

## CRIS K. O'NEALL – Proposed Revisions to Application for Changed Assessment

The following is submitted accordance with the request in State Board of Equalization Letter to Assessors 2013/020 (February 4, 2013) regarding “Proposed Revisions to *Application for Changed Assessment Form*” (Form BOE-305-AH):

1. Application Filing Fees.

The Application makes no mention of filing fees, which are proliferating throughout the state. Many taxpayers believe the counties do not have authority to request filing fees. In addition, filing fees are not uniform, varying from zero to over a thousand dollars in some cases. Historically, the assessment appeal process was supposed to be free to all applicants, which is why assessment appeal applications are provided “free of charge” by assessment appeals boards (BOE Property Tax Rule 305(c)). Perhaps it is time for the BOE to step in and establish a uniform policy on the question of fees for filing assessment appeal applications. A list of current filing fees for all counties is attached.

2. Fees for Findings of Fact.

There are two issues here: (a) uniform and reasonable amounts for preparation of findings and (b) whether one findings of fact fee is sufficient where there are multiple assessor parcels that make up an “economic unit” of property. As to (a), some counties are now charging up to \$715 (Riverside) per parcel for findings. These amounts are exorbitant and make it less likely that homeowners and small businesses will pursue appeals. It also makes it very expensive for the owner of a property with multiple parcels to seek findings (e.g., golf course owner, shopping center owner, developer, etc.). With regard to (b), the BOE should indicate that where an “economic unit” appeal has been filed (e.g., Los Angeles County has a “economic unit” appeal form) or where multiple appeals have been filed on several parcels, all of which are part of an economic unit, only one findings fee should be paid. Where all of the parcels in an economic unit present the same issue, charging one fee for all parcels in the economic unit is fair. A list of fees for findings in all counties is attached.

3. Penalty Appeal Box Should Be on All County’s Applications.

Not all counties include a place on their form to challenge penalties (see e.g., Los Angeles County’s form). The forms for all counties should contain a place to challenge penalties.

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### Checking Multiple Reasons for the Appeal Should Not Require Multiple Applications.

Box 6 on the Application asks for all reasons supporting the appeal and says to check all boxes that apply. Nevertheless, some counties require that a separate appeal be filed for every reason that is checked in Box 6. The BOE needs to provide some guidance as to whether assessment appeals boards can require a separate application for each box that has been checked in Box 6.

#### 4. Attorney as Agent Language Should Be Revised.

The sentence under “Agent’s Authorization” (Box 2) says: “If the agent is not an attorney licensed in California or a spouse, child or parent of the person affected, the following must be completed (or attached to this application—see instructions.)”

Assessment appeals board clerks sometimes have difficulty understanding this sentence and insist that the agent’s authorization portion be completed even when the agent is an attorney. Perhaps this sentence could be revised to read: “The following must be completed (or attached to this application—see instructions) unless the agent is a licensed California attorney as indicated in the Certification below or a spouse, child or parent of the person affected.”

#### 5. Attachment to Application Must Be Permitted.

Some of the revisions to Form BOE-305-AH suggested by other parties previously imply that there should be no attachments to the Application. I would strongly oppose any such requirement as the “one-size-fits-all” provisions in Box 6 do not encompass all possible grounds for an appeal, and it is sometimes necessary to include attachments that more fully explain the grounds for an appeal. In addition, now that most Applications are scanned into computers by assessment appeals boards, perhaps the requirement to include two (2) copies of any attachments can be eliminated?

#### 6. Board Decides whether an Application Is Valid, Not the Board’s Clerk.

On occasion, a dispute arises as to whether or not an Application is valid. In those circumstances, BOE Property Tax Rules 305(c)(4) and 309(e) both require the assessment appeals board, and not the board’s clerk, to resolve any issue regarding an Application’s validity (“Disputes concerning the validity of an application shall be resolved by the board.”). Unfortunately, board clerks sometimes take it upon themselves to determine an Application’s validity rather than scheduling a validity hearing. To avoid

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any problems in this area, the following sentences, which are based on language in Rules 305(c)(4) and 309(e), should be added to Form BOE-305-AH's Instructions: "Any dispute concerning the validity of an application shall be resolved by the board. The board's clerk must schedule and give notice of a hearing on the validity of an application when requested by the applicant or the applicant's agent." Note that the fourth paragraph in the preamble to the Form BOE-305-AH Instructions implies that the clerk of the appeals board determines whether an Application is valid, which is incorrect.

7. Appeal of Real Property and Personal Property on Same Application Should Be Heard and Decided at the Same Time.

Some counties (e.g., Riverside) are separating an Application which includes both real property and personal property into two (2) separate applications and holding separate hearings on real property and personal property. Where the Application addresses a purchase price (base-year value) assessment, this puts the applicant in the untenable position of trying his/her case on real property without being able to present evidence on personal property and the relationship of real and personal property to the purchase price base-year value. This has resulted in Superior Court litigation in Riverside County for violations of due process rights ("full and fair hearing" as required by BOE Property Tax Rule 313(e)). The BOE should instruct appeals boards that when a single Application challenges both real property and personal property, the Board cannot break apart the Application and hold a separate hearing and reach separate decision on real property without considering personal property at the same time, and vice versa, especially when a purchase price that includes real property and personal property is the subject of the Application.

8. "Zero" Opinion of Value Is Permissible.

Some assessment appeals boards automatically reject Applications that show zero ("0") as the "Applicant's Opinion of Value." There are valid reasons for an applicant to use zero, such as when he/she believes a supplemental assessment is invalid, or property is exempt or immune from taxation. Moreover, the applicant's opinion of value shown on the Application is not binding on the assessment appeals board (Rev. & Tax. Code section 1610.8). The Instructions for Form BOE-305-AH should state: "In some instances, your [the applicant's] opinion of value may be zero."

**CALIFORNIA ASSESSMENT APPEALS – TAXPAYERS’ FEES FOR 2012/13**

<b>COUNTY</b>	<b>FILING FEE</b>	<b>FINDINGS OF FACTS FEES</b>
Alameda	\$50	\$160 per parcel; \$450 maximum
Alpine	\$30	\$400 per parcel
Amador	\$30	\$65 for owner-occupied single-family residences; \$100 per hour for other
Butte	None	\$10 per parcel
Calaveras	None	\$10 per parcel
Colusa	None	None shown on Application form
Contra Costa	\$40	\$10 per parcel
Del Norte	None	\$125 per parcel with a maximum of \$375
El Dorado	\$30	\$40 per parcel
Fresno	None	\$140 per parcel
Glenn	None	\$162 per hour per parcel
Humboldt	None	None shown on Application form
Imperial	\$35	\$80 per hour with a minimum of \$200 deposit required
Inyo	None	\$10 per parcel
Kern	None	\$50 for owner-occupied residential parcel; \$100 for others plus \$250 per hour
Kings	\$200 deposit Refunded at Hearing	\$45 per hour
Lake	None	None shown on Application form
Lassen	None	None shown on Application form
Los Angeles	None	\$181 per parcel
Madera	None	\$100 per parcel, not to exceed \$300
Marin	\$50	\$250 minimum deposit per parcel or application
Mariposa	None	\$10 per application
Mendocino	\$55	\$75 per parcel
Merced	\$30	\$125 per application per parcel
Modoc	\$30	Contact Clerk of the Board for amount of fee
Mono	\$26.75	\$200 per parcel
Monterey	\$40	\$500 deposit; \$125 per hour
Napa	None	\$150 for residential properties and undeveloped land; \$250 for other properties
Nevada	\$30	\$90 per hour
Orange	None	\$177.83 per hour; property value over \$500,000 requires \$889.15 deposit
Placer	\$35 \$40 for 2013/14	\$250 owner-occupied, single-family residence; all others \$500
Plumas	\$35	\$100 minimum deposit
Riverside	\$30	\$715.75 per parcel (including economic unit)
Sacramento	\$30	\$250 per request
San Benito	None	\$500 deposit per parcel required at time of hearing
San Bernardino	\$45	\$250 deposit plus actual cost of transcription services and Attorney’s fees

COUNTY	FILING FEE	FINDINGS OF FACTS FEES
San Diego	None	\$50 owner-occupied residences; \$85 non-owner-occupied properties under \$500,000 value; \$120 non-owner-occupied properties over \$500,000 value (all regardless of number of parcels)
San Francisco	\$60	\$215 per hour with a maximum of 30 billable hours SEE ATTACHED SCHEDULE OF HEARING FEES
San Joaquin	\$30	\$100 per owner-occupied single-family residence; \$160 per hour all others
San Luis Obispo	\$45	\$75 for simple findings; \$125 for complex findings per Application
San Mateo	\$30	\$500 per hearing hour or part thereof
Santa Barbara	\$65 per parcel or appraisal unit under \$30 million value; \$1000 over 30 million value	\$150 per appraisal unit plus \$55 hour over 2.5 hours
Santa Clara	\$35	\$400 per appeal plus balance of costs incurred by the attorney required by end of hearing
Santa Cruz	\$30	\$60 per parcel
Shasta	None	\$35 per parcel
Sierra	None	\$50 per parcel
Siskiyou	None	\$20 per parcel
Solano	\$35	\$150 per parcel
Sonoma	\$30	\$150 deposit
Stanislaus	\$30	\$100 for owner-occupied residential parcel; \$100 for others plus \$250 per hour
Sutter	None	\$50 per parcel single-family dwellings and penalty abatements; \$100 per parcel all others
Tehama	None	None shown on Application form
Trinity	None	None shown on Application form
Tulare	\$30	\$250 for commercial per parcel; \$100 for residential per parcel
Tuolumne	None	None shown on Application form
Ventura	None	\$100 to \$150 per finding
Yolo	\$45	\$135 per hour
Yuba	\$25	\$100 per parcel