

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

APRIL 25, 2007

CHIEF COUNSEL MATTERS

J RULEMAKING

J1 REQUEST TO PUBLISH CHAPTER 3

PROPERTY TAXES OF THE BOARD OF EQUALIZATION

RULES FOR TAX APPEALS

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Reported by: Juli Price Jackson

No. CSR 5214

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P R E S E N T

For the Board
of Equalization:

Betty Yee
Chair

Judy Chu
Vice-Chair

Bill Leonard
Member

Michelle Steel
Member

Marcy Jo Mandel
Appearing for John
Chiang, State Controller
(per Government Code
Section 7.9)

Gary Evans
Acting Chief, Board
Proceedings Division

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1 450 N STREET
2 SACRAMENTO, CALIFORNIA
3 APRIL 25, 2007

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5 MR. EVANS: Next item is Chief Counsel matters,
6 item J, rulemaking, J1, request to publish Chapter 3,
7 Property Taxes of the Board of Equalization Rules for
8 Tax Appeals.

9 Mr. Lambert will make the presentation.

10 MS. YEE: Good morning, Mr. Lambert.

11 MR. LAMBERT: Madam Chairwoman, Members of the
12 Board, the staff is here this morning requesting the
13 following three things with respect to the Rules for Tax
14 Appeals:

15 One, direction from the Board as to who can
16 request Appeals conferences for State assessees;

17 And, two, direction from the Board as to
18 whether this should be a specific recommendation or pros
19 and cons or any variation on the above; .

20 And, three approval to publish Chapter 3. As
21 you know, the other four chapters have been approved for
22 publication but not yet been published.

23 MS. YEE: Okay. Very well, questions or
24 comments by Members?

25 MS. MANDEL: No.

26 MS. YEE: Okay, is there a motion?

27 MS. MANDEL: On the -- I'll try again on the
28 Appeals conference, I move alternative 3, which is at

1 the taxpayer's request to have an Appeals conference.

2 MS. YEE: Okay, we have a motion by Ms. Mandel
3 to -- on the first issue related to the Appeals
4 conferences, to move alternative 3.

5 Is there a second?

6 Okay, hearing none, that motion fails.

7 MS. CHU: I'd like to make a motion to have
8 alternative 1 as the procedure for holding Appeals
9 conferences.

10 MS. YEE: Okay, we have a motion by Ms. Chu for
11 Alternative 1, which I believe is the staff
12 recommendation.

13 Is there a second?

14 MR. LEONARD: Second.

15 MS. YEE: Second by Mr. Leonard.

16 Please call the roll.

17 MR. EVANS: Madam Chairwoman?

18 MS. YEE: Not voting.

19 MR. EVANS: Mr. Leonard?

20 MR. LEONARD: Aye.

21 MR. EVANS: Ms. Steel?

22 MS. STEEL: Aye.

23 MR. EVANS: Ms. Chu?

24 MS. CHU: Aye.

25 MR. EVANS: Ms. Mandel?

26 MS. MANDEL: No.

27 MS. YEE: Okay, That motion carries.

28 MS. MANDEL: On the question of the hearing

1 summary, I would move the staff recommendation, which
2 is -- which is -- includes the Appeals Division analysis
3 and --

4 MR. LAMBERT: Alternative 1.

5 MS. MANDEL: -- right, Alternative 1.

6 MS. YEE: Okay. On issue 2, regarding the
7 hearing summaries, we have a motion by Ms. Mandel for
8 Alternative 1, which is the staff recommendation.

9 Is there a second?

10 MS. MANDEL: I can't give you the reason why
11 without --

12 MS. YEE: Okay.

13 Hearing none, that motion fails.

14 MS. CHU: Well, I --

15 MS. YEE: Ms. Chu?

16 MS. CHU: -- if I may put forth the motion?

17 It is the same reasoning I had before, which is
18 I just would like to here what people's expertise brings
19 them to conclude.

20 I would like to just hear what -- what the
21 staff's thinking is.

22 I would, therefore, make a motion for
23 Alternative 2.

24 MS. YEE: Okay. We have the motion by Ms. Chu
25 for Alternative 2, relating to the second issue on
26 hearing summaries.

27 Is there a second?

28 MR. LEONARD: Second.

1 MS. YEE: Second by Mr. Leonard.

2 MS. MANDEL: Is there discussion?

3 MS. YEE: Yes.

4 MS. MANDEL: Let me just say, since I couldn't
5 say on the last one, except for the local assessment
6 cases that come before us, which would be the
7 Section 11, government owned property outside their
8 jurisdictions, the -- there may be a few little other
9 things, but that's the big one -- and the State
10 assessment, what we're really talking about is State
11 assessment cases are really the big ones.

12 That is the only tax assessment thing that this
13 Board does where, when we are reviewing it, we are
14 reviewing what the five Members, including the
15 Controller, who is actually here for that because it's a
16 constitutional function, this is the core constitutional
17 function of the Board, that the Board, on petition of
18 the taxpayer, is reviewing its own actual decision, its
19 own actual work, as opposed to, you know, the sales and
20 use tax audits, which is the one area where we do have
21 the D & Rs.

22 The income tax area we have hearing summaries
23 that are in the same format as what the staff
24 recommendation is for this.

25 I have confidence in our Department, Mr. Siu's
26 division, to work with taxpayers to resolve things to
27 the best that they can be resolved. Every Member also,
28 I'm sure, has confidence in their own staff to give them

1 appropriate advice in these cases.

2 But in large part because it is the core
3 constitutional function of the Board, rather than what I
4 used to say was -- what were those lovely words I used?
5 Lovely, I am being sarcastic on myself, but delegating
6 to staff, the Board -- in a sense, the Board's decision.
7 Maybe that comes up and you have these alternatives of
8 how the phrasing would go in these documents if your
9 motion succeeded, but that sort of view of the Board's
10 role -- and, perhaps, because I can read between the
11 lines a little bit in the staff analysis -- that was
12 kind of why we were with the staff recommendation on
13 this.

14 Overall, if that's the way you go, it may make
15 a difference on how it's presented in the document
16 itself.

17 This time they've got -- I don't remember these
18 alternatives, like you have 2-A and 2-B, I don't
19 remember that from last time.

20 MS. RUWART: 2-B represents Mr. Leonard's
21 request to talk about pros and cons. And what we
22 developed was a mechanism whereby the staff -- where it
23 would be appropriate to discuss an issue in that level
24 of detail, would discuss the merits of each party's
25 position on a particular issue, but not be required to
26 do so for every single issue.

27 MR. LAMBERT: Or to express that, if necessary.

28 MS. MANDEL: Or to express a conclusion?

1 MS. RUWART: Recommendation on every single
2 issue -- or even on that issue, but just to express the
3 specific merits.

4 MS. MANDEL: Perhaps I should have asked the
5 question before when I said I didn't really have a
6 question.

7 Because that -- that sounds more like the type
8 of analysis without -- that sounds to me a little like
9 analysis. I mean, you're not reaching a conclusion, you
10 are doing an analysis, which is what staff
11 recommendation is is an analysis.

12 MR. LAMBERT: I think it was offered as maybe a
13 halfway point between maybe asking questions and making
14 a black and white recommendation.

15 MS. MANDEL: Which one of these is your --
16 what's your motion?

17 MS. YEE: Alternative 2.

18 MS. CHU: It was Alternative 2, but, you're
19 right, there is 2-A and 2-B.

20 I guess I really was intending 2-A.

21 MS. MANDEL: Okay.

22 MS. CHU: So, the 2-A would be a straight out
23 recommendation that would be put in by the Appeals
24 Division.

25 MS. YEE: Other questions or comments, Members?

26 We have a motion by Ms. Chu; seconded by
27 Mr. Leonard to adopt Alternative 2-A, this relates to
28 the hearing summaries.

1 Please call the roll.

2 MR. EVANS: Madam Chairwoman?

3 MS. YEE: Not voting.

4 MR. EVANS: Mr. Leonard?

5 MR. LEONARD: Aye.

6 MR. EVANS: Ms. Steel?

7 MS. STEEL: Aye.

8 MR. EVANS: Ms. Chu?

9 MS. CHU: Aye.

10 MR. EVANS: Ms. Mandel?

11 MS. MANDEL: No.

12 MS. YEE: That motion carries.

13 And then I believe we need a motion on
14 authorization to publish.

15 Is there a motion?

16 MS. CHU: So moved.

17 MR. LEONARD: Second.

18 MS. YEE: Moved by Ms. Chu, second by
19 Mr. Leonard, please call the roll.

20 MR. EVANS: Madam Chairwoman?

21 MS. YEE: No -- not voting.

22 MR. EVANS: Mr. Leonard?

23 MR. LEONARD: Aye.

24 MR. EVANS: Ms. Steel?

25 MS. STEEL: Aye.

26 MR. EVANS: Ms. Chu?

27 MS. CHU: Aye.

28 MR. EVANS: Ms. Mandel?

1 MS. MANDEL: No.

2 MS. YEE: Okay, that motion carries.

3 Thank you very much.

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REPORTER'S CERTIFICATE

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State of California)
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County of Sacramento)

I, JULI PRICE JACKSON Hearing Reporter for the California State Board of Equalization certify that on APRIL 25, 2007 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 10, constitute a complete and accurate transcription of the shorthand writing.

Dated: May 10, 2007

JULI PRICE JACKSON
Hearing Reporter