



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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Executive Director

No. 2013/039

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 board¹ 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.

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."² 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*³ (*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

¹ 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.

² *Los Angeles Gas and Electric Co. v. County of Los Angeles* (1912) 162 Cal. 164, 169.

³ Form BOE-305-AH.

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 Code⁴ 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, those that are more complicated and require more preparation time, and those that will require an audit of the taxpayer's records prior to the hearing. 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 hearings must be accomplished by the clerk's staff.

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:

⁴ All statutory references are to the Revenue and Taxation Code unless otherwise specified.

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.

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. An appeals board is not required to accept a request to withdraw an *Application*.

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,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosures

HEARING DATE CONFIRMATION NOTICE

This confirmation notice must be returned not less than 21 days prior to the indicated hearing date. Mail or fax to the Clerk of the Board at the address shown.

| | |
|--------------------------------|-----------------------|
| HEARING DATE AND TIME* | APPLICATION NUMBER(S) |
| HEARING LOCATION | |
| PARCEL OR ASSESSMENT NUMBER(S) | APPLICANT |

* SEVERAL APPLICATIONS MAY BE SET FOR HEARING AT THE SAME TIME, AND EACH WILL BE CONSIDERED AS SOON AS POSSIBLE IN THE ORDER LISTED ON THE AGENDA.

Check one of the boxes below.

I will be present on the scheduled hearing date.

Please bring _____ copies of any evidence you wish to present to the Assessment Appeals Board.

I request my right to a one-time postponement of my hearing to another hearing date. To schedule your hearing for a future date, please contact the Clerk of the Board at (_____) _____ - _____.

I understand that if this is not my first postponement request, I must appear at the scheduled hearing to request another postponement and give reasonable cause to the appeals board. It is the sole discretion of the board to grant or deny this request. If denied, I must be prepared to proceed with the hearing as scheduled.

If you are requesting a postponement and the date of the currently scheduled hearing is within 120 days of the expiration of the two-year limitations period set by Revenue and Taxation Code section 1604(c), the Clerk will provide you with a waiver (form BOE-305-W) to indefinitely extend and toll the period in which your appeal is to be heard and decided.

I wish to withdraw my application. Withdrawals are final and will conclude any further action on the appeal. (Your attendance at the hearing is not required.)

I understand that my withdrawal may only be granted if the assessor has not provided me with a written notice of an intention to recommend an increase in the assessed value of the property. Additionally, the county Board can decide to review an assessment even though the Assessor and applicant may have agreed to withdraw the appeal.

I have signed a stipulation with the assessor's office. (Your attendance at the hearing is not required.)

In order to ensure proper scheduling of assessment appeals hearings, you must complete and return this form not less than 21 days prior to the date of your hearing. Failure to return this confirmation notice may result in your case being removed from the agenda on the scheduled date. Failure to appear at the scheduled hearing by you or an authorized representative may result in your application being abandoned and denied for lack of appearance unless you have requested a postponement.

CERTIFICATION

I certify under penalty of perjury that I am the owner, or person authorized to sign on behalf of the owner, of the above referenced property.

| | |
|---------------------------------|---------------|
| SIGNATURE | DATE |
| PRINT NAME OF AUTHORIZED SIGNER | TITLE |
| COMPANY NAME | EMAIL ADDRESS |

FILING STATUS

OWNER
 AGENT
 ATTORNEY
 SPOUSE
 REGISTERED DOMESTIC PARTNER
 CHILD
 PARENT
 PERSON AFFECTED

CALIFORNIA ATTORNEY, STATE BAR NUMBER: _____
 CORPORATE OFFICER OR DESIGNATED EMPLOYEE

STIPULATION AGREEMENT

To be completed by the Assessor and filed with the Clerk of the Board at the address shown.

BEFORE THE COUNTY BOARD

COUNTY OF _____, STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF:

| | |
|-------------------|--------------------------|
| NAME OF APPLICANT | APPLICATION NUMBER(S) |
| NAME OF APPLICANT | PARCEL OR FILE NUMBER(S) |

STIPULATION TO VALUE

For the *Application for Changed Assessment* referenced above, the applicant and the Assessor stipulate the following:

1. This stipulation agreement is made pursuant to Revenue and Taxation Code section 1607 and becomes effective only upon acceptance by the County Board.
2. The corrected assessed value of the property described in the application and enrolled upon the assessment roll for the year indicated shall be as hereafter set forth. The Assessor has reviewed the values and is now of the opinion that the full taxable value of the property, as of the lien date or event date (for change in ownership or new construction), should have been the values listed below as "Corrected Assessed Value."

| ASSESSMENT YEAR 20 ____ - 20 ____ <input type="checkbox"/> REGULAR <input type="checkbox"/> SUPPLEMENTAL | ASSESSOR'S ROLL VALUE | APPLICANT'S OPINION OF VALUE | CORRECTED ASSESSED VALUE | DIFFERENCE (ROLL VALUE MINUS CORRECTED ASSESSED VALUE) |
|--|--------------------------|---------------------------------|-----------------------------|---|
| LAND | | | | |
| IMPROVEMENTS/ STRUCTURES | | | | |
| CROPS/TREES AND VINES | | | | |
| MANUFACTURED HOME - PERSONAL PROPERTY | | | | |
| FIXTURES | | | | |
| PERSONAL PROPERTY | | | | |
| TOTALS | | | | |
| PENALTY | | | | |

3. The facts upon which the change in assessed value is based are as follows:

The undersigned respectfully requests that the County Board accept the stipulation, waive the appearance of the applicant, and change the assessed value in accordance with Revenue and Taxation Code section 1610.8 and the California Constitution, Article XIII, section 16.

The applicant understands that in the event this stipulation agreement is not approved by the County Board prior to the time that taxes, or any portion thereof, become due, payment shall be made in accordance with the appropriate provisions of the Revenue and Taxation Code.

Further, applicant understands that the County Board may reject this stipulation agreement, and set or reset this application for hearing, pursuant to Revenue and Taxation Code section 1607.

I hereby stipulate to the values for the subject property, as stated in the "Corrected Assessed Value" section of this agreement. If the corrected value(s) is approved by the County Board, the stipulation agreement also constitutes a withdrawal of the Application for Changed Assessment.

| | |
|---------------------------|---------------|
| SIGNATURE ▶ | DATE EXECUTED |
| NAME OF AUTHORIZED SIGNER | TITLE |

FILING STATUS

OWNER
 AGENT
 ATTORNEY
 SPOUSE
 REGISTERED DOMESTIC PARTNER
 CHILD
 PARENT
 PERSON AFFECTED
 CALIFORNIA ATTORNEY, STATE BAR NUMBER: _____
 CORPORATE OFFICER OR DESIGNATED EMPLOYEE

| | |
|-----------------------------------|-------------------------------|
| SIGNATURE OF COUNTY ASSESSOR ▶ | PRINT NAME OF COUNTY ASSESSOR |
| SIGNATURE OF COUNTY COUNSEL ▶ | PRINT NAME OF COUNTY COUNSEL |

FOR COUNTY BOARD USE ONLY

- The stipulation agreement is approved and appearance is waived. The full value of the property in question is changed in accordance with Revenue and Taxation Code section 1607.
- The stipulation agreement is rejected, and the *Application for Changed Assessment* is set for hearing on: _____ DATE

ATTEST BY COUNTY BOARD:

DATED: _____

BY: _____
CHAIRPERSON

CLERK OF THE BOARD

ASSESSMENT APPEAL WITHDRAWAL

Mail or fax the completed form to the Clerk of the Board at the address shown.

APPLICANT AND PROPERTY INFORMATION

| | | | | | |
|--|-------|----------|-----------------------------|-------------------------------|-----------------------------------|
| NAME OF APPLICANT | | | | | HEARING DATE <i>if applicable</i> |
| MAILING ADDRESS OF APPLICANT (STREET ADDRESS OR P. O. BOX) | | | | EMAIL ADDRESS | |
| CITY | STATE | ZIP CODE | DAYTIME TELEPHONE () | ALTERNATE TELEPHONE () | FAX TELEPHONE () |

I no longer wish to pursue an assessment appeal on the property, or properties, indicated below and hereby request that the *Application for Changed Assessment* be withdrawn.

| | |
|--------------------|------------------------------------|
| APPLICATION NUMBER | PARCEL, ACCOUNT OR TAX BILL NUMBER |
| APPLICATION NUMBER | PARCEL, ACCOUNT OR TAX BILL NUMBER |
| APPLICATION NUMBER | PARCEL, ACCOUNT OR TAX BILL NUMBER |

ADDITIONAL AFFECTED APPLICATIONS ARE LISTED ON ATTACHMENT. NUMBER OF PAGES ATTACHED: _____

An *Application for Changed Assessment* may be withdrawn at any time prior to or at the time of the hearing upon submission of this request, unless the Assessor has given the applicant a written notice of an intention to recommend an increase in the assessed value of the property. Additionally, the county Board can decide to review an assessment even though the Assessor and applicant may have agreed to withdraw the appeal.

Withdrawals are final and will conclude any further action on the appeal. No conditional withdrawals will be accepted.

CERTIFICATION

I certify that I am authorized to transact all business relating to the above filing, including this withdrawal of the Application for Changed Assessment.

| | |
|---------------------------------|---------------|
| SIGNATURE ▶ | DATE |
| PRINT NAME OF AUTHORIZED SIGNER | TITLE |
| COMPANY NAME | EMAIL ADDRESS |

FILING STATUS

OWNER
 AGENT
 ATTORNEY
 SPOUSE
 REGISTERED DOMESTIC PARTNER
 CHILD
 PARENT
 PERSON AFFECTED

CALIFORNIA ATTORNEY, STATE BAR NUMBER: _____
 CORPORATE OFFICER OR DESIGNATED EMPLOYEE

- The withdrawal request is accepted and will conclude any further action on the appeal.
- The withdrawal request is denied. The Assessor has delivered a notice of increase. Your appeal will be set for hearing, in which you will be notified of the date no less than 45 days prior to the hearing date.
- The withdrawal request is denied by the appeals board. In accordance with section 1610.8, the appeals board has the authority to proceed with an assessment review to determine the full value of the property or other issues.

ATTEST BY COUNTY BOARD:

DATED: _____

BY: _____
CHAIRPERSON

CLERK OF THE BOARD