

On page 3 of the draft LTA, please incorporate the following technical changes:

The Legal Department considered whether the express terms of section 451 require county assessors to keep confidential *Usage Reports*. The Legal Department believes that the express terms of section 451 only apply to information requested by an assessor from a taxpayer or furnished in a property statement, and do not apply to *Usage Reports* because the reports are (1) required by section 480.6, (2) they are not requested by county assessors, and (3) they are not property statements.

The general provisions of section 408, subdivision (a), were reviewed, which provide in part:

...any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims, are not public documents and shall not be open to public inspections.

The Legal Department concluded that the provisions in section 408 ~~does that require assessors keep specific documents confidential do~~ not apply to Usage Reports because county assessors are required to keep *Usage Reports*.<sup>8</sup> That is, *Usage Reports* are (1) required to be filed with county assessors, (2) they provide county assessors with important information regarding the assessment of taxable possessory interests, and (3) county assessors have a general duty to keep *Usage Reports* as part of their records regarding the assessment of these properties.

On page 4 of the draft LTA, please incorporate the following technical changes:

With regard to these discussions, the Legal Department has concluded that there is no statute authorizing county assessors to refuse disclosure of a *Usage Report* or the information required to be reported therein by section 480.6, subdivisions (a)(1) through (6), if provided in a substitute format other than form BOE-502-P. Therefore, if the public entity uses another format to report the required information, the county assessor may accept the filing as in compliance with the provisions of section 480.6, provided that the public entity has reported all of the information required by that section. However, whether the public entity reports on the *Usage Report* or in another format, (e.g., printout, letter, copy of leases, electronically), the information should be considered public information by

the county assessor regardless of whether the assessor requests the information or how it is kept.

Furthermore, public entities have the statutory option to file PCORs and COSs to report taxable possessory interest information that is exempt from disclosure pursuant to a CPRA request in order to preserve the confidential nature of the information.<sup>9</sup> However, it would be improper for a public entity to report information on a PCOR or COS that it would otherwise be required to disclose pursuant to a CPRA request if it was done solely for the purpose of limiting the public's access to public information. Therefore, county assessors should encourage state and local governmental entities to report their taxable possessory interests on *Usage Reports* or in another format that complies with the provisions of section 480.6. Where governmental and local entities submit taxable possessory interests information to county assessors on PCORs and COSs, the county assessor should notify the public entity that such information should be filed on a *Usage Report* (or in another appropriate format) unless these public entities can establish that the information is exempt from disclosure pursuant to an express statutory provision. However, an assessor may not assert an exception to the CPRA on behalf of another public agency.