government-created intangible.

These are, to use the language of the court cases, intangibles that merely allow taxable property to generate income when put to its beneficial and productive use.

So you can start to see how once you

understand this -- this two sides of the coin dichotomy, as I've been saying, why it all sort of brings the case law together.

So let's take a look at Olympic Georgia and Partners, our most recent California Supreme Court case on intangibles.

And that case, actually -- it's a long case. It's 80 pages as a slip opinion. And as Cris said, it's a case that takes hours to get through. And I've probably read that case 15 times at this point. It takes a lot of effort to get through.

But once you sort of understand and appreciate the Court's rationale, it actually makes quite a lot of sense.

So Olympic Georgia and Partners really demonstrates this bright-line test that I'm talking about here.

And what Olympic is focused on is the narrow carveout of a government-created intangible, for which no deduction is required.

And in those instances when no deduction is required, you can -- it's a very narrow exception -- use actual income, also known as contract income.

So what is this thin read? What is this narrow exception that I keep referring to?

Well, I've been calling it the "De Luz government exception," because the creation of a government-created intangible, and the need for no deduction for it, was created by the California Supreme Court. And that was all the way back in 1955.

So let's take a really quick look at that particular case, and what the California Supreme Court was looking at when they carved out this narrow government-created intangible exception.

Well, it really dealt with military housing. It was a new housing development that had been developed under the National Housing Act.

And we saw the military come in and say to the developer, "Here is your dictated rent, and I'm going to guarantee your occupancy with people that I tell you, you have to rent to."

Well, what does that do?

That creates an above-market rental income stream that is government-created and government-backed.

Who did that? Did a private party do that?

No, the government did that.

So what did the California Supreme Court say about that?

Well, they said, "Okay. In that instance, that's different than private enterprise activity."

This is government-created. There, you get to tax actual income. You get to tax the contract income with no deduction for your intangible.

So flash forward to when is the next time this "De Luz government exception" is used?

It's in 1993, in a case that's well known and well discussed, and causes quite a lot of consternation among the broader community. It's *Freeport McMoran v. County of Lake*.

This particular case dealt with what's known as a standard-offer contract. That is a contract that is created by the CPUC, a government entity. It's drafted by the government, and it's held out to developers.

Any developer that wants to develop a renewable energy development grabs that contract, picks it up, signs it, and all of a sudden they're a renewable developer.

That is government-created and government-guaranteed, because it indicates pricing after you've developed your renewable that they're going to pay you for your energy pricing that you're -- you're selling out to the utilities.

Government-created, government-backed, dictated pricing by the government.

Again, we see the courts relying specifically on De Luz. They cite back to the California Supreme Court's case, and they say, "Aha. This is a government-created intangible; therefore, no deduction is required for this particular intangible."

And, hopefully, the Court actually takes it a step further, and it says, "Well, why is this different than an above-market lease?"

We haven't really gotten into it much yet. But that's the classic example that everybody talks about.

And, in fact, Property Tax Rule 8(d) specifically says an above-market lease is not subject to tax.

We look at market rental rates to reflect a hypothetical willing buyer, willing seller to determine fair market value.

Well, the case in Freeport said it's different than an above-market lease, because it's government-created. An above-market lease is a product of private negotiations.

The next case that you see is *Watson Cogen. v. County of LA,* in 2002.

And we can shortcut that for purposes of today's presentation to effectively say it relies squarely on Freeport, the case we just discussed, and squarely on the "De Luz government exception" that I've articulated.

Next, where do we land?

The next case that brings this up is Olympic Georgia and Partners 2025 case.

And what is Olympic Georgia and Partners looking at?

They're looking at a TOT occupancy agreement. An agreement that was created by the government, by the city, who dictated what they were going to give back to a developer to incentivize development.

Again, we have the same hallmarks. We have government-created. We have government-backed.

What does that mean?

Government-created intangible under the De Luz Homes government exception doesn't require a deduction.

And you see again it looks back at the same distinction between an above-market lease. It relies on Freeport to do that.

So I take a step back from this, and I look at all of the confusion that Olympic has created.

It's quite disappointing as an attorney to see a case go up to the California Supreme Court after well over a decade of not an intangible's case, and all you get is 80 pages of what feels like a mess.

But now having put all the pieces together, I see how it makes sense. And we see the Supreme Court saying this is a narrow case. This is a case that's specific to these facts, these unique circumstances, as Mr. O'Neall was explaining to us.

Why?

Because the government-created exception is narrow. It is just living in this narrow set of cases that we've talked about here today.

So I offer that as sort of a bright light of hope, hopefully, that there are bright-line rules out there.

There is a lot of confusion. But as Cris said, you really have to look at the full body of law together to make the cases make sense. That's our duty as attorneys to harmonize the cases.

And it's sort of like, once you've seen this dichotomy, it all sort of makes sense. And you can't kind of unsee it, so to speak.

So I just wanted to sort of provide that as an example to the Board of something that I think could be quite effective. It's bright line. It's easy to administer. It's very well supported in the case law, and it really brings everything together and updates what is currently stated in AH 502.

Happy to answer questions. I did go longer than expected, but I appreciate your time.

MR. DePASQUALE: Thanks, Breann.

We have Jason Chao next. He's going to kind of wrap up on a more tangible personal property, or -- okay.

So I'll let you take it from there.

MR. CHAO: Great.

Thank you, Chair Lieber, Members of the Board.

Thank you again for the opportunity. Glad to be working on as part of this -- this working group here.

And I would just say, where I'm going to focus, is going to be an aspect of intangibles that is -- is going to gain some more visibility.

I think we've talked a lot today as to the non-taxability of intangibles, and as it relates to real property and businesses.

And what I want to do is introduce to you some insights and perspectives as to how this might play into business personal property.

I'm not an attorney. I'm also a practitioner like Ms. O'Connor. And I've been doing this for about

30 years, valuing assets for property tax purposes. But I would say many of these years now have been focused on intangibles.

And what I've seen is the importance of intangibles not only spans the business enterprise real estate, but also business personal property.

And what's happening, and what I want to do is just give you some trends, give you some examples, and then a little bit of the practical application as to what's going on in this area.

I would say over the past 30 years, as it relates to intangibles, everything has increased in its contribution and its value.

And I think, especially today, when it comes to businesses, and they're making investment decisions, they are paying this premium, and the premium is being driven by the intangible component, and all the assets today, whether it's a business, real -- real property, obviously, but even business personal property have a component of both tangible and intangible.

I would say, when it comes to the issues that have been discussed today as it relates to real property, whether it's -- it's uniformity, whether it's transparency, and even the cases that have been -- that have come up to test, the intangible component, that's also going to be an area, then, that may come up on business personal property.

I think it was briefly mentioned today by Ms. Ruwart as it relates to data centers and embedded software.

Well, guess what?

What we see in business personal -- personal property is a growing proportion of this intangible. It's intellectual property. It's not tangible. But it's important when it comes to business personal property.

And the reason why companies are investing in this -- in these types of assets is because it's mission-critical.

What it does is it allows companies to better compete in their -- in their respective markets. It better serves customers and stakeholders. It protects against cyber attacks. It allows companies to access data to make better decisions. It provides automation.

And there's a whole host of benefits when it comes to purchasing assets that allow companies to become more efficient.

So I think when it comes to the practical application of business personal property, where you see this with companies beyond just what's in the real estate, is in the telecommunications industry, in the electric and utilities industry.

The form of application software is widespread. And I think even given today, you see so many other industries investing in these types of assets. Whether it's transportation, medical, manufacturing, distribution.

And I think what's happening here is that companies have to pay a premium price for these types of assets. It's a -- it's a price, then, that -- that is going to be growing and continuing to be a larger proportion of what they pay in property tax.

So I think today it's really just to bring to your attention that I think this is another area that's worth exploring. Because the -- the intangible is also going to be an issue, then, that will require some guidance, whether it's the identification, but also the measurement.

And I think it's learning from everything that's happened in real property, and being able to utilize that when it comes to business personal property.

So I just thought to spend a couple minutes just to introduce this -- this concept.

MR. DePASQUALE: So thank you very much.

MR. EMRAN: Appreciate that.

MR. DePASQUALE: Mr. Emran, I'm going to yield to you to see what -- where we're at right now.

MR. EMRAN: We're just at the hour mark. You have, overall, 30 minutes left in your presentation. Maybe 20 with a little bit of Q&A.

So for staff, we need to take a break.

MR. DePASQUALE: Okay.

MR. EMRAN: Ten minutes. Just everyone collect themselves. If we can come back in at 2:36.

MR. DePASQUALE: I just want to see if the two members on the remote access, Mr. Daniel and Mr. Lennhoff, if they need -- how much time, if they intend to speak.

MR. DANIEL: This is Chris Daniel.

I'm going to need at least 15 or 20 minutes. Yeah.

MR. DePASQUALE: Well, we'll give you 10 if you can condense it.

MR. DANIEL: Well, I'll do what I can.

MR. DePASQUALE: Because we need Mr. Lennhoff to chime in as well if he's going to.

MR. DANIEL: Yeah.

MR. DePASQUALE: Otherwise, he can yield his time to you, Mr. Lennhoff.

MR. DANIEL: Well, no, no. I don't want to take away from Mr. Lennhoff.

But we are -- the ultimate goal here is to determine the value of the real estate, right?

I mean, that's ultimately what we're trying to do here. So I had a couple suggestions that might help us along that way.

MR. DePASQUALE: Awesome.

And, remember, this is just the intro to the working group. So we'll have other opportunities to get more knee-deep.

MR. DANIEL: Yeah.

MR. EMRAN: Just want to keep it fair.

Because we gave the assessors 90 minutes, you all get 90.

But let's just take this 10-minute break. You guys maybe can huddle up, decide how to move forward, and we'll come back in 10 minutes.

Okay. So let's do 2:36.

Thank you. We are in recess.

MR. DePASQUALE: Awesome. Thank you.

(Whereupon a recess was taken.)

MR. EMRAN: Okay, everyone. We're going to go ahead and get back started. We are in the homestretch here.

Want to thank everyone. We have a few more presentations left. We're going to move on forward here.

And I turn it over to you, Mr. DePasquale.

MR. DePASQUALE: Thank you, Mr. Emran.

Thank you.

Mr. Daniel, did you want to kind of go forward?

And just keep in mind, just try to keep it condensed without shorting yourself.

Thank you.

MR. DANIEL: No, I'm going to set my timer for 10 minutes here. And -- and I don't want to take away from Mr. Lennhoff.

And thank you.

First of all, I mean, it is truly an honor to be among such a distinguished group, including this current panel right here.

I mean, that's -- we -- there's some real heavyweights here.

My name is Chris Daniel. I am the President of the Northern California Chapter of the Appraisal Institute.

And I've been -- and by the way, Lisa Estes, who showed up as our Executive Director on your agenda, is not here.

I've been an appraiser for 41 years. The last 26 years in my -- I've owned -- had my own firm.

I'm a -- formerly a real estate appraisal instructor in both real estate economics and real estate appraisal at Monterey Peninsula College.

I am a former probate referee, appointed my last term by our current Controller.

Thank you, Ms. Cohen.

And previously served as a Vice Chair of the Monterey County Assessment Appeals Board for about 12 years.

After stepping away from that, I also -- I've testified as an expert witness in both federal and state court, and also for the county and against the county.

And I've appraised hotels, motel, restaurants, lots of property, lots of real estate, all types.

Moving through my presentation, I, with apologies to Mr. O'Neall, I did look at -- I did read the case on Olympia.

And one of the things that really struck me that I wanted to share with the, specifically, the Board of Equalization, is in reading through that, Assessors' Handbook 502 is pretty clear. And they give very specific instructions on how to do some of these things.

Specifically, there's a -- they provide a method to determine the value of the -- assembling the workforce. It's basically a replacement cost.

And they specifically state here, and I'm going to read directly from it, that the deduction of a management fee from the income stream of a hotel does not recognize or remove the value attributable to the business enterprise that operates the hotel.

So I certainly understand the frustration of the current panel, going from board to board, and some assessors following the handbook and others not.

So my first suggestion was -- would maybe be some kind of requirement that whatever guidelines we come up with, the assessors be -- they follow.

On the other hand, I also wanted to point out that the methodologies that are being talked about now, specifically about value and intangible value, are not what I do.

I'm a -- I'm a real estate appraiser. So when I think about real property and hotels, I think about the real estate.

And -- and before I do move on, I will point out that, in defense of Rushmore, and I'm not trying to defend anybody, he does specifically talk about applying a return on and of the personal property, as an example.

Which does not appear that the assessor did in -- in Olympia as well. Maybe they did, and I missed that.

But -- and as far as intangible values go, and those kinds of things specifically, I just wanted to point out that intangible values increase and decrease.

Wineries are probably a good example right now. You know, the -- the market for wine grapes has crashed. And that industry is suffering. So the amount of intangible value in a winery right now is probably not the same as it was at the beginning of, say, COVID, you know, or slightly before then.

I'll also point out that there's probably a big difference between the Ritz-Carlton and downtown LA, their assembled workforce, which Ritz-Carlton has an extremely high level of service.

So the cost and capital required to train that workforce and assemble it is probably pretty high, relative to a small -- small independent hotel that might be an owner/user, or even a small -- one of the smaller economy 6 types hotels or Motel 6.

So those -- those are going to be different, and -- which brings us back to each -- each of these does need to be specific. The facts of the case matter.

And obviously as appraisers, we're going to rely on data, not, you know, the cases. Case law is going to be guidance from the attorneys on maybe how to conduct some of these -- these methods. But we're ultimately going to rely on data.

And that's where, you know, we have our three approaches. And they're simple to understand, but they are really hard to implement. And what it really comes down to in my mind is using those methods.

And, quite frankly, even our own literature tells us that, you know, the cost approach, for instance, for an older property, is probably of little value.

Well, I'm going to argue that it's of great value. Especially in a case where there's some business enterprise value or separating the real estate from the going concern.

The cost approach is a direct method and should certainly be considered.

It also needs reliable data, you know. You need reliable replacement cost. You need a reliable estimate of land value.

And I also wanted to talk about -- and I'm sorry. I'm rushing through here.

Breann -- and I'm sorry I can't pronounce your last name -- your idea of talking about government versus private intangibles.

In the real estate world, to me, that's just if it goes with the land, it's an -- it's not deducted.

If it doesn't go with the land, you know, maybe it's a deduction, would be kind of a loose rule of thumb.

So if -- if, say, in the -- and I don't know the specifics, but let's say in the Elks Hills case -- or Elk Grove Hills case, if the -- if those credits went with the land, they would be part of the land, right?

And, remember, because whether the thing gets built or not, that entitlement is there. And when we buy -- and value is always when somebody buys property, they're buying in anticipation of future benefits.

And just like that, my time is running away. So I will just wrap up a couple -- couple of ideas here for you.

Let's not throw out the cost approach. Let's -- it's a direct method to do that. A sales -- sales comparison approach is probably going to be a lot less applicable in, especially things like hotel valuation.

Because all the comparables are going to have -- are going to have that same -- are going to have some kind of built business enterprise value that needs to be deducted.

So that's going to be a big adjustment. And we're not going to have a good -- good source of data for that adjustment.

But the income approach, another way to look at it that I don't see people talking about was, well, you know, why not estimate the market rent for, say, this enterprise?

This, being the Ritz-Carlton. If we're talking about something in downtown LA. Apply a cap rate, and there's a direct value method for coming up with the value of the real estate.

And, of course, if you were to respond to me, you would say, "Chris, where are you possibly going to find that data?" And, "There is no such data."

And I would say there is data. And the best source of that data is probably the assessors' offices. The assessors put together, and through the State Board of Equalization, you already put out a cost survey. You tell us what the replacement costs are.

Well, we know there's a rent comparable in San Diego. There's a Torrey Pines. So we know there's going to be some sale of a leased fee hotel at some point. And if you could aggregate that data every couple of years from all the assessors, we could then have some actual data from which to use, at least on a broad standpoint.

If we know, for instance, that the -- the cap rate for the real estate in that situation is "X," or the rent is some percentage, it's 12-to-20 percent of gross profit or gross operating profit or gross revenue.

So there are some other methods.

And then of course as appraisers, we're always doing research. And that kind of research would be comparing lease fee sales with sales of going concerns. And in which case we could presumably deduct the value of the intang -- the business enterprise and isolate it.

And that, to me, is probably the, you know, the only direct way I can think of that you would do it.

Again, simple in concept, super difficult in reality. But in today's world, with the data that we have at our fingertips, this stuff is becoming more and more -- more and more handy.

That leaves me 50 seconds for Mr. Lennhoff, so I will yield.

MR. EMRAN: Thank you so much.

Mr. Lennhoff, if you can see us and hear us --

MR. LENNHOFF: Yup.

MR. EMRAN: -- you can go ahead and proceed, please. Just about 10 minutes.

MR. LENNHOFF: Thank you very much.

Actually, I'm on East Coast Time, so we're coming up on my bedtime anyway.

Thanks for inviting me to participate.

I was told -- Mr. Emran said -- I asked him, "What do you want me to talk about?"

And he said, "Listen, make notes, and respond."

So I've got three points and one recommendation.

But quickly on my background, I've been appraising for more than 50 years. That's 5-0. And I have written courses, articles and books dealing specifically with this topic.

Two books that are used in the course that deals with this topic in the Appraisal Institute. I was a lead developer on the course in the Appraisal Institute. There's only one that deals with this issue.

And the articles, many of them deal exclusively with this issue. And I publish those mostly in the Appraisal Institute Journal, but also in the Assessors Journal, and also in Property and Probate, and Real Estate Lawyer.

So I have a good background in this. And I do teach the courses in the institute, the one that deals with this topic in particular.

So the issues, the first issue I'm going to just quickly touch on is this concern about the intangibles as they enhance the real estate.

I think all that's going on there is that you need to understand when you come into an appraisal problem like this, you need to have -- what's the value premise?

There are two. One is value the real estate as it contributes to the total assets, the going concern, or, two, value the real estate in liquidation.

And our course deals with the former, valuing it as it contributes to the total assets.

Example, you've got a couple of NASCAR racetracks in California. I've valued a bunch of NASCAR tracks. And I can tell you that absent the NASCAR affiliation, the track is worthless. I mean, worthless.

And so if you go in to do the -- a tax assignment on the racetrack that's affiliated with NASCAR, and you realize that that affiliation is an intangible, you use the going concern premise. Which says value the track as a part of the racetrack going concern, and then get the intangibles out of the equation.

In other words, don't value it as dirt, as a -- as a liquidation. And I think that's all that was involved with that issue of the intangibles enhancing the real estate.

The second item I want to mention is this concept about remove the value of the intangibles.

That's true. But you have to understand, value is a combination of a return on and return of an asset.

For example, think of a bank. A bank is like a hotel owner. And I will tie that together in the last example. But they lend you a million dollars, and they're going to expect to get the million dollars back, and get interest on the million dollars.

So the million dollars back is the return of, and the interest is the return on. So that is the immutable law of business, return on investment.

And what you have to understand when you value the intangibles, you have to capture both elements. You can't just value the return of.

No bank would make a loan to you, "Here, I'll give you a million dollars. Just give it back to me in three years, and we'll be good," because they wouldn't be in business. They're in business to make money as our hotels.

And so that gets me to the second point, which is the management fee method. I only bring it up because it was brought up by the representatives for the assessors.

And I will just say very quickly, I have testified in numerous cases in California --

Do you hear me okay?

Okay.

In California, both at the Appeal Board and at the Superior Court level on this topic. And this issue is -- it gets -- once you explain the management fee method, it becomes illogical.

And I'll tell you why. If you accept a management fee, as Chris said, the Rushmore Method includes more than a management fee. But the assessor usually just uses the management fee component.

If you're doing that, you say, "Okay. I'm a property owner just like a bank. I'm going to hire -- I'm going to hire Marriott to manage my hotel, put their flag up and everything."

And the value of that is what I pay Marriott. So I get nothing.

If everything related to the intangible is what you give Marriott, you'd never do it. You get nothing. It's like the bank who makes the loan and doesn't get any interest. So it just makes no sense. You cannot do that.

And I think, actually, to suggest that the Rushmore Method is simply the management fee method, is a mischaracterization. If you read some of his appraisals on how he employs it, not how he talks about it.

Okay. The last thing is I would -- I would like to recommend that if you really -- look, there's a competency rule in the USPAP.

All appraise -- I'm an MAI. I've had six of the seven Appraisal Institute designations, and a CRA. So I'm qualified to do, supposedly, any type of appraisal. But I'm not allowed to do any type of an appraisal under USPAP, because I have to be competent to do them.

And I might not know anything about a nuclear power plant or even a NASCAR racetrack; therefore, I wouldn't be able to do it under most circumstances.

I think that's the problem with the assessment office. They're general practitioners being asked to do very sophisticated pieces of assessment valuation.

And what I would recommend is you -- the assessment offices carve out -- look, you're going to learn how to do this. This is what you're going to do.

Hotels or properties with intangibles or whatever.

And that involves getting education. Most of the assessors never take the education specific to this particular topic. And absent the education, coupled with a lack of experience, means you're not going to be able to answer the question. And then you really shouldn't be trying to answer the question.

So for me, that's all I think I have time to discuss. But as I say, I'm on Eastern Time. So it's okay with me. Works out fine.

MR. DePASQUALE: Thank you, Mr. Lennhoff. That was excellent.

MR. EMRAN: Wonderful.

Thank you so much. Really appreciate the whole lineup here.

Let's go ahead and open up for questions from the Board Members.

Do our Board Members have any questions for this panel specifically?

I'll go ahead and get started on this then.

I want to talk about the -- what the updated guidance should look like in the future.

Handbook 502, Chapter 6 currently lists seven enterprise intangibles; Goodwill, customer base, concern -- going concern value, workforce, contracts, licenses, and the right to do business.

This was a list compiled over 30 years ago. Based on what the courts have addressed since then, and on your experience in your practice, what does a complete, accurately framed, and usefully organized list look like?

What would you add, remove or restructure?

MR. O'NEALL: So there's actually a chart in that chapter, which contains even more than that. Like it has memberships of fraternal societies.

If you wanted a complete list, I could give you a list that covered two full pages in a text written by Robert Reilly and Robert Schweihs.

Because intangibles appraisers like Ms. O'Connor have enormous lists.

I think what was provided in AH 502 was, here's examples. If you're going to -- if you really want such a list, you know, it's going to have to appear, say, in a guidance document. Which I think is the way to go here.

That the Board should issue a guidance document like it has, you know, in all these other -- all these other topics, and it could include such a list.

I will say this, certain things like stock exchange seats, for example, probably we don't need that one on the list. So the list should probably call -- be called down to what is most common or are typically seen.

You're not going to find in the list, for example, a Transient Occupancy Tax agreement used for purposes of rebated tax for purposes of developing a hotel at a convention center. That is so specialized, that's not going to be on any list.

MR. DePASQUALE: And I would add, you just don't want to limit it to that list. Because other intangibles could come up.

But I think you could give a broad, like Mr. O'Neall indicated, a broad stroke of what's common and what will get us through about, you know, 90 percent, 95 percent of --

MR. EMRAN: Absolutely.

MR. O'NEALL: And just to, real quickly --

MR. EMRAN: Please.

MR. O'NEALL: In the draft proposed LTA, I gave you also the six factors that Ms. O'Connor uses, which are typically found in ASA business enterprise appraisers texts. And those are general factors that could be applied to any intangible.

MR. EMRAN: It goes -- kinda segues into my next question about property types.

The handbook currently addresses intangibles as a general matter without distinguishing property types, but the enterprise property analysis looks fundamentally different from a hotel operating under a management agreement, a utility operating under government-regulated rates, a franchise restaurant, or even a development project built with government incentives.

Should updated guidance include property type-specific sections?

And if so, which property types are most urgently needed in their own framework?

MR. O'NEALL: So I'll quickly start. And then I think maybe Ms. Robowski will also have something to add.

These are what we call complex properties. Complex properties are anything from a refinery to a shopping center, to a hospital, to a hotel, to a theme park.

We could probably come up with a list of 15 of the most commonly found or typical complex properties that -- but even -- even so, I think what's more important than, say, putting them in property-type categories, is putting them in intangible-type categories.

Because an assembled workforce in a refinery looks a lot like an assembled workforce in a hospital.

You know, it's a matter of how many employees, what's their salary, what are their benefits, How long does it take to train them?

And those are the factors that change.

So I think more -- more beneficial would be -- instead of -- we can create a list of complex properties. That's actually in the -- the proposed LTA.

But I think what's more important is creating a list, and then grouping them of the intangibles that are typically found, and putting them by method of valuation. The template that Ms. O'Connor had talked about.

MS. O'CONNOR: If I could just add one other -- one other -- two quick things.

Don't view the valuation of intangibles as something that just floats in space separate from the real estate appraisal process.

I am at my best when I am teamed with a real estate appraiser who gets this, who understands how to do market parameters for the pro forma. My work then flows from that.

Then there's some conclusions that can be made about the real estate. That's what makes it, I think, complex, as you're -- as you're stating.

And one other thing is that up to now, we have not really focused, I think, as we -- or we haven't added to our focus the financial assets, the net working capital, current assets minus current liabilities.

The reason why it's important in property tax context is we have to value the unit in place, not as if they're -- they're getting their working capital from a parent company. It has to be embedded in the valuation of the -- of the insight.

MR. O'NEALL: Standalone.

MS. O'CONNOR: So it is, again, this -- you got to tailor this to property tax. So I would, as you're making notes, if you could -- if you could put in there, "We need to deal with net working capital in future templates," I think.

MR. O'NEALL: Working capital, by the way, is in Rule 8(e). It says to address it there.

MR. EMRAN: Thank you.

Any other Members want to speak to that? Any Q&A from our Members?

Mr. Vazquez.

MR. VAZQUEZ: Well, thank you for your presentation.

Mr. O'Neall, I just was looking at your document that you dropped on us. I haven't had a chance to really go through it. But looks like it's something that we really should take a serious look, and see what we can do to incorporate it.

And I'm curious to hear from, I guess, some of the other stakeholders that are here today that I'm assuming they also got a copy of it, and see what input they might have on this moving forward.

But this, I guess, for any one of the panelists here, given your research and experience, not only here in California, but some of you mentioned in other states, what, if anything, is going on in some of the other states that maybe we should be looking at that could help us as we move forward with possible LTAs on this issue?

And I open it up to all.

MR. O'NEALL: The issue of hotels remains very active. There are some very good cases that have come out of the Minnesota Tax Court on hotels.

There's a very good case that Mr. Lennhoff actually testified in, a decision that came out -- I don't remember the name of the hotel. He probably does. It came out within the past year.

There are good appellate court cases coming out of Florida on the Disney World hotels, which are published appellate court decisions coming out of the Florida appellate courts. Those are the two states that I see are active.

You -- you may know a few other states, Ms. O'Connor.

MS. O'CONNOR: The -- Florida, for example, and they are -- they are evolving into a Florida method. It's sort of interesting.

Where our principle here is identify value and exclude, and you're appraising the intangible and deducting it from the going concern, they strip out what they consider intangible revenue, like food and beverage revenue, minus -- minus the direct expenses.

It's a variation on the California theme.

So -- but all states are grappling with this.

MS. ROBOWSKI: I do think it's important to raise, however, that we are subject to a very specific set of laws and statutes that are specific to California.

MS. O'CONNOR: Yes.

MS. ROBOWSKI: And as Ms. O'Connor said, we are leading the way in this field. So I would hate to accidentally borrow from another state in a case that has nuances in the law that are incongruous without recognizing it.

And so I think, generally speaking, the California courts don't give a lot of credence to what other states are doing, because of those differences and that feeling that we are the leading state.

So I would just caution a little bit around sort of that inquiry.

MR. VAZQUEZ: I appreciate it.

MR. EMRAN: Thank you so much.

Right on time.

So, Mr. DePasquale, do you have -- you and your team have some closing statements here?

Maybe 90 seconds.

MR. DePASQUALE: Thank you.

I just want to say, let's not forget about the front-end process.

The assessor needs to know when there's an intangible issue, and that needs to be updated on every form that they utilize or that they review. That really begins this process.

What follows, is now what legal and the valuation appraisal community will adopt. But without giving that lead on the front end, we're not going to solve the problem. We will still have backlog appeals, and we will have workload challenges, because we will not have identified things soon enough. And it'll just start to stack up again.

So I encourage the Board to really look at updating the transaction forms that a company transfers. Look at the personal property submissions, look at any other 441(d) things that the taxpayer is asked to provide.

There should be a section on intangibles.

Where it goes from there, that's, then, up to the assessor and this process. But without that, we're going to be no further along, because we will still be playing catchup.

Because the assessor will never know which transaction -- I think it was mentioned earlier. We see a transfer, we don't -- we don't know what we're looking at half the time.

So we need to get better at the front end reporting compliance, and the taxpayer has to do their part if this is an issue that they want addressed, and for the assessor to do a proper job on the -- on the return side.

That's all I'll say.

MR. EMRAN: Wonderful.

I want to thank everyone so, so much. A lot of great experience at this table. And it was really insightful and eye opening on your testimony as well.

So let's go -- move forward now to public comment.

Are there any members of the public that would like to comment that are here in person on Agenda Item No. 4?

Seeing none, let's go to the AT&T line.

Mr. Operator, are there any members of the public that are on the phone line that would like to comment on Agenda Item No. 4?

AT&T MODERATOR: Please press one, followed by zero, if you'd like to make a comment.

One, followed by zero.

And we have no one in queue.

MR. EMRAN: Thank you, Mr. Operator.

So we're going to go ahead, Madam Secretary, if you can call the next item.

MS. TAYLOR: Our final item is Item 5, Wrap-Up and Next Steps.

Summary of the testimony and discussion received during the meeting, confirmation of the next opportunity to meet, and closing -- general closing remarks from the Deputy Controller and Board Members.

MR. EMRAN: Thank you so much, Madam Secretary.

I'm going to look to my Board Members.

Any closing remarks?

Let's go ahead and let's start with Mr. Vazquez, and we'll come on down.

MR. VAZQUEZ: Thank you.

Thank you, Deputy Controller, for putting this thing together.

And I wanted to thank all the -- especially the different stakeholders that showed up today, and the assessors.

I know that we had a few assessors show up today who made the time to show up in person. Really appreciate that.

I think there was some real good information, at least for me in terms of things that I didn't really think about. And I always wondered about what's going on in some of the other states.

And I think Ms. Robowski hit it on the nail when she says, just be cautious with, you know, obviously California's got different rules and legislation and laws that could impact trying to adopt some, for example, from Florida, as an example.

But I really appreciate the fact that you folks came together and at least shared your thoughts and ideas.

Looking forward to the followup. And I'm hoping that you all stay engaged, not only the panelists that -- you know, the two panelists, but many of the assessors.

And I know Joaquin Torres is going to definitely make sure that the assessors throughout the 58 counties are involved.

So looking forward for that followup, and continue to work on this to hopefully see if we can come up with something that brings some consistency, at least throughout the state of California, even if it's maybe one or two items that we can deal with.

And I know, in looking at it briefly, what Mr. O'Neall presented in terms of an LTA might be a good beginning or a good start for a possible LTA.

Thank you.

MR. EMRAN: Wonderful.

Thank you so much.

This is a good reminder, please submit anything that you weren't able to orally present in writing. We are going to take that -- take a deep, deep look at it.

Chair Lieber.

MS. LIEBER: Thank you, Mr. Emran.

I really appreciate the work of the Controller and the Controllers's office in putting this hearing today and together for us, and everyone who has traveled or been engaged with the Board over the past year or so on this.

And, Mr. Emran, as you -- as you prepare the report of this Work Group Meeting, I hope that you can attach all the written communications that we've received to it.

And I know that all of us on the Board are going to continue to go through those communications and be in touch for clarifications.

So I want to really encourage everyone to submit those written comments as well, so that that can be part of what we're discussing going forward.

Thank you.

MR. EMRAN: Thank you, Madam Chair.

Definitely a herculean task. But we finished day one here, and I really do feel good about it.

I feel like conversations and the type of dialogue that we're having is a real core part of democracy, and kind of finding consensus here.

So on behalf of Controller Cohen, I want to thank you all for joining us today, for those that traveled far and wide.

The Controllers's office will work together to circulate detailed minutes of today's session to all participants.

I'll go ahead and work with the Chair to confirm upcoming dates on the Work Group Meetings, and I'll share that with the participants.

In the meantime, the Controller will ask everyone to please submit written comments, identify specific issues, specific handbook passages, and specific methodological questions you believe we must address.

The more specific your input, the more useful our next agenda will be.

The Work Group's Final Recommendations Meeting will be scheduled in due course. So between today and then, let's continue these discussions and dialogue.

Your expertise and guidance is very meaningful in improving California's assessment of intangible assets in a fundamental way.

This is what we owe to our counties, our taxpayers, and the integrity of California's property tax system.

So let's continue that work. And I'm looking forward to the discussions ahead.

And we are going to adjourn now here at 3:11 p.m.

Until next time.

Thank you, everyone.

(Whereupon the Board Work Group concluded.)

REPORTER'S CERTIFICATE

State of California)
) ss
County of Sacramento)

I, Jillian Sumner, Hearing Reporter for the California State Board of Equalization, certify that on or about June 25, 2026, I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 186 constitute a complete and accurate transcription of the shorthand writing.

Dated: July 14th, 2026

Jillian Sumner

JILLIAN SUMNER, CSR #13619
Hearing Reporter