

INTERESTED PARTIES MEETING

REPORTER'S TRANSCRIPT

WEDNESDAY, NOVEMBER 16, 2005

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**CERTIFIED
COPY**

IN RE

RULES FOR CALIFORNIA TAX ADMINISTRATION

AND APPELLATE REVIEW

PART 3, ADMINISTRATIVE REVIEW OF PROPERTY TAXES

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Reported By: Mark M. Maxey, CSR No. 3903



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3610 American River Drive, Suite 114 ■ Sacramento, CA 95864-5922
(916) 485-4949 ■ Toll Free (888) 600-NCCR ■ Fax (916) 485-1735

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1 BE IT REMEMBERED, that on Wednesday, November 16, 2005,
2 commencing at the hour of 9:30 a.m., at 450 N Street,
3 Sacramento, California, before me, MARK M. MAXEY, a
4 Certified Shorthand Reporter in and for the county of
5 Sacramento, state of California, the following
6 proceedings were had:

7 ---o0o---

8 MS. PELLEGRINI: My name is Deborah Pellegrini,
9 and I am the Chief of Board Proceedings. And we are here
10 this morning to gather your input on BOE's rules for
11 California Tax Administration and Appellate Review, Part
12 3, the Administrative Review of Property Tax.

13 Please note that we have a court reporter or
14 hearing reporter in the room; his name is Mark. And one
15 of the things that we are going to do is to take the
16 sign-in sheet after everyone has signed in, pass it back
17 around the room, make sure your name is legible for the
18 transcript.

19 Some of you signed in, and if you did so, if you
20 could please print your name next to it. Also, Mark has
21 requested for those of you outside of BOE, if you
22 wouldn't mind handing your business card to Mark; that
23 way he can make sure that he gets who you represent for
24 this official record.

25 We are going to begin by going around the room

1 and having everybody introduce themselves. And after
2 that I'll kind of go through what the procedures are for
3 the meeting, and then Carole will begin with an
4 introduction for the meeting.

5 MR. KAMP: I would also -- Steven Kamp -- we
6 have some people phoning in. Is the phone connection
7 working?

8 MS. PELLEGRINI: The phone is working.

9 MR. KAMP: Okay.

10 MS. PELLEGRINI: Is anyone on the phone?

11 MS. RUWART: It's hard to know what time it
12 actually is. Oh, it's 9:35.

13 MS. PELLEGRINI: Oh, let me get Diane to redo
14 that. It was not in.

15 MR. EVANS: Good catch, Steve.

16 (A discussion was held off the record.)

17 MS. PELLEGRINI: So we will begin with our
18 introductions, and I'll start here with Gary.

19 MR. EVANS: Gary Evans, Board Proceedings
20 Division.

21 MR. THOMPSON: Ken Thompson, Valuation Division.

22 MS. THOMPSON: Lisa Thompson, Assessment, Policy
23 and Standards Division.

24 MR. TANG: Benjamin Tang, Timber Tax Section.

25 MR. LEBEAU: Michael Lebeau, Board's Legal

1 Department.

2 MR. CARI: Mitchell Cari, Timber Tax.

3 MS. SNOWDEN: Anna Snowden, Timber Tax.

4 MR. SUTTER: Mark Sutter, Taxpayers' Rights.

5 MR. GAFFNEY: Peter Gaffney, County Property Tax

6 Division.

7 MR. FONG: Arnold Fong, County Property Tax

8 Division.

9 MR. KAMP: Steve Kamp, First District Board
10 member Betty Yee's office.

11 MR. RUBIN: Bob Rubin; I'm with McDonough
12 Holland & Allen, and I'm here as a representative of the
13 State Bar Tax Section.

14 MR. KOCH: Al Koch, MBIA.

15 MR. DOERR: Dave Doerr with Cal Tax.

16 MR. HELMKE: Martin Helmke, Senate Revenue Tax.

17 MS. WAGGENER: Michele Waggener,
18 PricewaterhouseCoopers.

19 MR. HUDSON: Tom Hudson; Bill Leonard's office.

20 MS. RUWART: Carole Ruwart, Board's Legal
21 Department.

22 MR. HELLER: Bradley Heller, Board's Legal
23 Department.

24 MR. LEWOCZKO: Wayne Lewoczko, ExxonMobil.

25 MR. MICHAELS: Peter Michaels, Cooper, White &

1 Cooper.

2 MS. PELLEGRINI: Okay. There were three
3 handouts in the front for you. Particularly, we have the
4 matrix, and we also have some comments by Cooper, White &
5 Cooper.

6 Okay, and with that, I'll turn it over to
7 Carole.

8 (Mr. Siu enters the meeting room.)

9 MS. RUWART: We just finished introductions of
10 staff; would you please introduce yourself.

11 MR. SIU: Yeah, I'm Stan Siu, and I'm from the
12 Valuation Division.

13 MS. RUWART: Thank you.

14 MR. KAMP: Is the phone working now?

15 MS. PELLEGRINI: No, they're coming down to put
16 it together.

17 MR. KAMP: Okay. Well, I'm just a little
18 concerned that we're letting the people who are expecting
19 to call in and participate, they are not going to have
20 the chance to do that. I understand we have a lot on the
21 agenda today.

22 MS. RUWART: What is the time frame on that?

23 MS. PELLEGRINI: I will go find out.

24 MS. RUWART: We will just take a few moments.

25 MS. PELLEGRINI: We'll take a brief break.

1 (A brief recess was taken.)

2 MS. RUWART: Hello everybody, I will -- I'll be
3 Debbie Pellegrini for the moment.

4 Welcome again to the meeting to discuss the
5 property tax rules proposed. We now have several people
6 on the line. In the interests of completely introducing
7 everybody and the fact that several other people also
8 walked in the room in the interim, I thought we should
9 just go around again expeditiously and introduce
10 ourselves, starting with the people on the phone.

11 MS. REESE: Okay, Tonya Reese from Board member
12 Betty Yee's office.

13 MS. CROCETTE: Sabina Crocette from Betty Yee's
14 office.

15 MR. HERD: Jim Herd from the same office.

16 MR. SHAH: Neil Shah from Mr. Parrish's office.

17 MS. RUWART: Is there anybody else on the line
18 today?

19 Thank you. I'm Carole Ruwart; I'm with the
20 Board's Legal Department.

21 MR. MICHAELS: Peter Michaels with Cooper, White
22 & Cooper law firm in San Francisco.

23 MR. LEWOCZKO: Wayne Lewoczko, ExxonMobil.

24 MS. MANDEL: Marcy Jo Mandel, State Controller's
25 office.

1 MR. HELLER: Bradley Heller, Board of
2 Equalization's Legal Department.

3 MR. HUDSON: Tom Hudson, Bill Leonard's office.

4 MR. SCHUTZ: Chris Schutz, Chairman John
5 Chiang's office.

6 MR. EVANS: Gary Evans, Board Proceedings.

7 MR. THOMPSON: Ken Thompson, Valuation Division.

8 MS. THOMPSON: Lisa Thompson, Assessment, Policy
9 and Standards.

10 MR. TANG: Benjamin Tang, Board's Timber Tax
11 Section.

12 MR. LEBEAU: Michael Lebeau, Board's Legal
13 Department.

14 MR. CARI: Mitchell Cari, Timber Tax.

15 MS. SNOWDEN: Anna Snowden, Timber Tax.

16 MR. SUTTER: Mark Sutter, Taxpayer Rights.

17 MR. GAFFNEY: Peter Gaffney, County Property
18 Tax.

19 MR. FONG: Arnold Fong, County Property Tax.

20 MR. GAU: David Gau, Property and Special Taxes.

21 MS. OLSON: Diane Olson, Board Proceedings
22 Division.

23 MR. SIU: Stan Siu, Valuation Division.

24 MR. KAMP: Steve Kamp for First District Board
25 member Betty Yee's office.

1 MR. FOSTER: Ian Foster, BOE Legal Department.

2 MR. RUBIN: Bob Rubin, McDonough Holland &
3 Allen, representing the State Bar Tax Section.

4 MR. KOCH: Al Koch, MBIA.

5 MR. JACKSON: Don Jackson, Valuation Division.

6 MR. DOERR: Dave Doerr, Cal Tax.

7 MR. HELMKE: Martin Helmke, Senate Revenue Tax.

8 MS. STANISLAUS: Selvi Stanislaus, BOE Legal.

9 MS. WAGGENER: Michele Waggener,
10 PricewaterhouseCoopers.

11 MS. RUWART: Thank you very much.

12 MS. PELLEGRINI: If I can just say again, Diane
13 Olson has the sign-up sheet -- correct, Diane? She is
14 going around, and please make sure your name is legible
15 for the court reporter. Thank you, Carole.

16 MS. RUWART: You're welcome. Welcome again to
17 discussion of the Property Tax Proposed Rules of
18 Practice. This is Article 3 of a proposed five-article
19 section that has been numbered such for convenience. I
20 wanted to first give a little history of some of these
21 rules, and then also to focus our discussion with some
22 points.

23 As many of you in this room know, in 2004 and
24 2005, there were substantial revisions to what were then
25 the preexisting Rules of Practice. In 2004 what is now

1 existing Board of Equalization Regulation 5041, which is
2 in our Rules of Practice, was revised and reorganized
3 with the input of interested parties. This revision was
4 essentially a codification of existing practice, but
5 provided more detail and a more logical format regarding
6 the state assessee petition and appeals process.

7 Also in 2004, the Board's Legal Department
8 prepared an internal document entitled "State-Assessed
9 Unitary Property Appeals Procedure," which provides
10 guidance to staff as to the handling of the appeals.

11 In 2004, the Rules of Practice were also revised
12 regarding the welfare exemption claim review process.
13 The pertinent rules were revised to become consistent
14 with significant statutory changes that streamlined the
15 welfare exemption claim process.

16 In 2005, the Board directed the Appeals Division
17 of the Board's Legal Department to provide a prehearing
18 review of all property tax appeals. This review process
19 was implemented for the 2005 state assessee petition
20 season by creating a new section of the Appeals Division.

21 The proposed rules before you, again, Part 3 of
22 -- or Article 3 of a five-part proposed rule set
23 generally reflect the staff's codification of existing
24 practices. Major differences from previously adopted
25 regulations include: Different time lines and procedures

1 to reflect Appeals Division review; reorganization of the
2 existing regulations to be chronological and to be
3 consistent with the format of other proposed rules;
4 improving the usefulness of the Rules of Practice
5 generally, including references to statutory requirements
6 and internal procedures; and, inclusion of procedures for
7 appeals that would be brought under the Board's Property
8 Tax Sampling Program.

9 As you may or may not be aware, the Board has
10 been undergoing a comprehensive review of all of its
11 Rules of Practice. We've set up a several-meeting
12 format. There was an introductory meeting in September
13 which gave an overview of the entire process. There was
14 a meeting in October that focused on the Business Taxes
15 hearing procedure. This meeting will focus on Property
16 Tax hearing procedures. In December, there will be a
17 final meeting that will focus on Franchise and Income Tax
18 hearing procedures and Part 5, which is our general Board
19 hearing procedures. This is consistent with the current
20 format where we have specialized sections, but then we
21 have a generalized section which deals with all types of
22 appeals.

23 At that December meeting we will also discuss
24 two major substantive issues, one is regarding
25 communications with Board members, and the other is

1 regarding disclosure of taxpayer information in
2 connection with the appeals process. I do know that in
3 this Property Tax section, there are some references to
4 the disclosure provisions, and we will be deferring the
5 comprehensive discussion of those until the December
6 meeting so that all disclosure issues can be discussed at
7 the same time.

8 MR. KOCH: Carole -- Al Koch -- is that December
9 16? 14th, okay.

10 MS. RUWART: It is the day after the December
11 Board hearing.

12 MS. STANISLAUS: So that's the 16th.

13 MULTIPLE VOICES: It's the 14th.

14 MR. KOCH: Yeah.

15 MS. RUWART: All information regarding past and
16 future meetings is on the Board of Equalization's Web
17 site; we have a special section dedicated to this
18 revision of the Rules of Practice.

19 It is the intention of the Board to solicit all
20 comments from interested parties, which includes internal
21 staff comments, but through the December meeting, and to
22 present a package for rule-making adoption to the Board
23 at its January 30th, 31st meeting in 2006 to be able to
24 commence the rule-making process and hopefully send a
25 rule-making package over to the Office of Administrative

1 Law in a timely manner and have the rules in place by
2 summer of 2006.

3 In terms of this particular meeting, we're going
4 to run it in a similar format to our prior meeting.
5 Because we only have one interested parties meeting
6 specially devoted to this topic, it's important that we
7 be comprehensive and thorough, and so we will be going
8 section by section chronologically through each and every
9 section.

10 In order to expedite the time frame of this, one
11 thing I note is that we understand that many people have
12 grammatical and small changes, nonsubstantive changes.
13 Those changes are best conveyed in writing; it would be
14 better not to belabor them in the interests of time. If
15 you put them in writing, then we will be able to
16 accommodate them and correct them in a timely manner.

17 The one particular -- many of you have different
18 issues, and we will discuss them in their proper time. I
19 did want to point out that with respect to the Appeals
20 Division review, one potential idea has emerged from the
21 Board member and staff side is that you will notice in
22 the state assessee petitions, currently there is no
23 provision for a formal, live appeals conference.

24 The Appeals Division currently is set up to
25 review the matters on the groups only. And when we get

1 to the proper sections, which is 3150, 3151, we wanted to
2 put forth the idea that perhaps there would be an
3 opportunity at the petitioner's request to have a live
4 appeals conference with both the petitioner and the
5 Valuation Division. Of course, that has time frame
6 issues for implementation, but I wanted to make sure we
7 discussed that when we got to that proper section.

8 That's all I have in terms of introductory
9 material. I think we should also note that we have one
10 public comment received so far. Mr. Peter Michaels of
11 Cooper, White & Cooper has provided both a cover letter,
12 and he has used the Board-supplied form to mark up at
13 least one section of these rules that we're going to
14 discuss today.

15 I want to just say I really appreciate his use
16 of the Board-supplied form. It is this kind of form that
17 really helps us keep track of all the suggestions and
18 changes, and that I encourage everybody -- I want to
19 assure everybody that verbal comments will be
20 accommodated today, but if you think of anything else and
21 want to either verbally or by e-mail or in writing convey
22 them to us, please do. You can e-mail them to Brad
23 Heller or you can e-mail them to me or anyone on the
24 team, and we'll roll them into all the suggested changes.

25 With that said, if anybody doesn't have any

1 procedural questions, let's begin.

2 MS. PELLEGRINI: We will begin. Again, I would
3 like to remind you that many of you are used to our
4 hearing reporters Julie and Bev who know you and,
5 therefore, we do kind of keep talking. It's going to be
6 important to say -- as you start out -- and say Debbie
7 Pellegrini; once I say Debbie Pellegrini a few times, he
8 will certainly know, Debbie is fine. Selvi Stanislaus,
9 once she says it a couple of times, she can just say
10 Selvi, and Mark will be able to get it. Because, again,
11 he doesn't know any of us here today.

12 How we proceed, again, it was very slow, I would
13 call it very painstaking. But it's our way of getting
14 all the comments. We're going to start on page 1 with
15 Article 1: Petitions for Reassessment of State-Assessed
16 Property and Private Railroad Cars. Does anyone have any
17 comments on 3100, Applications of Article?

18 Not seeing any, we move to 3110, and
19 Definitions. Anyone have any comments on definitions?

20 MR. MICHAELS: Above and beyond the ones -- this
21 is Peter Michaels. And there is some ambiguity.
22 Occasionally, the word "staff" is used without a
23 modifier, and it's hard to know which staff is being
24 referred to. It is also -- and I've noted that further
25 along. So probably there's not much value at this moment

1 in speaking at length about the ambiguity in the uses of
2 the word "staff," but as we proceed, I think we will
3 perhaps focus sharply on how we could clarify those
4 references and make them consistent.

5 MS. RUWART: That's fine.

6 MS. MANDEL: I have one.

7 MS. PELLEGRINI: Yes.

8 MS. MANDEL: Marcy Jo Mandel. There's two
9 places, it's in this rule and then again in 3120. You
10 have, "... by May 31st of each year" as the Board's
11 individual value determinations. And I believe that the
12 statute is June 1. By -- you know, it's before June 1.
13 And when you say by May 31st, that's often ambiguous; do
14 you mean May 31st counts, or does it have to be before
15 May 31st?

16 MS. RUWART: Okay.

17 MS. MANDEL: And we ought to reflect the
18 statutory provisions, because actually sometimes in the
19 past we've had value adoptions on May 31st, and the Board
20 notices have, in fact, been sometimes even dated June
21 1st. So --

22 MS. RUWART: So done.

23 MS. MANDEL: Thank you. It's in 3110 and again
24 I see the same thing in 3120.

25 MS. RUWART: Very good.

1 MS. PELLEGRINI: Any other comments on page 1?

2 With that, we will move to page 2 to --

3 MR. MICHAELS: On page 1 -- oh, sorry.

4 MR. KAMP: As long as you're commenting on 3110,
5 are you satisfied with what the staff has --

6 MS. PELLEGRINI: Name, please?

7 MR. KAMP: Steve Kamp, I'm sorry. Appraisal
8 data reports have shown plant additions, plant
9 retirements, net operating income, construction work in
10 progress. Is this practice being discontinued?

11 I'm concerned about that, too, by the way.

12 MR. MICHAELS: Well --

13 MS. PELLEGRINI: Name?

14 MR. MICHAELS: Peter Michaels.

15 The definition of an appraisal data report
16 concludes by saying that the appraisal data report sets
17 forth the value recommendation and a summary of the
18 indicators.

19 I'm guessing that the staff will continue to
20 include plant additions, plant retirements and the other
21 things I mentioned in my transmittal letter, but it's not
22 absolutely clear. And a summary of value indicators may
23 or may not include that information, so I just wanted to
24 shine a light on it to ensure that we were clear whether
25 that practice will be changed or will continue.

1 MR. KAMP: Good.

2 MR. MICHAELS: I assume, Stanley, you're just
3 in --

4 MR. SIU: Yeah. I'm Stan Siu of the Valuation
5 Division. We plan to continue to provide those
6 information on the appraisal data reports, but because
7 that, you know, you talk about a lead value and the
8 history, depending on the specific assessee, there may or
9 -- you know, an eval may or may not be applicable for
10 that specific assessee for that lien date.

11 MR. MICHAELS: Sure.

12 MR. SIU: And also if it's a new company, we may
13 not have any history. And I think that's probably the
14 reason why it's not, I mean, you know, included there. I
15 mean, it's just depending on the specific situation. But
16 we intend to provide that information if that is
17 available and applicable.

18 MR. MICHAELS: Yeah. I mean, literally a
19 summary of value indicators could literally be this is
20 the number, that's the number, that's the number, without
21 any meat on the bones. So hopefully --

22 MR. THOMPSON: Actually, we're not codifying --

23 MS. PELLEGRINI: Ken Thompson.

24 MR. THOMPSON: Ken Thompson, Valuation Division.
25 Without codifying it, the appraisal data report is what

1 we give to the Board; that is what is attached to the
2 notice of assessment. And I don't see a need to codify a
3 definition there, but that's what it is. This title, the
4 appraisal data report is attached to the notice of
5 assessment that we send out on the next day and becomes
6 part of that notice of assessment.

7 MR. MICHAELS: For sure. But there's nothing to
8 stop you from changing the appraisal data report at the
9 direction of the Board, for example, so that it just has
10 a bald number on there.

11 MR. THOMPSON: Okay.

12 MS. MANDEL: And that -- Marcy Jo Mandel --
13 that's Peter's concern is that there's never been a
14 definition in a regulation before, right? And if the
15 regulation then says a narrow -- something that could be
16 read narrowly as to what goes on the appraisal data
17 report, again, you know, we are all retired and gone and
18 happy, and somebody says, "Let's just give them the three
19 numbers that are the summary as the appraisal data
20 report."

21 That's why he's making the comment. And if
22 there's not a lead value or the lead value is not
23 applicable because of a change somehow, their lead value
24 sometimes is still listed with an explanation of why it
25 is not applicable, so then you would say, well, it should

1 say "if any." That's his concern I think.

2 MS. RUWART: Okay.

3 MS. MANDEL: Is what happens if someone just
4 looks at this and says, "We are not required to give you
5 anything other than" --

6 MR. MICHAELS: The bald number.

7 MS. MANDEL: -- "what it says." Again, you
8 know, it's the ever neurotic status of attorney in
9 private practice, which I can certainly identify with.

10 MR. MICHAELS: I would say obsessive.

11 MS. MANDEL: Right, obsessive neurotic.

12 MS. RUWART: Great comment, good explanation.
13 We'll take a look at it.

14 MS. PELLEGRINI: We are now on page --

15 MR. MICHAELS: Well, actually, I have one other
16 comment, sorry about this. But you used the conjunctive
17 here in defining a hearing summary. And so the way I
18 read that is that there is a factual -- you know, I'll
19 insert semicolons instead of commas here just for the
20 sake of this observation.

21 Factual background, that's something that stands
22 alone. Contentions set forth by the petitioner and the
23 Valuation Division, that seems to stand alone.

24 Applicable law, that seems to stand alone. And the
25 Appeals Division's analysis, well, is that something that

1 just repeats all the things we just identified, or are
2 all of those individual preceding components part of the
3 Appeals Division analysis and -- you know, is the Appeals
4 Division's analysis the sum and substance, or does this
5 have four parts to it?

6 MS. RUWART: I see the ambiguity, and we'll do a
7 better job of defining exactly what that term means. And
8 I see you have the cross reference 3160(e), and I can see
9 the confusion there, so we will address that.

10 MR. LEWOCZKO: Wayne Lewoczko, ExxonMobil.
11 Wouldn't it be easier just to put in like meanings, 1, a
12 summary of the analysis; 2, the factual background; 3,
13 the applicable law; and 4 -- so if it's set out as each
14 being a separate item?

15 MR. MICHAELS: They may not want that, because
16 then they are going to have to harmonize somebody's
17 factual background with somebody else's appeals analysis,
18 and they are probably never going to be exactly
19 congruent. So they may not want that.

20 MR. LEWOCZKO: What do you want?

21 MR. MICHAELS: If you have one person doing a
22 factual background and identifying the contentions, and
23 another person doing the exact same thing in the Appeals
24 Division write-up, you may not have the --

25 MS. RUWART: Well, which person, aside from the

1 Appeals Division, are you talking about?

2 MR. MICHAELS: Who does --

3 MS. RUWART: The hearing summary is prepared by
4 the Appeals Division.

5 MR. MICHAELS: Okay, so I think you understand
6 the point.

7 MS. RUWART: And maybe -- that is prepared by
8 the Appeals Division, and give a better definition of
9 what a hearing summary is.

10 MR. LEWOCZKO: Yep.

11 MS. PELLEGRINI: Any other comments on page 1?

12 We are now on page 2, 3111, general provisions,
13 and there's an (a) and a (b). Comments?

14 MR. MICHAELS: Well, this is straight out of the
15 statute, so we can't mess with it.

16 MS. RUWART: Yes.

17 MR. MICHAELS: But as an observation at least, I
18 mean, this has always struck me and probably, Marcy, you
19 can relate to this, it says, "... failure of the Board to
20 complete any action by a" specified date "shall not
21 affect the validity of an assessment" Well, if the
22 Board doesn't adopt its value by June 1, that's not true.
23 But we can't change what the Code says.

24 MS. RUWART: That's why it's in it the way it
25 is. I would say if you wanted to change something, that

1 would be more of a legal question, but it probably
2 wouldn't be an appropriate place in this regulation.

3 MR. MICHAELS: I completely agree with that.
4 It's just --

5 MS. RUWART: A comment.

6 MR. MICHAELS: Yeah.

7 MS. RUWART: Okay.

8 MS. PELLEGRINI: We will then move to Section
9 3120, Assessment Factor Hearings, (a).

10 MR. MICHAELS: I feel bad for monopolizing here,
11 but it says capitalization rate study there will be
12 published by May 31. It's actually published in March.

13 MS. MANDEL: Yeah, the May 31 was -- sorry,
14 Marcy Jo Mandel -- was my comment about the issuance of
15 the notice of unitary value, because that's what the May
16 31 refers to.

17 MR. MICHAELS: Right, but it doesn't make sense
18 to say here that the cap rate study is going to be
19 published on May 31 if it has already been published back
20 in March.

21 MS. MANDEL: Well, it doesn't --

22 MS. RUWART: Actually, grammatically, that's not
23 what it says. But if there's any potential confusion,
24 then it should be rewritten. You'll see by the grammar
25 but with the parenthetical, "by May 31" --

1 MS. MANDEL: Oh, no --

2 MS. RUWART: -- only applies to --

3 MS. MANDEL: Peter is right, it suggests that
4 that is made available to state assessees after the
5 notice of unitary values. Because it's after the notice
6 of unitary value comes out, then the cap rate study, the
7 value indicators, all of the appraisal data,
8 calculations, information developed or used, are made
9 available to the state assessee if you submit a written
10 request. And if, in fact, the cap rate study is publicly
11 available long before, it's in the wrong place.

12 MS. RUWART: Inconsistent with our attempt to
13 put things in chronological order. We will rewrite and
14 reorder that section.

15 MS. PELLEGRINI: Any other comments on (a)?
16 Moving to (b).

17 MR. MICHAELS: Two comments. One, I circled or
18 highlighted the words "or other persons" in (b). And I
19 see here, just reading that sentence from the beginning,
20 "At least 30 days prior to the hearing date," meaning the
21 capitalization rate hearing date, the "... state
22 assessees and private railroad car taxpayers or other
23 persons wishing to be listed on the agenda"

24 And my observation is here it refers to "or
25 other persons," presumably assessors, consultants,

1 whoever wants to make public comment. But there's no
2 inclusion of "or other persons" elsewhere down in (1) or
3 (2). And it seemed like it would be in the interest of
4 assessors, for example, who might want to participate in
5 the pre-value setting session, not just the cap rate
6 hearing, to be included.

7 And so I'm just suggesting add "or other
8 persons" or something like that that makes it clear that
9 the public, including assessors or whoever wants to, can
10 speak at any of these pre-value setting, you know, public
11 events.

12 MS. RUWART: Okay.

13 MR. MICHAELS: And then what about my point
14 there that it says in (b), the Board may annually hold a

15 hearing. And then below that it says the state assessee
16 is given an opportunity to make a presentation. So it

17 makes it sound like the Board doesn't have to hold an
18 Assessment Factor Hearing, but it also makes it sound
19 like the state assessee has a right to appear at one.
20 So ...

21 MS. RUWART: I'll review that. I believe that
22 was pulled pretty much from statute, but I need to --
23 there's so many statutory references here, I just -- I
24 will take a look at that, and if there is an ambiguity
25 that -- if that is not correct, then it will be

1 corrected. And if it is correct that the Board is not
2 required to hold a hearing, but if they do hold the
3 hearings, then everybody has a chance, that -- I can see
4 the ambiguity there if the Board is not required to hold
5 the hearings, so I will correct the ambiguities there.

6 MS. PELLEGRINI: Any other comments on page 2?
7 We are now on page 3. Any comments on the first part?
8 That would be the number (2).

9 We then move to 3121, Time for Filing of
10 Petitions. Comments? We can start with any comments on
11 this page.

12 Any comments on that entire section before we
13 move to 3130, Contents of the Petition?

14 MR. MICHAELS: Well, one comment -- Peter
15 Michaels -- I'm not actively involved in representing
16 private railroad cars, but it did concern me that (4) --
17 (e)(4) says, "If a petition is not timely received, the
18 Board may consider the petition to be a claim for
19 refund." If I filed a year afterwards or five years
20 afterwards? Or what does that mean?

21 MS. RUWART: I pulled that -- well, ask the
22 statutory drafter, because that language comes directly
23 from 11339(c), "The Board may consider a petition which
24 is not timely filed to be a claim for refund."

25 MR. MICHAELS: Okay, fair enough.

1 MS. PELLEGRINI: Section 3130, Contents of the
2 Petition.

3 (Sound of phone ringing.)

4 MS. RUWART: Hello, is somebody --

5 MS. PELLEGRINI: Is someone joining us? This is
6 Debbie Pellegrini.

7 MS. CROCETTE: I'm so sorry; this is Sabina
8 Crocette from Betty Yee's office. Sometimes our lines
9 ring, and we have to come in and out.

10 MS. RUWART: No problem.

11 MS. PELLEGRINI: Thank you.

12 MS. RUWART: Welcome back.

13 MS. PELLEGRINI: Okay, so, page 4.

14 MR. MICHAELS: I circled the word "penalty"
15 there just to suggest that reference to penalty abatement
16 petitions be added in (a) since there are references to
17 penalty abatement petitions in (b).

18 MS. RUWART: Yes.

19 MS. PELLEGRINI: Other comments on this page?
20 Other comments on 3130 on page 5?

21 Any comments on 3131, Submission of Petition?

22 MS. MANDEL: Marcy again. The only question I
23 have for you has to do with the number of copies, because
24 now you've got this in a regulation, and I don't know if
25 it's currently in a regulation.

1 Over all the years I remember every year the
2 number of copies we had to submit always seemed to
3 change; one year it was 19 then 17 then whatever. So if
4 you're pretty -- if you ever want to change it, you'll
5 just have to change the regulation. So presumably it's
6 been relatively constant at 10 copies, Debbie?

7 MS. PELLEGRINI: Yes.

8 MS. MANDEL: Okay.

9 MS. RUWART: One thing that -- this is Carole
10 Ruwart -- that we are looking at across all of the
11 sections is allowing and moving toward some version of
12 electronic filing. And so what I anticipate is that is
13 to be worked on through other -- through the other
14 articles, and Property Tax will pick it up when it's
15 finalized and when Property Tax can do so.

16 What we should probably do is put something in
17 here to say, "Or as otherwise directed by the Chief of
18 Board Proceedings," in your notice for hearing, or some
19 similar language that gives a default rule that we know
20 will work. It sounds like, over time, if you get a
21 petition with 10 copies, we can definitely work with
22 that, so nobody will ever go astray if they do that. But
23 then if they get directed to do something else or they
24 want to do something else, that allows flexibility for
25 the future. That would be my take on that.

1 MS. PELLEGRINI: This is Debbie. Because we are
2 moving toward being able to file electronically.

3 MR. HUDSON: Tom Hudson. I just wanted to make
4 one quick point about timeliness, speaking of the
5 electronic filing. In Peter Michaels' notes he says --
6 he makes a comment about it seems vague where it says
7 within a reasonable period of time. If somebody e-mails
8 their petition and they can send their printed copies
9 within a reasonable period of time, shouldn't we say
10 something like, "but no later than" or something like
11 that so there's no --

12 MS. RUWART: Is that a comment for Section 3133
13 further down the page?

14 MR. HUDSON: Yes, I'm sorry, it's further down
15 the page.

16 MS. RUWART: Okay.

17 MR. HUDSON: I was thinking because he said
18 electronic filing, but it just seems like that's
19 something that's pretty vague there that I wouldn't want
20 to see somebody fall outside the rule because they
21 e-mailed it on time but their printed copies were, you
22 know, five weeks later or something. If the cutoff is
23 two weeks, then we should say so.

24 (Mr. Kidwell enters the room.)

25 MS. PELLEGRINI: Hi, I'm Debbie Pellegrini.

1 Because we have the court reporter, would you please
2 identify yourself and whom you represent?

3 MR. KIDWELL: Tom Kidwell, Madera County
4 Assessor, here for the California Assessors Association.

5 MS. PELLEGRINI: Thank you very much.

6 MR. KIDWELL: And my apologies for being late;
7 there were a couple accidents.

8 MS. PELLEGRINI: Okay. The procedure that we
9 are using is, the first few times that we speak, if you
10 will say your name so that the hearing reporter gets to
11 know people. Okay.

12 MS. RUWART: And we are on which section?

13 MS. PELLEGRINI: We are on page 6, Section 3132,
14 Duplicate Petitions.

15 MR. MICHAELS: This is Peter Michaels. I have
16 one comment. The word "amend" caught my notice. It may
17 be intended to mean supplement or perfect or complete,
18 but I've never stumbled across the idea of amending a
19 petition in the past, at least not at the state level,
20 maybe at the local level.

21 I don't think -- and I did a search; I couldn't
22 find the word "amend" anywhere else in the document. So
23 maybe, if what's intended here is supplement, complete,
24 perfect, we could use one of those words that is less
25 inflammatory maybe than amend, which would definitely

1 open a can of worms up.

2 MS. MANDEL: "Amend" is usually used for
3 additional grounds.

4 MR. MICHAELS: Adding to.

5 MS. MANDEL: And in the sales tax area, there is
6 a statute allowing you to amend all the way. I don't
7 know.

8 MR. MICHAELS: I mean, it would certainly be
9 advantageous to taxpayers to be able to amend, but it
10 would be a first at the state level, I think. Wouldn't
11 it, Marcy, be a first? Or somebody, anybody from Legal?

12 MS. RUWART: I cannot comment on that.

13 MS. MANDEL: You might be able to --

14 MS. RUWART: If --

15 MS. MANDEL: I don't know, I mean, I was always
16 so obsessively neurotic about making sure everything was
17 in that first petition. But the one time that we did
18 amend a petition was when they passed the new law, and we
19 amended the petition to make it a claim for refund.

20 MR. MICHAELS: State one or a local one?

21 MS. MANDEL: State one.

22 MR. MICHAELS: Because you can amend local
23 petitions for sure.

24 MS. MANDEL: Yeah. But I don't know what the
25 current would be.

1 MS. RUWART: We will look into that. And I like
2 your idea of maybe having words that are more familiar to
3 this state assessee process, because again, this
4 particularly is a codification of existing practices;
5 there is no change intended here. So we will take a look
6 at that and --

7 MR. MICHAELS: I think the uninitiated would see
8 the word "amend" and go, "Oh, huh, great, I get to amend
9 my appeal, perfect."

10 MS. RUWART: And we are absolutely trying to
11 convey clarity to the unfamiliar.

12 MS. MANDEL: The other question at the local
13 level, I don't know if it still goes on, where there were
14 disputes about who really filed, they would sometimes set
15 them for hearing before the local board as to which one
16 was the valid. And here, all the power to decide which
17 petition was authorized is in the Chief of Board
18 Proceedings. And maybe that's where you want it, but I
19 don't know what taxpayers would --

20 MR. MICHAELS: Well, you know in the local
21 level, you have real parties in interest --

22 MS. MANDEL: Right.

23 MR. MICHAELS: -- and you have owners of record
24 and people who actually pay the tax.

25 MS. MANDEL: It's different.

1 MR. MICHAELS: Here with state assessees, if the
2 state assessee is contacted and says, "Look, that
3 person's authorized to file or not authorized to file,"
4 it would seem that's good enough.

5 MS. MANDEL: Good, okay.

6 MS. PELLEGRINI: We will now move to Section
7 3133, Timeliness of Petition. Tom, did you want to make
8 your comment now?

9 MR. HUDSON: Yes, my comment that I made earlier
10 -- Tom Hudson, Bill Leonard's office -- the comment I
11 made earlier is that I love the idea of moving more
12 towards an e-mail system. And if we can facilitate that
13 and give people more confidence in doing that, we
14 shouldn't be so vague about when, if ever, the printed
15 documents have to arrive; better to have an outside limit
16 so that they know they can e-mail it with confidence and
17 then, you know, if the mail comes 10 days later, that's
18 fine, or whatever period is appropriate.

19 MS. RUWART: Very good.

20 MS. MANDEL: And then if you e-mail, what
21 governs is the actual delivery, not the mail date. So if
22 you e-mail --

23 MS. RUWART: Out of your cheapo account.

24 MS. MANDEL: If you e-mail and then you give it
25 to the post office and they send it to Japan first,

1 you're in trouble.

2 MS. RUWART: Oh, I was thinking about the cheapo
3 e-mails that you push the button and it doesn't actually
4 send it until a day later. I've had that experience.

5 MR. DOERR: If you e-mail something in, why do
6 you need to send it in again?

7 MS. MANDEL: It may be a statutory requirement
8 to have original signatures, I don't know.

9 MS. PELLEGRINI: This is Debbie. It is a
10 signature issue at this time, because we have not set up
11 the whole system like you do for electronic filing to
12 where you get a password and all of that.

13 MR. DOERR: That's not set up?

14 MS. RUWART: Getting there.

15 MS. PELLEGRINI: We're not looking, at least at
16 this point in time, of having that set up. Eventually,
17 that's the ideal, that once you e-mail it, it's here.
18 We're just not set up with that, and we're working toward
19 it.

20 MR. RUBIN: Bob Rubin. Is the term "bona fide
21 courier service" defined somewhere?

22 MS. RUWART: Can I get back to you on that?
23 This is Carole Ruwart. If I can get back to you on that;
24 I want to say yes, but I don't want to say what I don't
25 know. I looked that up; I remember when I was drafting

1 these, I did look that up.

2 MS. MANDEL: There is apparently in Part 5 a
3 definition of "delivery service," but ...

4 MS. RUWART: This term comes from existing --
5 something existing, so ...

6 MR. LEBEAU: Michael Lebeau, Board's Legal
7 Department. "Delivery service" is defined in 5002.

8 MS. MANDEL: Right. But this rule Bob's talking
9 about has the phrase "bona fide courier service," which
10 is a different phrase. So ...

11 MS. RUWART: I think what we're picking up here
12 is that both terms have been used in various places, and
13 this is a perfect opportunity to harmonize all the terms,
14 so we'll look at that.

15 MR. RUBIN: Also, if you're referring in 3133 to
16 a facsimile machine and e-mail, do you want to put a fax
17 number in 3131, and an e-mail address?

18 MS. RUWART: No.

19 MR. LEWOCZKO: Those can change.

20 MS. RUWART: Honestly I don't think so, because
21 it's a regulation.

22 MS. PELLEGRINI: Debbie. I would believe --

23 MS. RUWART: We'll consider it, but I think the
24 answer would be no.

25 MS. PELLEGRINI: I would believe that would go

1 out with the written instructions that would be sent.

2 MR. RUBIN: Well, then, maybe you want to say
3 sent by a facsimile machine to a number that we tell you
4 about or an e-mail address that we give you. Otherwise,
5 you could get into a dispute about somebody e-mailed it
6 to the wrong --

7 MR. MICHAELS: The Norwalk office.

8 MS. RUWART: Oh, how about this, sent -- maybe
9 sent by a facsimile machine isn't the proper -- it's sent
10 to a facsimile machine as directed by Board Proceedings
11 Division, sent to an electronic mail address as directed
12 by Board Proceedings Division.

13 MS. MANDEL: The "as directed by" may not be the
14 right phrase, because that sounds like you only do it if
15 they tell you to.

16 MR. MICHAELS: Per instructions.

17 MS. RUWART: Per instructions of --

18 MS. MANDEL: Something.

19 MS. RUWART: Something.

20 MS. MANDEL: You get the concept figured out.

21 MS. RUWART: Got it.

22 MR. RUBIN: There is a surprising amount of
23 litigation at the federal level about whether something
24 was addressed properly.

25 MS. RUWART: Yes, I do understand that with

1 regular mail, and I can't imagine what it would be like
2 with fax and electronic mail, so we'll try to clean that
3 up.

4 MS. PELLEGRINI: Any other comments on page 6?

5 MR. HUDSON: Tom Hudson again; I have just one
6 question that came up in this discussion. If the only
7 reason they are submitting something in writing at all is
8 because of the signature, do we need 10 signatures --

9 MR. LEWOCZKO: Ten signed copies?

10 MR. HUDSON: Ten signed copies of the whole
11 thing? Because if we don't, I hate to say here we --

12 MS. MANDEL: Ten copies of the appraisal report,
13 all the financials, everything else that would normally
14 be submitted.

15 MR. HUDSON: I'm just thinking that if we want
16 to give Board Proceedings discretion to say don't send
17 all that stuff, then maybe we shouldn't have it appear in
18 the regulation that you have to.

19 MS. PELLEGRINI: We will look at that.

20 MS. RUWART: We will look at that.

21 MS. STANISLAUS: Selvi Stanislaus. Peter, a
22 question for you is, on Timeliness of Petition, why did
23 you delete the word "addressed"?

24 MR. MICHAELS: Because it's unnecessary.

25 MS. MANDEL: It's transmitted to the address.

1 MR. MICHAELS: What does it add? Transmitted to
2 the address.

3 MS. STANISLAUS: Lots of times, you know, when
4 taxpayers send us information, it goes to the wrong
5 address, so we do look at the address to see if it was
6 addressed correctly or not.

7 MR. MICHAELS: But it has address right after
8 that, transmitted to the address.

9 MS. MANDEL: It's redundant.

10 MS. STANISLAUS: Okay.

11 MR. MICHAELS: It's unnecessary.

12 MS. PELLEGRINI: Any other comments on page 6?
13 We are on page 7, 3134, Extensions of Time.

14 MR. LEWOCZKO: Do we -- Wayne Lewoczko -- do we
15 want to clarify reasonableness in paragraph (b), a
16 reasonable extension of time, since we did it earlier in
17 the preceding section?

18 MS. RUWART: No. I don't think so at this time.
19 Unless you have a specific proposal for how to define
20 reasonable.

21 MS. MANDEL: And this is parallel to extensions
22 of time in the other -- the rules applying to other types
23 of taxes administered by the Board, I believe where the
24 Chief of Board Proceedings has the one-time 15 day-er.

25 And then the reasonable extension of time, the

1 reasonable cause, how much time is given, if any, is
2 probably in part going to depend on what your reason is.
3 You know, if your main guy had a heart attack and is laid
4 up in the hospital, the Chief of Board Proceedings might
5 give you more time than if your, you know, computer --

6 MS. RUWART: You miss the mailbox time, and now
7 you mail it tomorrow.

8 MS. MANDEL: Right.

9 MS. PELLEGRINI: Debbie. And the other
10 consideration is always how close are we to the Board
11 meeting --

12 MS. MANDEL: Right.

13 MS. PELLEGRINI: -- or how much time is given.

14 Any other comments on 3134? Then we are on
15 3135, Evaluation of Petition.

16 MR. MICHAELS: Well, Peter Michaels here. I'm
17 not sure evaluation is the right word; I suggested
18 "acceptance," because your job is not to evaluate a
19 petition but either to accept or reject it. If it's
20 complete and timely, you accept it; if it's not complete
21 or timely, you reject it, but you don't evaluate it.
22 Evaluation would go to the merits of it.

23 MS. MANDEL: That's what the Board does.

24 MS. RUWART: I think you make a good point.

25 MS. PELLEGRINI: Any other comments on this

1 section?

2 MR. MICHAELS: I don't know if it bears
3 discussion; I mean, Carole, you've obviously got all
4 these handwritten notes, and, you know, if you want to
5 talk off line, obviously we can do that, but --

6 MS. RUWART: I would have to -- with regard to
7 the phrase I think Mr. Michaels was referring to, his
8 comment where he says in the beginning, the flesh
9 language of 3135, "The Chief of Board Proceedings will
10 review the petition and determine whether the petition is
11 timely, valid, and complete," he raises the question what
12 is not covered by timely and complete, therefore, is
13 "valid" really surplusage, or is it adding anything here.
14 That is something that I would like -- this comes from
15 existing language; it is well -- you know, fairly
16 longstanding, I believe. So I will take a look, and we
17 can discuss off line what that would be.

18 MR. MICHAELS: That's fine.

19 MS. RUWART: It's a fair comment, and we should
20 address it one way or the other.

21 MS. PELLEGRINI: Then we are on Section 3136,
22 Submission of Additional Supporting Documents by
23 Petitioner. Section (a), any comments?

24 Moving to page 8, there's a (b), (c), and (d).

25 MR. MICHAELS: Peter Michaels speaking on 3136

1 (b). On the top of page 8 there you see the comment I
2 made. It's the Board staff and not altogether clear as I
3 mentioned at the very beginning what that means. Is that
4 the Valuation group? Is that the Tax and Fee Programs
5 Division?

6 MS. RUWART: Agreed.

7 MR. MICHAELS: Has counsel for --

8 MS. RUWART: Agreed, that could be detailed, and
9 we will do so.

10 MS. PELLEGRINI: I don't see any other comments;
11 we move to Section 3140, the Dismissal of a Petition.

12 MS. RUWART: Again a comment about whether
13 "invalid" is included in the definition of "incomplete."
14 We'll take a look at that.

15 MS. MANDEL: Yeah, but validity sounds like it
16 goes to the substance of the petition, but one time that
17 the Chief of Board Proceedings probably does determine a
18 particular petition is invalid, which is covered by the
19 other rule, which is when there is a duplicate and one
20 wasn't authorized.

21 MS. RUWART: Correct, yeah.

22 MS. MANDEL: So --

23 MS. RUWART: Or any petition was not authorized.

24 MS. MANDEL: Right.

25 MS. RUWART: It could be perfectly complete and

1 not submitted with the petitioner's consent, so that is
2 the one I was thinking I had perhaps --

3 MR. MICHAELS: Good point.

4 MS. MANDEL: And perhaps the phrasing just is
5 different or something.

6 MS. RUWART: Yeah. In my experience with
7 writings things, if it has -- if there's a longstanding
8 three words like that, there was probably a reason for
9 each word at one time, because it probably didn't say all
10 three words at one time, so somebody came up with
11 something, but ...

12 MR. MICHAELS: The more words, the more
13 mischief, probably.

14 MS. RUWART: That can be, too.

15 MS. PELLEGRINI: We are now on page 8, 3150,
16 that's the Prehearing Review by Appeals Division of the
17 Legal Department.

18 MR. MICHAELS: Again, this is a comment -- Peter
19 Michaels. On the caption it says Prehearing Review by
20 Appeals Division, but (b) actually addresses prehearing
21 review by the Tax and Fee Programs Division, which I
22 think is separate from the Appeals Division.

23 MS. RUWART: Yes, it is. And I see the caption
24 didn't capture all of the specifics of the -- the
25 specific possibilities of types of prehearing review. So

1 we'll harmonize all of those.

2 MS. PELLEGRINI: Any other comments on page 8?
3 Beginning at page 9, it's the completion of 3150. We are
4 again on --

5 MR. MICHAELS: One, actually, Peter Michaels
6 here.

7 MS. RUWART: Yes.

8 MR. MICHAELS: At the top of the page, this a
9 real substantive concern that I have. I don't know that
10 there's a remedy or one that we would fashion here. But
11 this contemplates waiver by the petitioner of
12 petitioner's request for a hearing, and that is
13 predicated on the expectation, which may or may not be
14 realized, that the Board will approve the recommendation.
15 If the Board does not approve the recommendation, and the
16 taxpayer in that expectation has waived the request for a
17 hearing, is that just tough luck?

18 MS. RUWART: I believe that's existing law.

19 MR. MICHAELS: It doesn't seem to be awfully --
20 well, I don't know that it's law; it may be practice.
21 But it still seems like a pretty -- you know, if you're
22 going to give up your hearing with the idea that you have
23 a stipulation with the staff, and the Board doesn't like
24 the stipulation, you've lost your day in court. I mean,
25 you've lost your day before the Board, anyway, and that

1 doesn't seem fair.

2 MS. MANDEL: And not everybody winds up on
3 nonappearance, but maybe that has to do with how close to
4 the Board hearing they come to resolution.

5 MR. MICHAELS: Yeah. I mean, you understand the
6 problem, we'd waive --

7 MS. MANDEL: And then they say appearance
8 waived, and sometimes we hear they are available -- they
9 are here and available for questions. But that's also,
10 you know, not a hearing. But they're there. And you can
11 always show up and speak on anything that's on a
12 nonappearance calendar under sort of just the regular
13 availability to speak on agenda items.

14 MR. MICHAELS: Yeah, for three minutes.

15 MS. MANDEL: Right, that's --

16 MR. MICHAELS: And, you know, we have no choice.
17 The petitioner has no choice and no objection, either, to
18 waiving the hearing. If we have an understanding with
19 the staff, that's fine, we will waive our hearing; that's
20 understood to be one of the conditions of coming to an
21 understanding with the staff. We have no choice, though,
22 but to waive our hearing request. And then if the
23 staff's recommendation is rejected, we really never ever
24 had a chance.

25 MS. RUWART: We'll address that comment, but I

1 believe that is the existing law anyway. I don't think
2 the staff can made the Board do anything.

3 MS. MANDEL: No, the staff can't make the Board
4 do anything. It used to be, you know, a long, long time
5 ago, I remember trying to sort of conditionally waive a
6 hearing, like as long as everything goes hunky-dory. But
7 otherwise -- and then -- but that's not what staff --
8 staff's like -- you got away --

9 MR. MICHAELS: That changed.

10 MS. MANDEL: That changed. And it's been
11 probably unusual for the Board not to -- or make an
12 effort not to. But they're not required to accept any
13 recommendation.

14 MR. MICHAELS: Well, this contemplates
15 rejection.

16 MS. MANDEL: Because it makes the point.

17 MR. MICHAELS: The Board is not required to
18 adopt the recommendation, or I would say "approve" not
19 "enact" --

20 MS. MANDEL: Right.

21 MR. MICHAELS: -- but approve the recommended
22 Board action.

23 MS. MANDEL: That's true, we're not.

24 MS. RUWART: I think that is a statement of
25 existing law.

1 MR. SCHUTZ: This is Chris Schutz. What happens
2 in the last Board hearing if you waive and the Board has
3 now gone against you, are you out of luck? I mean, you
4 can't go over the Board.

5 MS. MANDEL: Right. On the last Board hearing
6 day if something is on nonappearance with this
7 recommendation, the Board -- what the Board is going to
8 do is adopt some motion. And they may adopt the motion
9 that is a different number than is recommended. And
10 that's what happens on nonappearance.

11 MR. SCHUTZ: But that's your last chance --

12 MS. MANDEL: Right.

13 MR. SCHUTZ: -- to appear, so ...

14 MR. KIDWELL: Tom Kidwell. What would seem
15 reasonable to me is if the Board were to adopt anything
16 other than what was recommended, that if you reschedule
17 for a public hearing so that the petitioner would have
18 some means --

19 MS. STANISLAUS: No time.

20 MR. SCHUTZ: Well, there wouldn't be time at the
21 end of the year to --

22 MR. MICHAELS: No time.

23 MS. MANDEL: One speaker at a time for the court
24 reporter, please.

25 The Board is required by law to adopt the values

1 or resolve the petitions by December 31st.

2 MS. PELLEGRINI: This is Debbie. We have had
3 petitioners who have come to the hearing with a revised
4 recommendation, and it came to their time, and they
5 basically said, we accept a revised recommendation. And
6 it goes over to the Department and they say the same, and
7 there is no rebuttal, because they don't want to take
8 that chance.

9 MR. MICHAELS: Well, I think my concern is that
10 the Board would reject a staff recommendation. It's
11 entirely conceivable. And there would be no recourse, no
12 nothing.

13 MS. MANDEL: Well, that's always been the
14 situation.

15 MR. MICHAELS: Yeah, that's true.

16 MS. MANDEL: It's the situation with everything
17 on any Tax and Fee Program on a nonappearance calendar.
18 And taxpayers make a decision to waive, and, you know, I
19 haven't been in those discussions with staff, but
20 hopefully, if staff thinks a number is the right number
21 and the company thinks a number is the right number, that
22 that agreement doesn't evaporate because somebody is
23 nervous about the Board and says let's leave it on a
24 hearing calendar and we'll just go in case it goes
25 haywire.