

ASSESSMENT APPEALS PROCESS

SELF-STUDY TRAINING SESSION
FOR
COUNTY ASSESSMENT APPEALS BOARD STAFF

Compiled by Staff of the
County-Assessed Properties Division
Property and Special Taxes Department
State Board of Equalization

For Training Purposes Only

August 2013

Training Session

Section 1

Statutory Authorities

Answer Review Questions 1 through 22

Section 2

Property Tax Rules

Answer Review Questions 23 through 50

Section 3

Other Appeals Reference Information

Answer Review Questions 50 through 63

SECTION 1

STATUTORY AUTHORITIES

**California Constitution
Government Code
Revenue and Taxation Code**

CALIFORNIA CONSTITUTION ARTICLE XIII

SEC. 16. COUNTY BOARDS OF EQUALIZATION. The county board of supervisors, or one or more assessment appeals boards created by the county board of supervisors, shall constitute the county board of equalization for a county. Two or more county boards of supervisors may jointly create one or more assessment appeals boards which shall constitute the county board of equalization for each of the participating counties.

Except as provided in subdivision (g) of Section 11, the county board of equalization, under such rules of notice as the county board may prescribe, shall equalize the values of all property on the local assessment roll by adjusting individual assessments.

County boards of supervisors shall fix the compensation for members of assessment appeals boards, furnish clerical and other assistance for those boards, adopt rules of notice and procedures for those boards as may be required to facilitate their work and to insure uniformity in the processing and decision of equalization petitions, and may provide for their discontinuance.

The Legislature shall provide for: (a) the number and qualifications of members of assessment appeals boards, the manner of selecting, appointing, and removing them, and the terms for which they serve, and (b) the procedure by which two or more county boards of supervisors may jointly create one or more assessment appeals boards.

GOVERNMENT CODE

15606. POWERS AND DUTIES OF BOARD. The State Board of Equalization shall do all of the following:

- (a) Prescribe rules for its own government and for the transaction of its business.
- (b) Keep a record of all its proceedings.
- (c) Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization as required by Section 1611.5 of the Revenue and Taxation Code.
- (d) Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.
- (e) Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt the instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain this uniformity.

(f) Subdivisions (c), (d) and (e) shall include, but are not limited to, rules, regulations, instructions, and forms relating to classifications of kinds of property and evaluation procedures.

(g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.

(h) Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted in accordance with subdivision (c), governing the assessment or taxation of property. The Attorney General shall represent the board in the action.

This section is mandatory.

REVENUE AND TAXATION CODE

1601. NOTICE. (a) For purposes of this article, "county board" shall mean a county board of supervisors meeting as a county board of equalization or an assessment appeals board.

(b) In counties of the first class, the clerk shall give notice of the time the county board will meet to equalize assessments by publication in a newspaper.

(c) In all other counties, immediately upon delivery of the roll to the auditor, the clerk shall give notice of the period during which assessment protests will be accepted, the place where they may be filed, and the time the county board will meet to equalize assessments by publication in a newspaper, if any is printed in the county, or, if none, as directed by the board of supervisors.

1603. APPLICATIONS. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his or her agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for the application shall be prescribed by the State Board of Equalization.

(b) (1) The application shall be filed within the time period from July 2 to September 15, inclusive. An application that is mailed and postmarked September 15 or earlier within that period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15.

(2) Notwithstanding paragraph (1), if the taxpayer does not receive the notice of assessment described in Section 619 at least 15 calendar days prior to the deadline to file the application described in this subdivision, the party affected, or his or her agent, may file an application within 60 days of receipt of the notice of assessment or within 60 days of the mailing of the tax bill, whichever is earlier, along with an affidavit declaring under penalty of perjury that the notice was not timely received.

(3) Notwithstanding paragraph (1), the last day of the filing period shall be extended to November 30 in the case of an assessee or party affected with respect to all property located in a county where the county assessor does not provide, by August 1, a notice, as described in

Section 619, to all assesseees of real property on the local secured roll of the assessed value of their real property as it shall appear or does appear on the completed local roll, including the annual increases in assessed value caused solely by increases in the valuation of property that reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution.

(A) The county assessor shall notify the clerk of the county board of equalization and the county tax collector by April 1 of each year as to whether the notice specified in this paragraph will be provided by August 1.

(B) The clerk shall certify the last day of the filing period and shall immediately notify the State Board of Equalization as to whether the last day of the filing period for the county will be September 15 or November 30.

(C) The State Board of Equalization shall maintain a statewide listing of the time period to file an application in each county.

(D) The provisions of Section 621 may not be substituted as a means of providing the notice specified in this paragraph.

(4) If a final filing date specified in this subdivision falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed to have been filed within the requisite time period specified in this subdivision. If on any final filing date specified in this subdivision, the county's offices are closed for business prior to 5 p.m. or for that entire day, that day shall be considered a legal holiday for purposes of this section.

(c) The application may be filed within 12 months following the month in which the assessee is notified of the assessment, if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value is filed in accordance with Section 1607.

(d) Upon the recommendation of the assessor and the clerk of the county board of equalization, the board of supervisors may adopt a resolution providing that an application may be filed within 60 days of the mailing of the notice of the assessor's response to a request for reassessment pursuant to paragraph (2) of subdivision (a) of Section 51, if all of the following conditions are met:

(1) The request for reassessment was submitted in writing to the assessor in the form prescribed by the State Board of Equalization and includes all information that is prescribed by the State Board of Equalization.

(2) The request for reassessment was made on or before the immediately preceding March 15.

(3) The assessor's response to the request for reassessment was mailed on or after September 1 of the calendar year in which the request for reassessment was made.

(4) The assessor did not reduce the assessment in question in the full amount as requested.

(5) The application for changed assessment is filed on or before December 31 of the year in which the request for reassessment was filed.

(6) The application for reduction in assessment is accompanied by a copy of the assessor's response to the request for reassessment.

(e) In the form provided for making an application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to those written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

(f) The form provided for making an application pursuant to this section shall contain the following language in the signature block:

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct, and complete to the best of my knowledge and belief and that I am (1) the owner of the property or the person affected (i.e., a person having a direct economic interest in the payment of the taxes on that property— "The Applicant," (2) an agent authorized by the applicant under Item 2 of this application, or (3) an attorney licensed to practice law in the State of California, State Bar No. _____, who has been retained by the applicant and has been authorized by that person to file this application.

(g) The clerk of a county board of equalization may accept an electronically filed application for changed assessment containing an electronic signature if all of the following criteria are met:

(1) The application complies with all other requirements for filing the application.

(2) The electronic signature is accompanied by the certification described in subdivision (f).

(3) The electronic signature is authenticated in a manner that is approved by the county board of supervisors, which manner may include, but is not limited to, the use of personal identification numbers the clerk has assigned to applicants.

1603.5. DUPLICATE APPLICATIONS. (a) In the event a duplicate application for reduction in assessment is filed with the county board, the clerk may accept only the first application for reduction filed by or on behalf of the taxpayer, and may reject any duplicate application for reduction.

(b) For purposes of this section, "duplicate application for reduction" means an application for reduction filed by an applicant, or by his or her agent or attorney on his or her behalf, subsequent to an application for reduction previously filed by or on behalf of the same applicant, that seeks the same relief with respect to the same property for the same year in issue. A subsequent application for reduction that seeks to amend a previously filed application for reduction shall not be considered a duplicate application for reduction for purposes of this section.

1604. REGULAR EQUALIZATION PERIOD. (a) (1) In counties of the first class, annually, on the fourth Monday in September, the county board shall meet to equalize the assessment of property on the local roll. It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

(2) In all other counties, annually, on the third Monday in July, the county board shall meet to equalize the assessment of property on the local roll. It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

(b) (1) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund, if the applicant states in the application that the application is also intended to constitute a claim for refund pursuant to the provisions of Section 5097.

(2) The county board shall have no power to receive or hear any application for a reduction in an escaped assessment made pursuant to Section 531.1 nor a penal assessment levied in respect thereto, nor to reduce those assessments.

(c) If the county board fails to hear evidence and fails to make a final determination on the application for reduction in assessment of property within two years of the timely filing of the application, the applicant's opinion of value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year or tax years covered by the application, unless either of the following occurs:

(1) The applicant and the county board mutually agree in writing, or on the record, to an extension of time for the hearing.

(2) The application for reduction is consolidated for hearing with another application by the same applicant with respect to which an extension of time for the hearing has been granted pursuant to paragraph (1). In no case shall the application be consolidated without the applicant's written agreement after the two-year time period has passed or after an extension of the two-year time period previously agreed to by the applicant has expired.

The reduction in assessment reflecting the applicant's opinion of value shall not be made, however, until two years after the close of the filing period during which the timely application was filed. Further, this subdivision shall not apply to applications for reductions in assessments of property where the applicant has failed to provide full and complete information as required by law or where litigation is pending directly relating to the issues involved in the application.

(d) (1) When the applicant's opinion of value, as stated on the application, has been placed on the assessment roll pursuant to subdivision (c), and the application requested a reduction in the base year value of an assessment, the applicant's opinion of value shall remain on the roll until the county board makes a final determination on the application. The value so determined by the county board, plus appropriate adjustments for the inflation factor, shall be entered on the assessment roll for the fiscal year in which the value is determined. No increased or escape taxes other than those required by a purchase, change in ownership, or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the county board failed to act.

(2) When the applicant's opinion of value has been placed on the assessment roll pursuant to subdivision (c) for any application other than an application requesting a reduction in base year value, the applicant's opinion of value shall be enrolled on the assessment roll for the tax year or tax years covered by that application.

(e) The county board shall notify the applicant in writing of any decision by that board not to hold a hearing on his or her application for reduction in assessment within the two-year period specified in subdivision (c). This notice shall also inform the applicant that the applicant's opinion of value as reflected on the application for reduction in assessment shall, as a result of the county board's failure to hold a hearing within the prescribed time period, be the value upon which taxes are to be levied in the absence of the application of either paragraph (1) or (2) of subdivision (c).

1605. NOTICE AND REVIEW OF ASSESSMENT MADE OUTSIDE REGULAR PERIOD. (a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at the assessee's address as contained in the official records of the county assessor. For purposes of this subdivision, for counties in which the board of supervisors has adopted the provisions of subdivision (c) and the County of Los Angeles, receipt by the assessee of a tax bill based on that assessment shall suffice as the notice.

(b) Upon application for reduction in assessment pursuant to subdivision (a) of Section 1603, the assessment shall be subject to review, equalization and adjustment by the county board. In the case of an assessment made pursuant to Article 2 (commencing with Section 75.10) of Chapter 3.5 of Part 0.5, or Article 3 (commencing with Section 501) of Chapter 3 of Part 2 that is made outside the regular assessment period as defined in subdivision (f), or an assessment made pursuant to Article 4 (commencing with Section 531) of Chapter 3 of Part 2, the application shall be filed with the clerk in accordance with the applicable of the following:

(1) In a county other than the County of Los Angeles or a county in which the board of supervisors has adopted a resolution in accordance with subdivision (c), no later than 60 days after the date of mailing printed on the notice of assessment, or the postmark therefor, whichever is later. If the taxpayer does not receive the notice of assessment described in Section 75.31 or 534 at least 15 calendar days prior to the deadline established in the foregoing sentence, the party affected, or his or her agent, may file the application within 60 days of the date of mailing printed on the tax bill or the postmark therefor, whichever is later, along with an affidavit declaring under penalty of perjury that the notice of assessment was not timely received.

(2) In the County of Los Angeles or any county in which the board of supervisors has adopted a resolution in accordance with subdivision (c), an application subject to this subdivision shall be filed within the period specified in that subdivision.

(c) The board of supervisors of any county may by resolution require that the application for reduction pursuant to subdivision (a) of Section 1603 be filed with the clerk no later than 60 days after the date of mailing printed on the tax bill or the postmark therefor, whichever is later.

(d) In counties where assessment appeals boards have not been created and are not in existence, at any regular meeting, the board of supervisors, on the request of the assessor or any taxpayer, shall sit as the county board to equalize any assessments made by the assessor outside the regular assessment period for those assessments. Notwithstanding any other provision of law to the contrary, in any county in which assessment appeals boards have been created and are in existence, the time for equalization of assessments made outside the regular assessment period for those assessments, including assessments made pursuant to Sections 501, 503, 504, 531, and 531.5, shall be prescribed by rules adopted by the board of supervisors.

(e) If an audit of the books and records of any profession, trade, or business pursuant to Section 469 discloses property subject to an escaped assessment for any year, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to this chapter, except in those instances when that property had previously been equalized for the year in question by the county board of equalization or assessment appeals board. The application shall be filed with the clerk no later than 60 days after the date on which the assessee was notified. Receipt by the assessee of a tax bill based upon that assessment shall suffice as that notice.

(f) For purposes of subdivision (a), "regular assessment period" means January 1 to and including July 1 of the calendar year in which the assessment, other than escape assessments, should have been enrolled if it had been timely made.

1605.6. NOTIFICATION OF HEARING. After the filing of an application for reduction of an assessment, the clerk of the county board of equalization shall set the matter for hearing and notify the applicant, or his or her designated representative, of the time and date of the hearing. Notice of the time, date, and place of the hearing shall be given not less than 45 days prior to the hearing, unless the assessor and the applicant, or the applicant's designated representative, stipulate orally or in writing to a shorter notice period. If the hearing on a particular application is vacated for any reason, the clerk of the county board of equalization shall notify the applicant, or the applicant's designated representative, of the new time, date, and place of the hearing not less than 10 days prior to the new hearing date, unless the assessor and the applicant, or the applicant's designated representative, stipulate orally or in writing to a shorter notice period, or the application has been heard by a hearing officer in accordance with Article 1.7 (commencing with Section 1636). At the option of the clerk of the county board of equalization, the notice required by this section may be electronically transmitted, if requested in writing by the taxpayer, to an electronic address designated by the taxpayer. The clerk may also opt to electronically transmit the notice required by this section to the assessor, if requested by the assessor, to an electronic address designated by the assessor.

1606. EXCHANGE OF INFORMATION. (a) (1) Any applicant for a change of an assessment on the local roll or the assessor, in those cases where the assessed value of the property involved, as shown on the current assessment roll, exceeds one hundred thousand dollars (\$100,000) without regard to any exemptions, may initiate an exchange of information with the other party by submitting the following data to the other party and the clerk in writing:

(A) Information stating the basis of the party's opinion of value.

(B) When the opinion of value is to be supported with evidence of comparable sales, information identifying the properties with sufficient certainty such as by assessor parcel number, street address or legal description of the property, the approximate date of sale, the applicable zoning, the price paid, and the terms of the sale, if known.

(C) When the opinion of value is to be supported with evidence based on an income study, information relating to income, expenses and the capitalization method.

(D) When the opinion of value is to be supported with evidence of replacement costs, information relating to date of construction, type of construction, replacement cost of construction, obsolescence, allowance for extraordinary use of machinery and equipment, and depreciation allowances.

(2) To initiate an exchange of information, the initiating party shall submit the data required by paragraph (1) at least 30 days before the commencement of the hearing on the application. For purposes of determining the date upon which the exchange was deemed initiated, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope or package containing the information shall control.

(b) (1) Notwithstanding any limitation on assessed value contained in subdivision (a), if the initiating party has submitted the data required by subdivision (a) within the specified time, the other party shall submit to the initiating party and clerk the following data:

(A) Information stating the basis of the other party's opinion of value.

(B) When the opinion of value is to be supported with evidence of comparable sales, information identifying the properties with sufficient certainty such as by assessor parcel number, street address or legal description of the property, the approximate date of sale, the applicable zoning, the price paid, and the terms of the sale, if known.

(C) When the opinion of value is to be supported with evidence based on an income study, information relating to income, expenses and the capitalization method.

(D) When the opinion of value is to be supported with evidence of replacement cost, information relating to date of construction, type of construction, replacement cost of construction, obsolescence, allowance for extraordinary use of machinery and equipment, and depreciation allowances.

(2) The other party shall submit the data required by this subdivision at least 15 days prior to the hearing. For purposes of determining the date upon which the other party responded to the exchange, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope or package containing the information shall control.

(c) (1) The person assigning a hearing date shall provide adequate notice to the parties of the date, so that the exchange of information permitted by this section can be made without requiring a continuance of the hearing.

(2) The initiating party and the other party shall use adequate methods of submission to ensure to the best of their ability that the exchange of information process is completed at least 10 days prior to the hearing.

(d) Whenever information has been exchanged pursuant to this section the parties may not introduce evidence on matters not so exchanged unless the other party consents to such introduction. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces new material at the hearing, the other party, upon his or her request, shall be granted a continuance for a reasonable period of time.

(e) Nothing in this section may be construed as an intent of the Legislature to change, alter or modify generally acceptable methods of using the sales approach, income approach, or replacement cost approach to determine full cash value.

1611. REQUEST FOR TRANSCRIPT. The county board shall make a record of the hearing and, upon request, shall furnish the party with an audio recording or a transcript thereof at his or her expense. Request for an audio recording or a transcript may be made at any time, but not later than 60 days following the final determination by the county board.

1611.5. RECORD, TRANSCRIPT, FINDINGS, AND CONCLUSIONS. Written findings of fact of the county board shall be made if requested in writing by a party up to or at the commencement of the hearing, and if payment of any fee or deposit which may be required to cover the expense of preparing the findings is made by the party prior to the conclusion of the hearing. However, the party requesting findings may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons his or her request at this time, his or her fee or deposit shall be returned if no findings have yet been prepared. If the request is abandoned, the other party may orally or in writing renew the request upon payment of the required fee or deposit, and becomes responsible for any costs for the preparation of findings. A reasonable fee may be imposed by the county to cover the expense of preparing findings and conclusions. The written findings of fact shall fairly disclose the board's determination of all material points raised by the party in his or her petition and at the hearing, including a statement of the method or methods of valuation used in appraising the property.

At the hearing the final determinations by the board shall be supported by the weight of the evidence and, with regard to questions of value, its determinations shall be made without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

If written findings of fact have been requested, the board shall transmit those findings to the requesting party accompanied by a notice that any request for a transcript of the proceedings must be made within 60 days following the date of the final determination of the board.

1612.5. EMPLOYEES, MEMBERS, AND HEARING OFFICERS; REPRESENTING APPLICANTS. The following persons may not represent an applicant for compensation on any application for equalization filed pursuant to Section 1603:

(a) A current member of an assessment appeals board, or any alternate member, in the county in which the board member or alternate member serves.

(b) A current assessment hearing officer in the county in which the hearing officer serves.

(c) A current employee of the office of the clerk of the county board of equalization or assessment appeals board in the county in which the person is employed.

(d) A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board in the county in which the person is employed.

(e) A current employee of the assessor's office in the county in which the person is employed in accordance with Section 1365.

1612.7. APPLICATIONS BY EMPLOYEES, MEMBERS, HEARING OFFICERS; REPRESENTING IMMEDIATE FAMILY. (a) The following persons shall notify the clerk of the board immediately upon filing an application for equalization pursuant to Section 1603 on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal:

(1) A current member of an assessment appeals board, or any alternate member, in the county in which the board member or alternate member serves.

(2) A current assessment hearing officer in the county in which the hearing officer serves.

(3) A current employee of the office of the clerk of the county board of equalization or assessment appeals board in the county in which the person is employed.

(4) A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board in the county in which the person is employed.

(b) An application for equalization filed pursuant to Section 1603 by a person specified in subdivision (a) or an application in which a person specified in subdivision (a) represents his or her spouse, parent, or child, shall be heard in accordance with Section 1622.6.

1614. DELIVERY OF ROLL TO AUDITOR. (a) The clerk of the county board shall keep an accurate record of all changes to the roll and all orders made by the county board. No later than the second Monday of each month the clerk shall deliver the statement of all changes made by the county board during the preceding calendar month to the auditor.

(b) This section does not prohibit the clerk from transmitting to the auditor changes to the roll more frequently than once per month.

(c) This section shall not be construed to require the clerk to deliver the statement described in subdivision (a) for a month in which the county board has made no changes to the roll.

1622.5. ALTERNATE MEMBERS. In any county in which two or more boards have been created and are functioning:

(a) The clerk of the assessment appeals boards may assign one or more members from one board to serve temporarily as members of another board, and

(b) The board of supervisors may appoint alternate members for each board. Whenever any regular member of a board is temporarily unable to act as a member of the board, an alternate member may sit on the board and shall have the same authority to act as a regular member. Where such alternate member is likewise temporarily unable to act the clerk may assign an alternate member of the same board or of any other board to act as a member of the board and such alternate member may sit on the board and shall have the same authority to act as a regular member.

In any county in which one board has been created and is functioning the board of supervisors may appoint alternate members for the board. Whenever any regular member of the board is temporarily unable to act as a member of the board, an alternate member may sit on the board and shall have the same authority to act as a regular member.

1622.6. APPLICATION FOR EQUALIZATION BY MEMBER OR ALTERNATE. (a) (1) An application for equalization filed pursuant to Section 1603 by a person described in Section 1612.7, or an application in which a person described in Section 1612.7 represents his or her spouse, parent, or child, shall be heard before an assessment appeals board panel consisting of three special alternate assessment appeals board members appointed by order of the presiding judge of the superior court in the county in which the application is filed.

(2) A special alternate assessment appeals board member may hear only the application for equalization set forth in the superior court order appointing the member.

(3) A person shall be eligible for appointment as a special alternate assessment appeals board member if he or she meets the criteria and files the documentation described in subdivisions (a) and (b) of Section 1624, subject to the prohibitions described in Sections 1624.1 and 1624.2.

(b) (1) Notwithstanding subdivision (a), at the discretion of the clerk of the board, the applications may be heard before a special alternate board formed pursuant to this subdivision consisting of three special alternate assessment appeals board members who are qualified and in good standing in another county in California.

(2) The special alternate board may hear only the application for equalization set forth in the transmittal document prepared by the clerk of the board of the county in which the application is filed.

(3) Each appeals board member on the special alternate board shall be in good standing in his or her county. A board member is in good standing if he or she is actively serving as an assessment appeals board member in his or her county.

1624.01. TRAINING. (a) On and after January 1, 2001, any person newly selected for membership on, or newly appointed to be a member of, an assessment appeals board shall complete the training described in subdivision (a) of Section 1624.02 prior to the commencement of his or her term on the board or as soon as reasonably possible within one year thereafter.

(b) A member of an assessment appeals board who does not complete the training required by this section in the time permitted shall complete that training within 60 days of the date of the notice by the clerk advising the member that his or her failure to complete the training constitutes resignation by operation of law. If the member fails to comply within 60 days of the notice by the clerk, the member shall be deemed to have resigned his or her position on the board. Notwithstanding the provisions of this section, a board member may continue to retain his or her position on the board in order to complete all appeal hearings to which the member is assigned and which commenced prior to the date of resignation pursuant to this subdivision.

1624.4. OBJECTION TO BOARD MEMBER. (a) The party affected by an equalization proceeding or his or her agent, or the assessor, may make and file with the clerk of the assessment appeals board in which the proceeding is pending a written statement objecting to the hearing of a matter before a member of the board, and setting forth the facts constituting the ground of the disqualification of the member. Copies of the written statement shall be served by the presenting party on each party in the proceeding and on the board member alleged in the statement to be disqualified.

(b) Within 10 days after the filing of the statement, or within 10 days after the service of the statement as provided in subdivision (a), whichever is later, the board member alleged therein to be disqualified may file with the clerk his or her consent in writing that the action or proceeding be tried before another member, or may file with the clerk his or her written answer admitting or denying any or all of the allegations contained in the statement and setting forth any additional fact or facts material or relevant to the question of his or her disqualification. The clerk shall transmit a copy of the member's consent or answer to each party who shall have appeared in the proceeding. Every statement and every answer shall be verified by oath in the manner prescribed by Section 446 of the Code of Civil Procedure for the verification of pleadings. The statement of a party objecting to the member on the ground of the member's disqualification, shall be presented at the earliest practical opportunity, after discovery of the facts constituting the ground of the member's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before the member.

(c) No member of the board, who shall deny his or her own disqualification, shall hear or pass upon the question of the disqualification. The question of the member's disqualification shall be heard and determined by some other member agreed upon by the parties who have appeared in the proceeding, or, in the event of their failing to agree, by a member assigned to act by the clerk. Within five days after the expiration of the time allowed by this section for the member to answer, the clerk shall assign a member, not disqualified, to hear and determine the matter of disqualification.

1628. CLERK'S DUTIES. The clerk of the board of supervisors shall be clerk of the assessment appeals boards and keep a record of their proceedings. He shall perform the same duties in connection with their proceedings as he is required by law to perform in connection with the proceedings of the county board of equalization.

1639. CONDUCT AND REPORT OF HEARING OFFICER. The hearing officer shall conduct the hearing and shall prepare a summary report of the proceedings together with his recommendation on the assessment protest. The hearing officer shall transmit his report and recommendation to the clerk of the board of supervisors. The report and recommendation shall not constitute precedent for future proceedings initiated by the applicant or other applicants.

1640. HEARING OFFICER'S REPORT. The clerk shall transmit in writing at the conclusion of the hearing or by mail to the protesting party or his or her agent and shall transmit to the county board of equalization or assessment appeals board the hearing officer's report and recommendation on the assessment protest. The protesting party shall be informed that the county board of equalization is bound by the recommendation of the assessment hearing officer.

1640.1. HEARING OFFICER'S REPORT. (a) The clerk shall transmit in writing at the conclusion of the hearing or by mail to the protesting party or his or her agent and shall transmit to the county board of equalization or assessment appeals board the hearing officer's report and recommendation on the assessment protest. The protesting party shall be informed that the county board of equalization or the assessment appeals board is not bound by the recommendation of the assessment hearing officer and that he or she or the assessor is entitled to a full hearing before the county board or the assessment appeals board.

(b) The provision of this section shall supersede the provisions of Section 1640 in those counties in which the board of supervisors by resolution adopts the provisions of this section.

SECTION 2

PROPERTY TAX RULES

**From
Title 18, California Code of Regulations**

RULE 301. DEFINITIONS AND GENERAL PROVISIONS.

Reference: Sections 110, 110.1, 110.5, 1601, 1603 et seq., Revenue and Taxation Code. Section 31000.6, Government Code.

The provisions set forth in this regulation govern the construction of this subchapter.

(a) "County" is the county or city and county wherein the property is located that is the subject of the proceedings under this subchapter.

(b) "Assessor" is the assessor of the county.

(c) "Auditor" is the auditor of the county.

(d) "Board" is the board of equalization or assessment appeals board of the county.

(e) "Chair" is the chair of the county board of equalization or assessment appeals board.

(f) "Clerk" is the clerk of the county board of equalization or assessment appeals board.

(g) "Person affected" or "party affected" is any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of the proceedings under this subchapter, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the application.

(h) "Full cash value" or "fair market value" is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code.

(i) "Restricted value" is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(j) "Full value" is either the full cash value or the restricted value.

(k) "Equalization" is the determination by the board of the correct full value for the property that is the subject of the hearing.

(l) "County legal advisor" is the county counsel of the county, or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco, or outside counsel specifically retained to advise the county board of equalization or assessment appeals board.

(m) "Authorized agent" is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding.

RULE 302. THE BOARD'S FUNCTION AND JURISDICTION.

Authority: Section 15606, Government Code.

Reference: Sections 531.1, 1603, 1604, and 1605.5, Revenue and Taxation Code.

(a) The functions of the board are:

(1) To lower, sustain, or increase upon application, or to increase after giving notice when no application has been filed, individual assessments in order to equalize assessments on the local tax assessment roll,

(2) To determine the full value and, where appealed, the base year value of the property that is the subject of the hearing,

(3) To hear and decide penalty assessments, and to review, equalize and adjust escaped assessments on that roll except escaped assessments made pursuant to Revenue and Taxation Code section 531.1,

(4) To determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation,

(5) To determine the allocation of value to property that is the subject of the hearing, and

(6) To exercise the powers specified in section 1605.5 of the Revenue and Taxation Code.

(b) Except as provided in subdivision (a)(4), the board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

(c) The board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.

RULE 305. APPLICATION.

Authority: Section 15606, Government Code.

Reference: Sections 51, 166, 170, 408.1, 469, 619, 1603, 1603.5, 1604, 1605, 1636, 5097, and 5097.02, Revenue and Taxation Code. Section 25105.5, Government Code.

No change in an assessment sought by a person affected shall be made unless the following application procedure is followed.

(a) ELIGIBLE PERSONS.

(1) An application is filed by a person affected or the person's agent, or a relative mentioned in regulation 317 of this division. If the application is made by an agent, other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, written authorization to so act must be filed with the application. For purposes of signing an application on behalf of an applicant, an agent shall be deemed to have

been duly authorized if the applicant's written agent authorization is on the application or attached to each application at the time it is filed with the board. The attached authorization shall include the following:

(A) The date the authorization statement is executed;

(B) A statement to the effect that the agent is authorized to sign and file applications in the specific calendar year in which the application is filed or years indicated in the agent's authorization; an agent's authorization may not cover more than four consecutive calendar years in the future, beginning with the year in which the authorization was signed;

(C) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the applicant on all parcels and assessments located in the specific county;

(D) The name, address, and telephone number of the specific agent who is authorized to represent the applicant;

(E) The applicant's signature and title; and

(F) A statement that the agent will provide the applicant with a copy of the application.

(2) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.

(3) If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

(4) No application shall be rejected as a duplicate application by the clerk unless it qualifies as a duplicate application within the meaning specified in section 1603.5 of the Revenue and Taxation Code.

(b) SIGNATURE AND VERIFICATION. The application shall be in writing and signed by the applicant or the applicant's agent with declaration under penalty of perjury that the statements made in the application are true and that the person signing the application is one of the following:

(1) The person affected, a relative mentioned in regulation 317 of this division, an officer of a corporation, or an employee of a corporation who has been designated in writing by the board of directors or corporate officer to represent the corporation on property tax matters;

(2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application; or

(3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.

(c) FORMS AND CONTENTS. The county shall provide, free of charge, forms on which applications are to be made.

(1) The application form shall be prescribed by the State Board of Equalization and shall require that the applicant provide the following information:

(A) The name and address of the applicant.

(B) The name and address of the applicant's agent, if any. If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.

(C) The applicant's written authorization for an agent, if any, to act on the applicant's behalf.

(D) A description of the property that is the subject of the application sufficient to identify it on the assessment roll.

(E) The applicant's opinion of the value of the property on the valuation date of the assessment year in issue.

(F) The roll value on which the assessment of the property was based.

(G) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.

(2) The form shall also include:

(A) A notice that a list of property transfers within the county, that have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee not to exceed ten dollars (\$10). This requirement shall not apply to counties with a population under 50,000 as determined by the 1970 decennial census.

(B) A notice that written findings of fact will be prepared by the board upon request if the applicable fee is paid. An appropriate place for the applicant to make the request shall be provided.

(3) An application may include one or more reasons for filing the application. Unless permitted by local rules, an application shall not include both property on the secured roll and property on the unsecured roll.

(4) An application that does not include the information required by subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given a reasonable opportunity to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board.

(5) An application that includes the correct information required by subdivision (1) is valid and no additional information shall be required of the applicant on the application form.

(6) If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which the applicant may request that the application be heard by such an officer.

(7) If an application appeals property subject to an escape assessment resulting from an audit conducted by the county assessor, then all property, both real and personal, of the assessee at the same profession, trade, or business location shall be subject to review, equalization, and adjustment by the appeals board, except when the property has previously been equalized for the year in question.

(d) TIME OF FILING.

(1) An application appealing a regular assessment shall be filed with the clerk during the regular filing period. A regular assessment is one placed on the assessment roll for the most recent lien date, prior to the closing of that assessment roll. The regular filing period for all real and personal property located in a county is:

(A) July 2 through September 15 when the county assessor elects to mail assessment notices, as defined in section 619 of the Revenue and Taxation Code, by August 1 to all owners of real property on the secured roll; or

(B) July 2 through November 30 when the county assessor does not elect to mail assessment notices by August 1 to all owners of real property on the secured roll.

Additionally, an application appealing a base year value for the most recent lien date, where that value is not the value currently on the assessment roll, shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15 or November 30, as applicable.

(2) An application appealing an escape assessment or a supplemental assessment must be filed with the clerk no later than 60 days after the date of mailing printed on the notice of assessment or the postmark date, whichever is later, or no later than 60 days after the date of mailing printed on the tax bill or the postmark date, whichever is later, in the county of Los Angeles and in those counties where the board of supervisors has adopted a resolution to that effect, pursuant to section 1605 of the Revenue and Taxation Code.

(3) An application appealing a proposed reassessment made for property damaged by misfortune or calamity pursuant to section 170 of the Revenue and Taxation Code must be filed with the clerk no later than six months after the date of mailing of the notice of proposed reassessment by the assessor. The decision of the board regarding the damaged value of property shall be final, however, the decision regarding the reassessment made pursuant to section 170 shall create no presumption regarding the value of the property subsequent to the date of the damage.

(4) An application may be filed within 60 days of receipt of a notice of assessment or within 60 days of the mailing of a tax bill, whichever is earlier, when the taxpayer does not receive the

notice of assessment described in section 619 of the Revenue and Taxation Code at least 15 calendar days prior to the close of the regular filing period. The application must be filed with an affidavit from the applicant declaring under penalty of perjury that the notice was not timely received.

(5) An application will be deemed to have been timely filed:

(A) If it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on the last day of the filing period or earlier within such period; or

(B) If proof satisfactory to the board establishes that the mailing occurred on the last day of the filing period or within such period. Any statement or affidavit made by an applicant asserting such a timely filing must be made within one year of the last day of the filing period.

(6) An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates. If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

(7) Except as provided in sections 1603 and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.

(e) AMENDMENTS AND CORRECTIONS.

(1) An applicant or an applicant's agent may amend an application until 5:00 p.m. on the last day upon which it might have been timely filed.

(2) After the filing period has expired:

(A) An invalid application may be corrected in accordance with subsection (c)(4) of this regulation.

(B) The applicant or the applicant's agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

(C) (i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

(ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request.

(iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.

(iv) If a request to amend is granted, and upon the request of the assessor, the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.

(3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application.

(f) CLAIM FOR REFUND. If a valid application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.

(g) RETENTION OF RECORDS. The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The records may be destroyed three years after the final action on the application if the records have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used in this subsection, "final action" means the date of the final decision by the board.

(h) CONSOLIDATION OF APPLICATIONS. The board, on its own motion or on a timely request of the applicant or applicants or the assessor, may consolidate applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation.

RULE 305.1. EXCHANGE OF INFORMATION.

Authority: Section 15606(c), Government Code.

Reference: Sections 408, 441, 1606, and 1609.4, Revenue and Taxation Code.

(a) REQUEST FOR INFORMATION. When the assessed value of the property involved, before deduction of any exemption accorded the property, is \$100,000 or less, the applicant may file a written request for an exchange of information with the assessor; and when the assessed value before deduction of any exemption exceeds \$100,000, either the applicant or the assessor may request such an exchange. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party and the clerk at any time prior to 30 days before the commencement of the hearing. For purposes of determining the date upon which the exchange was deemed initiated, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope or package containing the information shall control. The clerk shall, at the earliest opportunity, forward any request filed with the application or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date at issue and the following data:

(1) **COMPARABLE SALES DATA.** If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, the terms of sale (if known), and the zoning of the property.

(2) **INCOME DATA.** If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the allowable expenses, the capitalization method (direct capitalization or discounted cash flow analysis), and rate or rates employed.

(3) **COST DATA.** If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:

(A) With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.

(B) With regard to machinery and equipment: the date of installation, replacement cost, and any history of extraordinary use.

(C) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

(b) TRANSMITTAL OF DATA TO OTHER PARTY. If the party requesting an exchange of data under the preceding subsection has submitted the data required therein within the specified time, the other party shall submit a response to the initiating party and to the clerk at least 15 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the assessor is the respondent, he or she shall submit the response to the address shown on the application or on the request for exchange of information, whichever is filed later. The initiating party and the other party shall provide adequate methods of submission to ensure to the best of their ability that the exchange of information process is completed at least 10 days prior to the hearing.

(c) PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE. Whenever information has been exchanged pursuant to this regulation, the parties may introduce evidence only on matters pertaining to the information so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

(d) NONRESPONSE TO REQUEST FOR INFORMATION. If one party initiates a request for information and the other party does not comply within the time specified in subsection (b), the board may grant a postponement for a reasonable period of time. The postponement shall extend the time for responding to the request. If the board finds willful

noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.

RULE 305.2. PREHEARING CONFERENCE

Reference: Article XIII, Section 16, California Constitution. Section 1601 et seq., Revenue and Taxation Code.

(a) A county board of supervisors may establish prehearing conferences. If prehearing conferences are established, the county board of supervisors shall adopt rules of procedure for prehearing conferences. A prehearing conference may be set by the clerk at the request of the applicant or the applicant's agent, the assessor, or at the direction of the appeals board. The purpose of a prehearing conference is to resolve issues such as, but not limited to, clarifying and defining the issues, determining the status of exchange of information requests, stipulating to matters on which agreement has been reached, combining applications into a single hearing, bifurcating the hearing issues, and scheduling a date for a hearing officer or the board to consider evidence on the merits of the application.

(b) The clerk of the board shall set the matter for a prehearing conference and notify the applicant or the applicant's agent and the assessor of the time and date of the conference. Notice of the time, date, and place of the conference shall be given not less than 30 days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period.

RULE 306. COPY OF APPLICATION, AMENDMENT, AND CORRECTION TO ASSESSOR.

Authority: Section 15606, Government Code.

Reference: Sections 1603 and 1606, Revenue and Taxation Code.

The clerk shall transmit to the assessor a copy of each application for a change in assessment and each written request for amendment or correction that is received. A reasonable time shall be allowed before the hearing for the assessor to obtain information relative to the property and the assessment thereof.

RULE 307. NOTICE OF HEARING.

Reference: Sections 50, 51, 1601, 1603, 1606, 1610.8, 1620, Revenue and Taxation Code.

(a) After the filing of an application for reduction of an assessment, the clerk shall set the matter for hearing and notify the applicant or the applicant's agent in writing by personal delivery or by depositing the notice in the United States mail directed to the address given in the application. If requested by the assessor or the applicant, the clerk of the board may electronically transmit the notice to the requesting party. The notice shall designate the time and place of the hearing. It shall also include a statement that the board is required to find the full value of the property from the evidence presented at the hearing and that the board can raise, under certain circumstances, as well as lower or confirm the assessment being appealed. The

notice shall include a statement that an application for a reduction in the assessment of a portion of an improved real property (e.g., land only or improvements only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment) may result in a reappraisal of all property of the applicant at the site which may result in an increase in the unprotected assessment of the other portion or portions of the property, which increase will offset, in whole or in part, any reduction in the protested assessment.

(b) The notice shall be given no less than forty-five days prior to the hearing unless a shorter notice period has been stipulated to by the assessor and the applicant or the applicant's agent pursuant to section 1605.6 of the Revenue and Taxation Code.

(c) The clerk shall notify the assessor of the time and place of the hearing.

(d) When proposing to raise an assessment on its own motion without an application for reduction pending before it, the board shall give notice of the hearing in the manner provided hereinbelow not less than 20 days prior to the hearing unless notice is waived by the assessee or the assessee's agent in writing in advance of the hearing or orally at the time of the hearing or a shorter notice period is stipulated to by the assessor and assessee or the assessee's agent. The notice shall be given to the assessee as shown on the latest assessment roll by depositing the notice in the United States mail directed to the assessee at the latest address of the assessee available to the assessor on file in the records in the assessor's office. It shall contain:

(1) A statement that a hearing will be held before the local board to determine whether or not the assessment shall be raised;

(2) The time and place of the hearing;

(3) The assessor's parcel number or numbers of the property as shown on the local roll;

(4) A statement that the board is required to find the full value of the property from the evidence presented at the hearing;

(5) The amount by which it is proposed to raise the assessment.

RULE 308. REQUEST FOR FINDINGS.

Reference: Sections 1603, 1611.5, 1611.6, Revenue and Taxation Code.

(a) If an applicant or the assessor desires written findings of fact, the request must be in writing and submitted to the clerk before commencement of the hearing. The requesting party may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons the request at this time, the other party may orally or in writing renew the request at the conclusion of the hearing and accompany the request with payment of the required fee or deposit. The county may impose a reasonable fee, as determined by the board of supervisors, to cover the expense of preparing the findings and conclusions and may require a deposit to be paid prior to the end of the hearing. If, at the conclusion of the hearing, a party requesting written findings has failed to pay the required fee or deposit, the board need not prepare written findings.

The board may deny a request made after the conclusion of the hearing that seeks to waive written findings.

(b) The written findings of fact shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full value of the property. The county shall provide findings within 45 days after the final determination of the board is entered into the record pursuant to regulation 325 of this subchapter, and shall accompany them with a notice that a request for a transcript of the hearing must be made within 60 days after the final determination.

(c) If the county board fails to make findings upon request, or if findings made are found by a reviewing court to be so deficient that a remand to the county board is ordered to secure reasonable compliance with the elements of findings required by section 1611.5 of the Revenue and Taxation Code, the action of the county board shall be deemed to be arbitrary and capricious within the meaning of section 800 of the Government Code, so as to support an allowance of reasonable attorney's fees against the county for the services necessary to obtain proper findings. The dollar limitation set forth in section 800 of the Government Code shall not apply to an allowance of attorney's fees pursuant to this section.

RULE 308.5. DISQUALIFICATION OF A BOARD MEMBER OR HEARING OFFICER.

Reference: Sections 1624.4, 1641.2, Revenue and Taxation Code.

(a) In those counties having assessment appeals boards or hearing officers, the party affected or the party's agent, or the assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the board or a hearing officer. The statement shall set forth the facts constituting the ground of the disqualification of the member or hearing officer and shall be signed by the party affected or the party's agent, or by the assessor, and shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground of the member's or hearing officer's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member or hearing officer. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the board member or hearing officer alleged to be disqualified. Within 10 days after filing of the statement or 10 days after service of it on him or her, whichever is later, the board member or hearing officer may file with the clerk a written answer:

(1) Consenting to the proceeding being heard by another member or hearing officer, in which event the clerk shall appoint a replacement member or hearing officer, or

(2) Denying his or her disqualification, which answer may admit or deny any or all of the facts alleged in the statement and set forth any additional facts relevant to his or her disqualifications.

The clerk shall forthwith transmit a copy of such answer to each party.

Every statement and answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure.

(b) The question of the member's or hearing officer's disqualification shall be heard and determined by a board member, other than the member subject to the disqualification challenge, agreed upon by the parties who have appeared in the proceeding, or, in the event of their failing to agree, by a member assigned to act by the clerk. Within five days after the expiration of the time allowed by this regulation for the member to answer, the clerk shall assign a member to hear and determine the matter of the disqualification.

Once the member has been selected pursuant to subsection (b) that member shall determine the qualification of the challenged member or hearing officer.

(c) In a county whose board of supervisors has adopted a resolution implementing the provisions of section 1640.1 and 1641.1 of the Revenue and Taxation Code, the board may elect to schedule the application before the board in lieu of following the procedures prescribed above.

RULE 309. HEARING.

Reference: Sections 441, 1603, 1604, 1606, 1624.4, 1641.1, 1641.2, Revenue and Taxation Code.

(a) In counties having a population in excess of 4,000,000, on the fourth Monday in September of each year, the board shall meet to equalize the assessment of property on the local roll and shall continue to meet for that purpose from time to time until the business of equalization is disposed of. In all other counties, the board shall meet on the third Monday in July and shall continue to meet until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in this subchapter. Nothing herein requires the board to conduct hearings prior to the final day for filing applications.

(b) A hearing must be held and a final determination made on the application within two years of the timely filing of an application for reduction in assessment submitted pursuant to subdivision (a) of section 1603 of the Revenue and Taxation Code, unless the applicant or the applicant's agent and the board mutually agree in writing or on the record to an extension of time.

(c) If the hearing is not held and a determination is not made within the time specified in subsection (b) of this regulation, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when:

- (1) The applicant has not filed a timely and complete application; or,
- (2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or,
- (3) The applicant has not complied fully with a request for the exchange of information under regulation 305.1 of this subchapter or with the provisions of subdivision (d) of section 441 of the Revenue and Taxation Code; or,
- (4) Controlling litigation is pending. "Controlling litigation" is litigation which is:

(A) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and,

(B) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing; or

(5) The applicant has initiated proceedings to disqualify a board member pursuant to Revenue and Taxation Code section 1624.4 within 90 days of the expiration of the two-year period required by Revenue and Taxation Code section 1604; or,

(6) The applicant has requested that the hearing officer's recommendation be heard by the board pursuant to Revenue and Taxation Code section 1641.1, in those counties in which the board of supervisors has adopted a resolution implementing section 1641.1, within 90 days of the expiration of the two-year period required by Revenue and Taxation Code section 1604.

For applications involving base year value appeals that have not been heard and decided by the end of the two-year period provided in section 1604 of the Revenue and Taxation Code and where the two-year period has not been extended pursuant to subsections (b) or (c) of this regulation, the applicant's opinion of value will be entered on the assessment roll for the tax year or years covered by the pending application, and will remain on the roll until the fiscal year in which the board makes a final determination on the application. No increased or escape taxes other than those required by a change in ownership or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the board fails to act.

For applications appealing decline in value and personal property assessments that have not been heard and decided by the end of the two-year period provided in section 1604, the applicant's opinion of value will be enrolled on the assessment roll for the tax year or years covered by the pending application.

(d) If the applicant has initiated proceedings pursuant to subsection (c)(5), or made a request pursuant to subsection (c)(6) of this regulation, the two-year time period described in subsection (b) shall be extended 90 days.

(e) The applicant shall not be denied a timely hearing and determination pursuant to subsection (b) of this regulation, by reason of any of the exceptions enumerated in subsection (c) herein, unless, within two years of the date of the application, the board, or the clerk at the direction of the board, gives the applicant and/or the applicant's agent written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his or her right to protest the denial. If requested by the applicant or the applicant's agent, the clerk shall schedule a hearing on the validity of the application and shall so notify the applicant, the applicant's agent, and the assessor.

When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, excluding the

period of time between the notice of pending litigation and the date that the litigation becomes final.

RULE 312. HEARINGS RECORDED.

Reference: Section 1611, Revenue and Taxation Code.

(a) All hearings of the board shall be recorded or reported, or videotaped subject to the conditions set forth in Code of Civil Procedure section 2025.340.

(b) Any person may purchase a transcript of that portion of the hearings that is open to the public upon payment of a reasonable fee, provided the request to purchase has been made within 60 days after the final determination of the board.

(c) In a county which does not regularly provide a stenographic reporter, the applicant, at the applicant's own expense, may have the hearing reported by a stenographer.

(d) In a county which does provide a stenographic reporter, if the applicant desires the clerk to arrange for a stenographer, the applicant must make the request in writing at least 10 days before the hearing.

(e) If a stenographic reporter is present, the county may designate the reporter's transcript as the official record upon being filed with the board.

RULE 313. HEARING PROCEDURE.

Authority: Section 15606(c), Government Code.

Reference: Article XIII A, California Constitution.

Sections 110, 167, 205.5, 218, 1605.4, 1607, 1609, 1609.4, and 1637, Revenue and Taxation Code.
Section 664, Evidence Code.

Hearings on applications shall proceed as follows:

(a) The chair or the clerk shall announce the number of the application and the name of the applicant. The chair shall then determine if the applicant or the applicant's agent is present. If neither is present, the chair shall ascertain whether the clerk has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor the applicant's agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed prior to the hearing date, the board may postpone the hearing. If the notice has not been given, the hearing shall be postponed to a later date and the clerk directed to give proper notice thereof to the applicant.

The denial of an application for lack of appearance by the applicant, or the applicant's agent, is not a decision on the merits of the application and is not subject to the provisions of regulation 326 of this subchapter. The board of supervisors may adopt a procedure which authorizes reconsideration of the denial where the applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement and files a written request for reconsideration within a period set by the board, not to exceed 60 days from the date of mailing of the notification of denial due to lack of appearance. Applicants who fail to request

reconsideration within the period set, or whose requests for reconsideration are denied, may refile an appeal of the base year value during the next regular filing period in accordance with Revenue and Taxation Code section 80.

(b) If the applicant or the applicant's agent is present, the chair or the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the value of the property. The chair may request that either or both parties briefly describe the subject property, the issues the board will be requested to determine, and any agreements or stipulations agreed to by the parties.

(c) In applications where the applicant has the burden of proof, the board shall require the applicant or the applicant's agent to present his or her evidence first, and then the board shall determine whether the applicant has presented proper evidence supporting his or her position. This is sometimes referred to as the burden of production. In the event the applicant has met the burden of production, the board shall then require the assessor to present his or her evidence. The board shall not require the applicant to present evidence first, when the hearing involves:

(1) A penalty portion of an assessment.

(2) The assessment of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the applicant has filed an application that provides all of the information required in regulation 305(c) of this subchapter and has supplied all information as required by law to the assessor. An owner-occupied single-family dwelling means a single-family dwelling that is the owner's principal place of residence and qualifies for a homeowners' property tax exemption pursuant to Revenue and Taxation Code section 218. "Property that qualifies for a homeowners' property tax exemption" also includes property that is the principal place of residence of its owner and qualifies for the disabled veterans' exemption provided by Revenue and Taxation Code section 205.5. In those instances, the chair shall require the assessor to present his or her case to the board first. With respect to escape assessments, the presumption in favor of the applicant provided in regulation 321(d) of this subchapter does not apply to appeals resulting from situations where an applicant failed to file a change in ownership statement, a business property statement, or to obtain a permit for new construction.

(3) A change in ownership and the assessor has not enrolled the purchase price, and the applicant has provided the change of ownership statement required by law. The assessor bears the burden of proving by a preponderance of the evidence that the purchase price, whether paid in money or otherwise, is not the full cash value of the property.

(d) All testimony shall be taken under oath or affirmation.

(e) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of proper evidence admitted into the record. Board members or hearing officers may not act or decide an application based upon consideration of prior knowledge of the subject property, information presented outside of the hearing, or personal research. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the

presentation of evidence, for cross-examination of all witnesses and materials proffered as evidence, for argument and for rebuttal. The party having the burden of proof shall have the right to open and close the argument.

(f) When the assessor requests the board find a higher assessed value than he or she placed on the roll and offers evidence to support the higher value, the chair shall determine whether or not the assessor gave notice in writing to the applicant or the applicant's agent by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered has been supplied at least 10 days prior to the hearing, the assessor may introduce such evidence at the hearing. When the assessor proposes to introduce evidence to support a higher assessed value than the value on the roll, the assessor no longer has the presumption accorded in regulation 321(a) of this subchapter and the assessor shall present evidence first at the hearing, unless the applicant has failed to supply all the information required by law to the assessor. The foregoing notice requirement shall not prohibit the board from a finding of a higher assessed value when it has not been requested by the assessor.

(g) Hearings by boards and hearing officers shall be open, accessible, and audible to the public except that:

(1) Upon conclusion of the evidentiary portion of the hearing, the board or hearing officer may take the matter under submission and deliberate in private in reaching a decision, and

(2) The board or hearing officer may grant a request by the applicant or the assessor to close to the public a portion of the hearing relating to trade secrets. For purposes of this regulation, a "trade secret" is that information defined by section 3426.1 of the Civil Code. Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the assessor or the applicant that relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the party to whom it relates.

RULE 317. PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AGENT.

Reference: Sections 1601, 1607, 1608, Revenue and Taxation Code.

(a) The applicant must appear personally at the hearing or be represented by an agent, unless the applicant's appearance has been waived by the board in accordance with regulation 316 of this subchapter. If the applicant is represented by an agent, the agent shall be thoroughly familiar with the facts pertaining to the matter before the board.

(b) (1) If the application was filed by the applicant, any person (other than a California licensed attorney retained by the applicant or a person mentioned in subsections (c), (d) except an agent, or (e)) who appears at the hearing purporting to act as agent for the applicant shall first file with the clerk a written authorization, signed by the applicant, to represent the applicant at the hearing.

(2) If at the hearing the applicant is represented by a person other than the person who was originally authorized by the applicant to appear at the hearing, that person shall present to the

board a written authorization signed by the applicant indicating the applicant's consent to the change in representation.

(3) The written authorization required pursuant to this regulation shall include the information required by regulation 305(a) of this subchapter and shall clearly state that the agent is authorized by the applicant to appear at hearings before the board.

(c) If the property is held in joint or common ownership or in co-ownership, the presence of the applicant or any one of the owners shall constitute a sufficient appearance.

(d) Where the applicant is a corporation, limited partnership, or a limited liability company, the business entity shall make an appearance by the presence of any officer, employee, or an authorized agent, thoroughly familiar with the facts pertaining to the matter before the board.

(e) A husband may appear for his wife, or a wife for her husband, and sons or daughters for parents or vice versa.

(f) If an agent is previously authorized by the applicant to file an application, no further authorization is required for that agent to represent the applicant at the subsequent hearing.

RULE 322. SUBPOENAS.

Reference: Sections 1609, 1609.4, 1609.5, Revenue and Taxation Code.

(a) At the request of the applicant or the assessor in advance of the hearing or at the time of the hearing the board or the clerk on authorization from the board may issue subpoenas for the attendance of witnesses at the hearing. The board may issue a subpoena on its own motion. A subpoena may be served on any resident of the State of California or any person or business entity found within the state. All subpoenas shall be obtained from the board.

(b) If a subpoena is issued at the request of the applicant, the applicant is responsible for serving it and for the payment of witness fees and mileage.

(c) An application for a subpoena for the production of books, records, maps, and documents shall be supported by an affidavit such as is prescribed by Section 1985 of the Code of Civil Procedure.

(d) In the event a State Board of Equalization employee is subpoenaed pursuant to section 1609.5 of the Revenue and Taxation Code at the request of the applicant and the county board grants a reduction in the assessment, the county board may reimburse the applicant in whole or in part for the actual witness fees paid pursuant to section 1609.5.

(e) If a party desires the board to issue a subpoena, the party shall make the written request sufficiently in advance of the scheduled hearing date so that the subpoenaed party has an adequate opportunity to fully comply with the subpoena prior to the commencement of the hearing. Upon such request, the board may, whenever possible, issue subpoenas pursuant to sections 1609.4 and 1609.5 of the Revenue and Taxation Code. Subpoenas shall be restricted to compelling the appearance of a person or the production of things at the hearing and shall not be utilized for purposes of prehearing discovery. A subpoena issued near in time to or after

commencement of the hearing should be as limited as possible, and a continuance of the hearing may be granted, if requested, for a reasonable period of time.

(f) No subpoena to take a deposition shall be issued nor shall deposition be considered for any purpose by the board.

RULE 323. POSTPONEMENTS AND CONTINUANCES.

Reference: Section 15606 subdivision (c), Government Code. Sections 1605.6, 1606, Revenue and Taxation Code.

(a) The applicant and/or the assessor shall be allowed one postponement as a matter of right, the request for which must be made not later than 21 days before the hearing is scheduled to commence. If the applicant requests a postponement as a matter of right within 120 days of the expiration of the two-year limitation period provided in section 1604 of the Revenue and Taxation Code, the postponement shall be contingent upon the applicant's written agreement to extend and toll indefinitely the two-year period subject to termination of the agreement by 120 days written notice by the applicant. The assessor is not entitled to a postponement as a matter of right if the request is made within 120 days of the expiration of the two-year period, but the board, in its discretion, may grant such a request. Any subsequent requests for a postponement must be made in writing, and good cause must be shown for the proposed postponement. A stipulation by an applicant and the assessor shall be deemed to constitute good cause, but shall result in extending and tolling indefinitely the two-year limitation period subject to termination of the agreement by 120 days written notice by the applicant. Any information exchange dates remain in effect based on the originally scheduled hearing date notwithstanding the hearing postponement, except as provided in regulation 305.1(d) of this subchapter.

(b) A board of supervisors may delegate decisions concerning postponement to the clerk in accordance with locally adopted rules. Requests for postponement shall be considered as far in advance of the hearing date as is practicable.

(c) At the hearing, the board or a hearing officer may continue a hearing to a later date. If the applicant requests a continuance within 90 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the board may require a written extension signed by the applicant extending and tolling the two-year period indefinitely subject to termination of the agreement by 120 days written notice by the applicant. The clerk shall inform the applicant or the applicant's agent and the assessor in writing of the time and place of the continued hearing not less than 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.

RULE 324. DECISION.

Reference: Article XIII A, California Constitution. Section 15606, Government Code. Sections 402.1, 402.5, 1609, 1610.8, 1611.5, Revenue and Taxation Code.

(a) **DETERMINATION OF FULL VALUE, CLASSIFICATION, CHANGE IN OWNERSHIP, OR OTHER ISSUES.** Acting upon proper evidence before it, the board shall determine the full value of the property, including land, improvements, and personal property, that is the subject of the hearing. The determination of the full value shall be supported by a

preponderance of the evidence presented during the hearing. The board shall consider evidence of value derived by the use of any of the valuation methods described in regulation 3 of subchapter 1 of this chapter. It shall determine whether the method(s) used was (were) properly applied, considering the type of property assessed, governmentally imposed land use restrictions, and any recorded conservation easements as described in Civil Code section 815.1 et seq., by examining the factual data, the presumptions, and the estimates relied upon. The board shall also determine the classification, amount, and description of the property that is the subject of the hearing, the existence of a change in ownership or new construction, or any other issue that is properly before the board, or that is necessary to determine the full value of the property. The board shall provide to the clerk such details as are necessary for the implementation of the board's decision.

(b) JURISDICTION. The board's authority to determine the full value of property or other issues, while limited by the laws of this state and the laws of the United States and usually exercised in response to an application for equalization, is not predicated on the filing of an application nor limited by the applicant's request for relief.

When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the board may nevertheless determine the full value, classification, or other facts relating to other portions that have undergone a change in ownership, new construction or a change in value. Additionally, the board shall determine the full value of the entire appraisal unit whenever that is necessary to the determination of the full value of any portion thereof.

The board is not required to choose between the opinions of value promoted by the parties to the appeal, but shall make its own determination of value based upon the evidence properly admitted at the hearing.

An appraisal unit of property is a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law.

(c) VALUATION PRINCIPLES. The board, the applicant, and appraisal witnesses shall be bound by the same principles of valuation that are legally applicable to the assessor.

(d) COMPARABLE SALES. When valuing a property by a comparison with sales of other properties, the board may consider those sales that, in its judgment, involve properties similar in size, quality, age, condition, utility, amenities, site location, legally permitted use, or other physical attributes to the property being valued. When valuing property for purposes of either the regular roll or the supplemental roll, the board shall not consider a sale if it occurred more than 90 days after the date for which value is being estimated. The provisions for exclusion of any sale occurring more than 90 days after the valuation date do not apply to the sale of the subject property.

The board shall presume that zoning or other legal restrictions, of the types described in Revenue and Taxation Code section 402.1, on the use of either the property sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the board to overcome that presumption.

(e) When written findings of fact are made, they shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full value of the property or its components.

RULE 325. NOTICE AND CLARIFICATION OF DECISION.

Reference: Section 1601 et seq., Revenue and Taxation Code.

(a) A board may announce its decision to the applicant and the assessor at the conclusion of the hearing, or it may take the matter under submission. The decision becomes final when:

(1) The vote is entered into the record at the conclusion of the hearing provided no findings of fact are requested by either party, and all parties are present at the hearing or the hearing is subject to stipulation by both parties. The county may provide a written notice of the decision.

(2) A written notice of the decision is issued provided no findings of fact are requested by either party, and the decision is taken under submission by the board at the conclusion of the hearing. The county shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. The clerk shall notify the applicant in writing of the decision of the board by United States mail addressed to the applicant or to the applicant's agent at the address given in the application.

(3) A written notice of the decision is issued or the findings of fact are issued, whichever is earlier, provided findings of fact are requested. The county shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. If so requested by an applicant or an applicant's agent, the determination shall become final upon issuance of the findings of fact which the county shall issue no later than 180 days after the conclusion of the hearing. Such a request must be made by the applicant or the applicant's agent prior to or at the conclusion of the hearing. If the conclusion of the hearing is within 180 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the applicant shall agree in writing to extend the two-year period. The extension shall be for a period equal to 180 days from the date of the conclusion of the hearing.

(b) The board may request any party to submit proposed written findings of fact and shall provide the other party the opportunity to review and comment on the proposed finding submitted. If both parties prepare proposed findings of fact, no opportunity to review and comment need be provided.

(c) When findings of fact have been prepared, either party or the clerk may submit a written request for clarification about the details of the decision, but such clarification shall not alter the final determination of the board.

RULE 326. RECONSIDERATION AND REHEARING.

Reference: Section 1601 et seq., Revenue and Taxation Code.

(a) The decision of the board upon an application is final. The board shall not reconsider or rehear an application or modify a decision unless:

(1) The decision reflects a ministerial clerical error; or

(2) The decision was entered as the result of the applicant's failure to appear for the hearing and within the period established pursuant to regulation 313 of this subchapter, the applicant furnishes evidence establishing, to the satisfaction of the board, excusable good cause of the failure to appear.

SECTION 3

OTHER APPEALS REFERENCE INFORMATION

Excerpts from *Assessment Appeal Manual*
State Board of Equalization Letters

EXCERPTS FROM ASSESSMENT APPEAL MANUAL

CLERK OF THE BOARD [Page 13]

In most counties, the clerk of the board of supervisors is also the clerk of the assessment appeals board. While the clerk has responsibilities directly supportive of the board of supervisors, the duties discussed here are those associated with assessment appeals proceedings only.

The clerk of the board is tasked with a myriad of administrative duties relative to the functioning of the assessment appeals process. Some of these responsibilities include:

- Provide public notice of appeals board meetings to equalize assessments.¹
- Accept applications from taxpayers seeking a reduction in property tax assessments.²
- Ensure that applications meet the requirements of Rule 305 for completeness and timeliness and are on the State Board of Equalization prescribed form.³
- Respond to taxpayers' inquiries regarding their applications as well as hearing procedures.
- Schedule hearings before hearing officers or appeals boards.⁴
- Determine which appeals board members will comprise a panel for a hearing.
- Monitor training for assessment appeals board members.⁵
- Provide needed information to the hearing officer or appeals board members for the hearing.
- Provide a copy of each application and request for amendment of an application to the county assessor.⁶
- Administer an oath to all individuals presenting evidence at the hearing.
- Announce each item on the hearing agenda.⁷
- Maintain copies of evidence presented at the hearing.
- Tape-record, report, or videotape the hearing.⁸
- Record the final decision of the board.⁹

¹ Section 1601.

² Section 1603.

³ Section 1603; Rule 305.

⁴ Section 1605.6; Rule 307.

⁵ Section 1624.01.

⁶ Rule 306.

⁷ Rule 313.

⁸ Rule 312.

⁹ Section 1614 and 1628.

- Provide a copy of the tape recording or a transcript of the hearing to applicants who request it upon payment of the appropriate fee.¹⁰
- Transmit findings of fact when requested.¹¹
- Issue subpoenas at the direction of the board.¹²
- Deliver to the county auditor a statement of all changes made by the board during the preceding calendar month with an affixed affidavit.¹³
- Certify the last day of the regular filing period and notify the State Board of Equalization as to where the last day of the regular filing period for the county will be September 15 or November 30.¹⁴

An application must be timely filed in order to confer jurisdiction on an appeals board. While an appeals board has the ultimate responsibility to rule on the timeliness of an application, most counties have adopted rules of practice to allow the clerk of the board to make this determination. The Attorney General has stated in a formal opinion¹⁵ that this practice does not violate due process if the board of supervisors establishes for the clerk certain specific guidelines for determining which applications are untimely filed, and, when so determined, directs the clerk to notify applicants and advise them that they may petition the board to reconsider the decision

REQUIRED INFORMATION [Page 21]

Applicants or their agents shall furnish the following information on the *Application for Changed Assessment*.¹⁶

1. The name and mailing address of the applicant. Agents may not furnish their own mailing address in place of an applicant's actual mailing address.
2. The name and mailing address of the applicant's agent, if any. NOTE: If the application is filed by an agent, other than a California-licensed attorney authorized by the applicant to file the application, written authorization of agency, signed by the person affected, must be included on or attached to the application form (see also section on Application by Agent following in this chapter).
3. A description of the property which is the subject of the application sufficient to identify it on the assessment roll.
4. The applicant's opinion of the value of the property on the valuation date of the assessment year in issue.

¹⁰ Section 1611.

¹¹ Section 1611.5; Rule 308.

¹² Rule 322.

¹³ Section 1614.

¹⁴ Section 1603, subdivision (b)(3)(B).

¹⁵ 59 Ops.Cal.Atty.Gen. 182 (1976).

¹⁶ Rule 305, subsection (c).

5. The roll value on which the assessment of the property was based.
6. The facts relied upon to support the applicant's claim that the board should order a change in the assessed value or classification of the property.
7. Signatures (see section on Signature following in this chapter).

An application that does not show the above items is invalid and should not be accepted by the board. Conversely, an application which shows the foregoing items is valid and no additional information shall be required of the applicant on the application form. If an applicant files an incomplete application, the clerk of the board shall allow an applicant additional time to provide the required information. Board clerks should provide prompt notice to an applicant that an application is incomplete and invalid.¹⁷

REGULAR FILING PERIOD [Page 26]

Time periods for filing an application for the regular period are set forth in section 1603 which provides:

(b)(1) The application shall be filed within the time period from July 2 to September 15, inclusive. An application that is mailed and postmarked September 15 or earlier within that period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15...

(3) Notwithstanding paragraph (1), the last day of the filing period shall be extended to November 30 in the case of an assessee or party affected with respect to all property located in a county where the county assessor does not provide, by August 1, a notice, as described in Section 619, to all assessees of real property on the local secured roll of the assessed value of their real property as it shall appear or does appear on the completed local roll, including the annual increases in assessed value caused solely by increases in the valuation of property that reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution...

(B) The clerk shall certify the last day of the filing period and shall immediately notify the State Board of Equalization as to whether the last day of the filing period for the county will be September 15 or November 30.

(4) If a final filing date specified in this subdivision falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed to have been filed within the requisite time period specified in this subdivision. If on any final filing date specified in this subdivision, the

¹⁷ Rule 305, subsection (c)(4).

county's offices are closed for business prior to 5 p.m. or for that entire day, that day shall be considered a legal holiday for purposes of this section....

During the July 2 to September 15 (or November 30 as applicable) filing period, applications may include but are not necessarily limited to:

- Decline in value appeals
- Base year value appeals
- Personal property appeals
- Appeals of penalty assessments
- Appeals of exempt value allocations

There are two exceptions to the regular filing period described above. The first exception, set forth in section 1603, subdivision (b)(3), specifies:

Notwithstanding paragraph (1), if the taxpayer does not receive the notice of assessment described in Section 619 at least 15 calendar days prior to the deadline to file the application described in this subdivision, the party affected, or his or her agent, may file an application within 60 days of receipt of the notice of assessment or within 60 days of the mailing of the tax bill, whichever is earlier, along with an affidavit declaring under penalty of perjury that the notice was not timely received.

Section 619 requires notification of increases in the assessed value of real property but does not apply to increases resulting solely from the application of the inflation factor as an annual adjustment to a previously established base year value.

The second exception to the regular filing period, set forth in section 1603, subdivision (c), provides:

The application may be filed within 12 months following the month in which the assessee is notified of the assessment, if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value is filed in accordance with Section 1607.

If the applicant (or agent) and the assessor stipulate that there was an error in the assessment under specified conditions, the two parties must submit a written stipulation to the appeals board as to the full value and assessed value of the property and set forth the facts upon which the reduction in value is premised. The board may accept the stipulated value, or may reject the stipulated value and set the application for a hearing.

DECLINE IN VALUE FILING PERIOD [Page 29]

When the fair market value of a property declines below its assessed value on the assessment roll, the property must be revalued and reassessed in accordance with section 51 as of the January 1 lien date. An appeal based on this issue is sometimes called a *Proposition 8* or *Decline in Value* appeal. Normally, decline in value applications must be filed between July 2 and September 15 to appeal the assessed value enrolled for the preceding January 1 lien date, or between July 2 and November 30 when the assessor does not send notices of assessed value as specified in section 1603.

Example

The assessor has provided all taxpayers with real property on the secured roll with a notice of assessed value prior to August 1. A taxpayer receives a notice of assessed value for her single-family dwelling from the assessor. She believes that her home is worth less than the \$250,000 assessment for the current roll year. To appeal this property's assessed value, the owner (or agent) must file an *Application for Changed Assessment* between July 2 and September 15 of the current roll year.

Under very limited conditions, some counties may permit applicants to file decline in value applications after September 15. In those cases, extension of the deadline can occur when the county has enacted an ordinance allowing property owners to file an *Informal Assessment Review* form.¹⁸

BASE YEAR VALUE FILING PERIOD [Page 29]

Applicants who want to appeal a property's base year value have two filing periods:

1. **Filing based upon the supplemental assessment notice (60-day filing period)**—An applicant may file an application within 60 days after the date of mailing printed on the supplemental assessment notice, or the postmark date, whichever is later, or, in some counties, within 60 days of the date of mailing printed on the supplemental tax bill, or the postmark date, whichever is later. An application will appeal the change in ownership or new construction determination and/or appeal the supplemental assessment and request a reduction in the base year value established by the assessor for the change in ownership or new construction event that triggered the supplemental assessment.¹⁹
2. **Filing between July 2 and September 15 (Regular filing period)**
 - a. **Filing July 2 – September 15 for the new base year value during the first year of enrollment on the current local roll, not on the supplemental roll, or three succeeding years when a notice of assessed value is mailed pursuant to section 1603**—If the applicant misses the 60-day supplemental assessment filing period, the new

¹⁸ Section 1603, subdivision (d).

¹⁹ Section 1605.

base year value may be appealed during the regular filing period in the year that the base year value is enrolled by the assessor or the three following years. If the appeals board reduces the base year value, the reduction is effective in the year in which the application was filed and any future years, but is not retroactive.²⁰

Example

On August 15, 1999 a limited partnership buys a large warehouse facility in an industrial park. The assessor determines that the purchase constituted a change in ownership. On October 3, 1999, the assessor mails the notice of supplemental assessment required under section 75.31. In most counties, the owner has 60 days from October 3, 1999 to file an application appealing the supplemental assessment. Should the property owner miss the 60-day deadline, he or she may file a base year value appeal during the following regular filing periods:

- July 2, 2000 — September 15, 2000
- July 2, 2001 — September 15, 2001
- July 2, 2002 — September 15, 2002
- July 2, 2003 — September 15, 2003

Assume the property owner files an application contesting the base year value on July 5, 2001. If the appeals board grants the application and reduces the base year value, the reduction would apply for the 2001-2002 tax year and any future years. It would not affect either the supplemental assessment or the assessed value for the 2000-2001 tax year.

b. Filing July 2 – November 30 for the new base year value during the first year of enrollment on the current local roll, not on the supplemental roll, or the three succeeding years when a notice of assessed value is not mailed pursuant to section 1603—An applicant may file an application to correct a base year value resulting from an erroneous change in ownership determination, not involving an assessor's judgment of value, if the assessor declines to make the correction pursuant to section 51.5. Such an application must be filed during the regular filing period July 2 through September 15 or November 30, whichever is applicable. When such an application has been filed, the board must first determine that the information presented to the assessor is credible evidence of an error not involving the assessor's value judgment. For example, an applicant might produce a marriage certificate as evidence that a transfer which resulted in a change in ownership should actually have received the interspousal exclusion. Because the error will necessarily involve a factual dispute, an applicant must have some evidentiary basis, as opposed to an opinion, for any such claim.²¹

²⁰ Section 80(a)(5); Rule 305.5.

²¹ *Sunrise Retirement Villa v. Dear* (1997) 58 Cal.App.4th 948.

RESOLUTION VIA ROLL CORRECTION OR STIPULATION [Page 91]

Many disagreements between taxpayers and assessors are resolved prior to the assessment appeals hearing. These resolutions most often involve roll corrections or stipulations initiated by an assessor subsequent to receipt of pertinent information from a taxpayer.

ROLL CORRECTION SUBSEQUENT TO APPLICATION BEING FILED [Page 91]

Section 4831 allows an assessor to correct any error or omission involving the exercise of a value judgment that arises solely from a failure to reflect a decline in the full value of real property as required by subdivision (a)(2) of section 51. The assessor may correct the roll anytime within one year after the making of the assessment that is being corrected.

The Legislature amended section 4831 to permit corrections in order to reduce the workload of appeals boards in some counties which were overwhelmed with decline in value appeals. Even after an application has been formally filed with the appeals board, the assessor and the taxpayer may arrive at a mutually agreed upon value and, if within a year of making the assessment, the assessor can make a roll correction under section 4831.

If an agreement and correction have been made pursuant to section 4831, the taxpayer may withdraw his or her application from the appeals process. Counties are advised to develop a procedure by which applicants may withdraw their applications on the condition that the assessor enrolls the agreed upon value. By this means, if the taxpayer receives the notice from the county reflecting a new value different than the value agreed upon, or the assessor fails to take action, the taxpayer may still pursue the appeal. An appeals board is not required to accept withdrawal of an application for reduced assessment.

STIPULATION IN PLACE OF APPEARANCE AND TESTIMONY [Page 91]

An appeals board may not increase or lower any assessment without a hearing, and may act only on the basis of the evidence presented by the parties.²² Ordinarily, the applicant must appear personally or be represented by an agent who is familiar with the facts of the matters in issue.²³ However, section 1607 does provide a means whereby a board may accept a written stipulation and waive the attendance of the applicant at the hearing. Section 1607 reads in part:

... in the event there is filed with the county board a written stipulation, signed by the assessor and county legal officer on behalf of the county and the person affected or the agent making the application, as to the full value and assessed value of the property which stipulation sets forth the facts upon which the reduction in value is premised, the county board may, at a hearing, (a) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with Section 1610.8, or (b) reject the stipulation and set or reset the application for reduction for hearing.

²² *City of Oakland v. Southern Pacific Co.* (1900) 131 Cal. 226.

²³ Rule 317.

Although many counties frequently use this stipulation process, an appeals board is not required to accept a stipulation. The appeals board is required to find the correct full value of the subject property. If the board is satisfied that the data presented in a stipulation constitute a reasonable basis for the full value, the board should accept the stipulation in the interests of promoting administrative efficiency and lessening the burden on taxpayers and government. If the basis for the stipulation is unclear or does not appear to be consistent with California property tax law, the appeals board should demand an adequate explanation and, if such an explanation is not produced, the board should reject the stipulation and set the matter for hearing. The appeals board must, of course, follow the mandatory hearing notice provisions of section 1605.6.

Section 1608 allows an appeals board to waive examination of the applicant "if the board and the assessor are satisfied that the issues raised by the application have been considered by the board in previous years or are fully presented in the application, and if the person or agent making the application requests such waiver in his or her application."

STATE BOARD OF EQUALIZATION LETTERS

January 13, 1999

Re: Taylor Street property, APN []
Appealing assessments for years 1991, 1992 and 1993

Dear Mr. []:

This is in reply to your letter of November 13, 1998 in which you request a legal opinion concerning the right of [company] to appeal assessments of the above-referenced property for the years 1991-92, 1992-93 and 1993-94. I have reviewed the documents enclosed with your letter, including the correspondence between [], your tax agent in this matter, and the Offices of the [] Assessor and the Clerk of the Assessment Appeals Board, and I have spoken with Mr. [] by telephone.

As set forth below, we are unable to agree with your conclusion that [company], by assuming liability for payment of the delinquent taxes in 1997, thereby became an "affected party" or an "assessee" with standing to appeal the assessments made prior to the foreclosure. Secondly, a valid application for changed assessment must be filed within the prescribed time limitation period, which was not the case for the years 1991, 1992, and 1993. Finally, the assessor was not required pursuant to section 619 to provide notice of the annual assessments for the years in question. A notice of unpaid taxes may not be considered as the equivalent of such a notice for purposes of commencement of the 60-day application filing period of section 1603 when such a notice is not required.

Background

Based on the information presented, I summarize the facts as follows:

The subject property was purchased by a third party in January of 1990 for \$825,000, which consisted of a \$500,000 down payment and a deed of trust and note for \$325,000 held by [company]. [Company] foreclosed on its note and acquired the property in June of 1994. The assessor's office made a change in ownership determination as of July 27, 1994, although the supplemental assessment was not made until 1997. At the time of the foreclosure, there were delinquent property taxes owing, and in May 1997 [company] entered into a five year plan to pay the delinquent property taxes.

In July of 1997, [company] timely filed an application appealing the supplemental assessment for the 1994 transfer and also filed applications appealing the regular assessments for the years 1991, 1992, 1993, 1994, 1995 and 1996. On July 28, 1998, the supplemental assessment

application was heard by the appeals board which reduced the value to \$375,000. As a result of that reduction, the applications for 1995 and 1996 have been withdrawn, as has, apparently, the application for 1994. The applications for 1991, 1992 and 1993, the subject of this discussion, were denied by the appeals board because it determined that they were not timely filed.

You contest the appeals board's denial of the subject applications because you contend that [company] became an "affected party" when it took title to the property and assumed the liability for payment of the delinquent taxes incurred prior to foreclosure. In your view, [company] should have an opportunity to challenge the past assessments upon which the delinquent taxes are based. You contend that the assessor was required by section 619 of the Revenue and Taxation Code to notify [company] of the assessments made in those prior years due to [company's] status as the current assessee. You assert that [company] was first notified of those assessments by the notice of unpaid taxes which, you believe, must have occurred within 60 days of the date on which [company] began making payments, May 27, 1997. You conclude that [company] was entitled to file applications on the notice of unpaid taxes and, by filing on July 3, 1997, [company] timely filed within 60 days of that notice date in compliance with the requirements of sections 1603 and 1605.

Law and Analysis

Status as an Affected Party or Assessee

Section 1603 provides in subdivision (a) that only a "party affected or his or her agent" is eligible to file an application for changed assessment within the time limitations prescribed in subdivisions (b) and (c). [Company] did not become an "affected party" as a consequence of agreeing to pay the delinquent taxes for 1991, 1992 and 1993. [Company] did not become an "affected party" until the mortgage was foreclosed, with standing to appeal the assessments for those years. However, even if [company] held a direct economic interest in the payment of the taxes on the property for the years 1991, 1992 and 1993, [company] was required to file timely applications in each of those years. An application not timely filed is invalid and an appeals board has no jurisdiction to hear it.

Although you contend that [company] should be considered the assessee for the years prior to the foreclosure, [company] was not the assessee in those years but rather, it assumed responsibility for the payment of the delinquent taxes merely to avoid a tax sale of the property. In 1991, 1992 and 1993 the assessee of the property was the prior owner because the property was assessed to it and not to [company], the holder of the trust deed and note.

Timely Filing Requirement – Notice of Annual Assessment

For purposes relevant to this discussion, section 1603, subdivision (b)(1) provides that

The application shall be filed within the time period from July 2 to September 15, inclusive. An application that is mailed and postmarked September 15 or earlier within that period shall be deemed to have been

filed within the time period beginning July 2 and continuing through and including September 15.

An application was not filed within the above prescribed time limitation period for the years 1991, 1992 and 1993.

While subdivision (b)(3) creates an exception to the limitation period of subdivision (b)(1), that subdivision is not applicable to your situation because the assessor was not required to provide a notice under section 619 under the facts of this matter.

In relevant part, section 619 requires the assessor to inform each assessee of real property on the local secured roll of any increase in full value. However, subdivision (f) provides that "[t]his section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations."

From the facts presented, it appears that the only increases in the annual assessed value of the property for the years 1991, 1992, and 1993 were base year value adjustments described in subdivision (f). Accordingly, the assessor was not required to send notice of value increases. For that reason, the 60 day filing period of section 1603, subdivision (b)(3) is not applicable, and applications must have been filed within the period prescribed by subdivision (b)(1). Because applications were not timely filed, the appeals board has no authority to hear the applications [company] recently filed for the years 1991, 1992 and 1993. It follows that any "Notice of Unpaid Taxes" may not be considered to be a substitute for a "Notice of Annual Increase" which was not required.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

Louis Ambrose
Tax Counsel

May 31, 2001

Subject: Amending An Application For Changed Assessment - Rule 305(e)

Dear Mr. []:

This is in reply to your letter of April 9, 2001 in which you request a legal opinion concerning the effect and interpretation of the application amendment provisions of Property Tax Rule 305 in view of the Statement of Decision and Findings of Fact ("findings and decision") made by the [] County assessment appeals board in the recent appeal of your client, [company]. Specifically, the appeals board held it did not have authority under applicable regulatory provisions and controlling case law to grant your request to amend an application from an appeal of a decline in value for the 1999 lien date to an appeal of the base year value as of that lien date. However, you contend that the amendments to Property Tax Rule 305, which added subsection (e)(2)(c), were intended to allow an applicant to amend an application under such circumstances. For the reasons set forth below, it is our view that the assessment appeals board incorrectly interpreted and applied the current amendment provisions of Rule 305 and, thus, the board had authority to consider and to allow your request for amendment.

Facts Presented

A change in ownership of the subject property occurred on August 28, 1998, but the supplemental assessment was not appealed. An application was timely filed on September 15, 1999, stating as the basis of the claim for relief that under section 51(a)(2) the adjusted base year value on lien date 1999 exceeded the fair market value. On August 17, 2000, the applicant's agent notified the appeals board in writing that the applicant intended to amend the application to change the basis for relief from a decline in value to a reduction in the base year value established for lien date 1999 under section 80. At the noticed hearing held on August 24, 2000, the applicant's agent submitted an amended application to which the assessor did not enter any objection. The appeals board did not make a determination as to the validity of the amendment.

Shortly after the applicant commenced presentation of its case, the assessor requested a continuance in order to permit a review of new evidence in support of the amendment produced by the applicant at the hearing. The assessor also proposed that the parties pursue settlement based on the new evidence. The appeals board ordered the case continued to November 27, 2000 and heard the entire matter, including the issue of the validity of the amendment. In its Statement of Decision and Findings of Fact dated February 12, 2001, the appeals board held that the amendment was prohibited by Property Tax Rule 305, subsection (e), as a request for relief additional to or different in nature than the relief originally requested by the application.

Law and Analysis

Revenue and Taxation Code section 1603, subdivision (a) provides in relevant part that

A reduction in an assessment on the local roll shall not be made unless the party affected or his or her agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for the application shall be prescribed by the State Board of Equalization.

Property Tax Rule 305 interprets and implements section 1603 by setting forth detailed application filing procedures and content requirements. Subsection (e) of rule 305 governs the procedures for amendments and corrections of applications and provides, in relevant part, that an application may be amended after the final filing date to request relief additional to or different in nature from that originally requested, as follows:

(e)(2)(C)(i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

(ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request.

(iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.

(iv) If a request to amend is granted, and upon the request of the assessor, the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.

The foregoing provision was added to Rule 305, effective June 25, 2000, to grant a local appeals board the discretion to allow an applicant's request to amend an application to seek any relief that could have been sought when the application was originally filed. Under former subsection (e) an applicant was denied any opportunity to amend an application "after 5:00 p.m. on the last day upon which the application might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested." By promulgating this provision, the Board liberalized former subsection (e) under its statutory authority to interpret the Revenue and Taxation Code sections governing assessment appeal application procedures.

As acknowledged by the appeals board, your request for amendment on August 17, 2000 was governed by the revised language of subsection (e) which was effective June 24, 2000.²⁴ However, the appeals board interprets new subsection (e) as not allowing the type of amendment requested. In this regard, the board's findings and decision states on page 7 that subsection (e)(2)(C) does not permit an amendment that requests a reduction based on an appeal of a different assessment as, in this case, from a decline in value assessment to a base year value assessment. As stated by the appeals board, subsection (e)(2)(C)

Only permits an amendment to state additional facts claimed to require a reduction. Applicant is not simply asking to state additional facts in the amended application. Applicant is clearly asking for new relief not requested in the original application, namely a change in base year value pursuant to section 80 as opposed to a decline in value pursuant to section 51, subd. (a)(2), that is the subject of the application.

Contrary to the appeals board's understanding, the *additional facts* referred to in the language of subsection (e)(2)(C) is intended to include new relief not requested in the original applications such as a change in the basis of the appeal from decline in value relief to a base year value reduction. The phrase "additional facts" within the meaning of subsection (e)(2)(C) refers to the type of relief requested by the applicant as indicated in section 6 of the application form. Section 6 requests that the applicant state "the facts" relied upon to support the requested change in value. The applicant states the "facts", i.e. relief requested, by checking one or more of the boxes in section 6, which includes boxes for decline in value and change in ownership – incorrect base year value. Thus, subsection (e)(2)(C) expressly authorizes an appeals board to allow the type of amendment at issue here.

Second, the addition of subsection (e)(2)(C) was proposed by staff to the Board Property Tax Committee in Formal Issue Paper 99-065 (~~copy attached~~) which the Board adopted based upon that recommendation. In that document, the Description of Staff Recommendation sets forth the reasons for the addition of the subsection and makes clear that the language was added so that,

Under this authority, the local board may accept amendments to consider any request for relief that could have been made part of the original Application for the property and the assessment year that is the subject of the Application.

In this case, the request for base year value reduction could have been made part of the original application for the property and the assessment year that is the subject of the application. The statutory authority for appeals of base year values is set forth in section 80, which provides in relevant part that

An application for reduction in the base-year value of an assessment on the current local roll may be filed during the regular filing period . . . for the year in which the assessment is placed on the assessment roll or in any of the three succeeding years.

²⁴ The finding and decisions states on page 6 that "the board is applying amended Property Tax Rule 305, effective June 25, 2000 to all of the applications that are the subject of this hearing."

The base year value assessment for which you seek a reduction was placed on the assessment roll on lien date 1999, the lien date following the 1998 change in ownership in accordance with section 50.²⁵ The regular filing period for lien date 1999 during which the base year value appeal could have been filed, was from July 2 to September 15, 1999, inclusive.²⁶ The subject application was filed on September 15, 1999, which was during the regular filing period for lien date 1999. Thus, the request for base year value reduction could have been made part of the original application for the property and the assessment year that is the subject of the application.

Finally, the appeals board erroneously relies on prior court cases which interpret former subsection (e), as guidance for the application of current subsection (e)(2)(C). In the findings and decision, the appeals board finds on page 6 that the appellate court cases construing former Rule 305, subsection (e) "are equally applicable to said amended Property Tax Rule 305." Based on the holdings of those cases²⁷, the appeals board concludes that new subsection (e) permits amendments only so long as the amendment does not request relief additional to or different in nature from that originally requested. However, contrary to the appeals board's finding, the addition of subsection (e)(2)(C) was intended to authorize an appeals board to allow amendments which would have been prohibited under former subsection (e). In this regard, Board Issue Paper Number 99-065 expressly states

For example, this change would now permit the amendments that were not permitted in the *Helene Curtis* case, viz. Requesting a change in assessment of the real property at the location where the original Application challenged only the personal property and fixtures.

Thus, the provisions of new subsection (e)(2)(C) reverse case law relied upon by the appeals board to the extent that those cases prohibit amendments requesting relief additional to or different from the relief originally requested.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

Louis Ambrose
Tax Counsel

²⁵ Revenue and Taxation Code section 50 provides in relevant part that: "For purposes of base year values as determined by Section 110.1, values determined for property which is purchased or changes ownership after the 1975 lien date shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership."

²⁶ Revenue and Taxation Code section 1603, subdivision (b)(1) and Property Tax Rule 305, subsection (d).

²⁷ *Helene Curtis, Inc. v. Assessment Appeals Bd.* (1999) 76 Cal.App.4th 124; *County of Sacramento v. Assessment Appeals Bd. No. 2* (1973) 32 Cal.App.3d 654; *Midstate Theatres, Inc. v. Board of Supervisors* (1975) 46 Cal.App.3d 204.

July 7, 2010

TO CLERKS OF THE BOARD:

ASSESSMENT APPEALS BOARD MEMBER TRAINING

Revenue and Taxation Code section 1624.02 requires that every person newly appointed to an assessment appeals board must complete a course of training designed to provide an overview of the assessment appeals process. This training requirement does not encompass the counties where the boards of supervisors sit as the local boards of equalization. The newly appointed member must complete the training prior to the commencement of his or her term on the board, or as soon as reasonably possible within one year thereafter.

In 2005, the State Board of Equalization's (Board) staff developed a web-based self-study training session to meet the requirements of section 1624.02. Recently, there have been concerns expressed that the 2005 training session is not comprehensive enough to test the abilities of newly appointed appeals board members. Consequently, a new *Appeals Process Self-Study Training Session* has been developed and posted to the Board's website at:

<http://www.boe.ca.gov/proptaxes/pttraining.htm>

All materials necessary to complete the training session are posted on the above website. Newly appointed appeals board members will be required to take this training session. Members who completed the 2005 session are not mandated to take this new training session, but are encouraged to do so as a refresher. In addition, while the training is not required for boards of supervisors who sit as members of county boards of equalization, they too are encouraged to complete the training.

The training session instructions advise the member to send his or her completed review questions and certification document to Ms. Sherrie Kinkle at the Board. Ms. Kinkle will be responsible for:

- Providing feedback to the member on any questions that may have been missed;
- Providing the member with a *Certificate of Completion* (assuming that at least 80 percent of the questions were correctly answered); and
- Advising the appropriate clerk of the board that the member has completed the required training.

Section 1624.01, subdivision (b), further provides:

A member of an assessment appeals board who does not complete the training required by this section in the time permitted shall complete that training within 60

days of the date of the notice by the clerk advising the member that his or her failure to complete the training constitutes resignation by operation of law. If the member fails to comply within 60 days of the notice by the clerk, the member shall be deemed to have resigned his or her position on the board.

Accordingly, it is the responsibility of the clerk of the board to ensure that all appeals board members have completed the required training. A file should be maintained in the clerk's office containing appropriate training information for each board member.

If you have any questions regarding the appeals board member training requirements, you may contact Ms. Kinkle at 916-322-2921 or at sherrie.kinkle@boe.ca.gov.

Sincerely,

Dean R. Kinnee, Chief
County-Assessed Properties Division

DRK:sk

August 6, 2013

TO COUNTY ASSESSORS,
CLERKS OF COUNTY BOARDS, AND
COUNTY LEGAL ADVISORS:

EFFECTIVE ADMINISTRATIVE PRACTICES –
ASSESSMENT APPEALS PROCESS

In the administration of the property tax in California, achieving equity in the equalization process requires two elements. First, the taxpayer and the appeals board²⁸ should have as much relevant information as possible about the value of the property and about the assessment placed on that property by the assessor. Second, all parties must receive adequate, impartial treatment during the appeals process.

²⁸ In this document, the term *appeals board* refers to both a county board of supervisors sitting as a county board of equalization, and to an appointed county assessment appeals board.

The function of an appeals board is to determine the full value of property or to determine other matters of property tax assessment over which the appeals board has jurisdiction. In discharging its duties, an appeals board "is exercising judicial functions, and its decision as to the value of the property and the fairness of the assessment so far as amount is concerned constitutes an independent and conclusive judgment of the tribunal created by law for the determination of that question which abrogates and takes the place of the judgment of the assessor upon that question."²⁹ An appeals board's decision is final and may not be reheard by the board even if requested by the assessor or taxpayer, with the exception of a court-remand of an *Application for Changed Assessment*³⁰ (*Application*) back to the board for further action.

It is essential, in order for the assessment appeals process to be fair and efficient for all parties, that the duties of the appeals board members, the clerk of the board, the county assessor, and the county legal advisor be performed by the proper offices. The following provides clarification of duties to be conducted by these offices for:

- Scheduling assessment appeals hearing dates
- Processing stipulation documents
- Processing application withdrawal documents

Scheduling Hearing Dates

The duty of scheduling appeals hearings is strictly a function of staff of the clerk of the board's office. Scheduling is not a function of either the assessor's office or the office of the county legal advisor. Revenue and Taxation Code³¹ section 1605.6 mandates:

After the filing of an application for reduction of an assessment, the clerk of the county board of equalization shall set the matter for hearing and notify the applicant, or his or her designated representative, of the time and date of the hearing....

Further, Property Tax Rule 307, *Notice of Hearing*, provides:

(a) After the filing of an application for reduction of an assessment, the clerk shall set the matter for hearing and notify the applicant or the applicant's agent in writing by personal delivery or by depositing the notice in the United States mail directed to the address given in the application. If requested by the assessor or the applicant, the clerk of the board may electronically transmit the notice to the requesting party....

While it is the responsibility of the clerk's staff to schedule hearings, coordination with the assessor's staff is essential because they can usually facilitate scheduling by categorizing and grouping applications by those that involve relatively straightforward assessments requiring little preparation time as compared to those that are more complicated and require more preparation time. In addition, staffing and workload levels within the assessor's office will also impact preparation times and may be a scheduling consideration. However, the ultimate schedule for

²⁹ *Los Angeles Gas and Electric Co. v. County of Los Angeles* (1912) 162 Cal. 164, 169.

³⁰ Form BOE-305-AH.

³¹ All statutory references are to the Revenue and Taxation Code unless otherwise specified.

hearings must be accomplished by the clerk's staff. Although it may be administratively infeasible to coordinate with all applicants prior to scheduling hearings, the clerk should try to coordinate with applicants when scheduling the more complex appeals.

In an effort to reduce the number of applicant "no-shows" at hearings, some counties have adopted an administrative practice to send a notice to confirm attendance prior to the hearing date. A sample of such notice, BOE-305-CN, *Hearing Date Confirmation Notice*, is included as an enclosure to this letter, and it is available in a pdf fillable format on the State Board of Equalization (BOE) website at:

www.boe.ca.gov/proptaxes/pdf/boe305cn.pdf

Those counties that would like to use the confirmation notice should discuss the option with their county legal adviser and have a local rule in place to cover the process if it is initiated.

Stipulation Documents

Once a valid *Application* is filed with a clerk of the board, that *Application* is under the jurisdiction of the appeals board until there is a resolution of the issue that is the subject of the *Application*. One common resolution is that the assessor and taxpayer have resolved the disputed issue. Section 1607 provides:

Before the county board makes any reduction, it shall examine, on oath, the person affected or the agent making the application touching the value of the property. A reduction shall not be made unless the person or agent attends and answers all questions pertinent to the inquiry; provided, however, in the event there is filed with the county board a written stipulation, signed by the assessor and county legal officer on behalf of the county and the person affected or the agent making the application, as to the full value and assessed value of the property which stipulation sets forth the facts upon which the reduction in value is premised, the county board may, at a hearing, (a) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with Section 1610.8, or (b) reject the stipulation and set or reset the application for reduction for hearing.

Creation of a stipulation agreement is completed by county staff—either assessors' staffs or county legal advisors' staffs. In some counties, all stipulation agreements are created by the county legal advisor's staff. In other counties, only the most complex stipulation agreements are created by the county legal advisor's staff and the remainder are created by the assessor's staff. Either procedure is acceptable as long as all of the provisions of section 1607 are adhered to:

- The stipulation agreement contains the appropriate facts to validate a change in the assessed value of the subject property;
- The stipulation agreement is signed by the applicant (or applicant's agent), the assessor, and the county legal advisor; and

- The stipulation agreement is filed with the clerk of the board for acceptance or rejection by the appeals board, and final disposition of the *Application*. The stipulation may be filed with the clerk by either the taxpayer or assessor's staff.

An example of a stipulation agreement, form BOE-305-S, *Stipulation Agreement*, is included as an enclosure to this letter, and it is available in a pdf fillable format on the BOE's website at:

www.boe.ca.gov/proptaxes/pdf/boe305s.pdf

Withdrawal Documents

Generally, an applicant can withdraw an *Application* at any time prior to a hearing. In some counties, however, if the assessor has indicated that evidence to support a higher value will be introduced at the hearing, the applicant will not be allowed to withdraw their *Application* without the concurrence of the assessor. Counties that use this process must have a local rule allowing such a procedure and implementing the provisions of Property Tax Rule 313, subdivision (f), which provides that the assessor must send the applicant a *raise letter* at least 10 days before the scheduled hearing.

If a proposed agreement and correction have been made pursuant to section 4831, counties are encouraged to develop a local rule by which applicants may withdraw their *Application* on the condition that the assessor enrolls the agreed-upon value. By this means, if the taxpayer receives a subsequent notice from the county reflecting a value different than the value the taxpayer believes was agreed upon, the taxpayer may still pursue the appeal.

The withdrawal document should be created by the applicant (or applicant's agent) and submitted to the clerk of the board for processing. While there is no statutory prohibition, it is not generally appropriate for withdrawal documents to be created by or processed by an assessor's staff. A validly filed *Application* is under jurisdiction of the appeals board, and it is the duty of the appeals board to accept or reject withdrawal documents from an applicant. If withdrawal documents are created/processed by assessors' staff, it has the appearance of impropriety and may even appear to coerce taxpayers out of continuing with their appeal process.

A sample withdrawal document, form BOE-305-WD, *Assessment Appeal Withdrawal*, is included as an enclosure to this letter, and it is available in a pdf fillable format on the BOE's website at:

www.boe.ca.gov/proptaxes/pdf/boe305wd.pdf

The enclosed forms are offered as a guide to counties in establishing good administrative procedures for the assessment appeals process. We encourage counties to ensure that good procedures are in place that will preclude improprieties and that will ensure that all parties to an appeals process are afforded an opportunity to participate in an impartial hearing. Further, we encourage counties to post their assessment appeals procedures, rules, and forms on their websites to help facilitate the process.

If you have questions regarding the assessment appeals process, you may contact Ms. Sherrie Kinkle at skinkle@boe.ca.gov or at 1-916-274-3363.

Sincerely,

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosures