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.2 Assessment Appeals Board Local Rules

- ## .2.2 Introduction

  A. Article XIII, section 16 of the California Constitution, provides a county board of supervisors with the authority to adopt local rules relating to noticing and other procedures required to facilitate the work of a county?s Assessment Appeals Boards. The Board of Supervisors of the County of Glenn adopted the local rules set forth in this handbook pursuant to this constitutional authority.

  B. State regulations regarding the conduct of assessment appeals board hearings are set forth in Title 18 of the California Code of Regulations (commonly known as the Property Tax Rules). The Board of Supervisors enacted its local rules by adopting Property Tax Rules 301 through 326, modifying each rule where appropriate by noting any differences to the state regulations through footnotes (which will be indicated after each section that it pertains).

  C. In addition to these local rules, parties may wish to refer to Section 02.04.100 of the County of Glenn Ordinance Code. This section of the County Ordinance Code sets forth local law pertinent to the Assessment Appeals Board. The Glenn County Board of Supervisors sits as the Assessment Appeal Board.

- ## .2.4 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:

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

  "Assessor" is the assessor of the county.

?Auditor" is the auditor of the county.

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

"Chair" is the chair of the county board of equalization or assessment appeals board. (Chair? means the chairperson of the Board)

"Clerk" is the clerk of the county board of equalization or assessment appeals board. (Clerk? means the clerk of the Board of Supervisors, who also acts as clerk of the Assessment Appeals Board)

"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.

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

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

"Full value" is either the full cash value or the restricted value.

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

"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. (Government Code section 31000.7 allows the County Counsel to represent both the Board and the Assessor)

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

- ## .2.6 The Board's Function and Jurisdiction

Authority: Section 15606, Government Code
Reference: Sections 531.1, 1603, 1604, 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 sections 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.

- ## .2.8 Application

Authority: Section 15606, Government Code
Reference: Sections 51, 166, 170, 408.1, 469, 619, 1603.5, 1604, 1605, 1636, 5097, and 5097.2, 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;
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; and
e. The applicant's signature and title.

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;

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. FORM AND CONTENTS. The county shall provide, free of charge, forms on which applications are to be made. (Also, application forms authorized prescribed by the State Board of Equalization will be available during the filing period from the Clerk. All applications must be made on forms so provided. The Clerk will not accept for filing any other application. Applications may be downloaded from the County?s website at www.countyofglenn.net)

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 beginning July 2 but no later than September 15. A regular assessment is one placed on the assessment roll for the most recent lien date, prior to the closing of that assessment roll. [Inapplicable language omitted]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.

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. (An application filed under this subdivision must also include ?an affidavit under penalty of perjury that the notice was not timely received.? Rev. & Tax. Code, § 1603, subd. (b))

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 a 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 postmarked date, even if the private business postage meter date is the earlier of the two postmarked 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 the application 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. (1) 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.
(2) 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.
(3) 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.
(4) 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 where 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. (If at the expiration of the five-year retention period, an appeal is pending in the judicial system on any matter decided by the Board, in his or her sole discretion, the Clerk may determine to retain records beyond the five-year retention period otherwise required by law)

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.

- ## .2.10 Exchange of Information

Authority: Section 15606(c), Government Code
Reference: Sections 408, 441, 1606, 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 courier services 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 improvement 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.

- ## .2.12 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.

- ## .2.14 Application for Equalization under Revenue and Taxation Code Section 469

Reference: Section 15606(c), Government Code. Sections 23, 408, 469, 531, 531.8, 533, 534, 1603 and 1605, Revenue
and Taxation Code.

A. GENERAL. In addition to any rights of appeal of escape or supplemental assessments as described in Rule 305(d)(2) of the subchapter, if the result of an audit discloses property subject to an escape assessment for any year covered by the audit, then, pursuant to section 1605 of the Revenue and Taxation Code, an application may be filed for review, equalization, and adjustment of the original assessment of all property of the assessee at the location of the profession, trade, or business for that year, except any property that has previously been equalized for the year in question.

B. DEFINITIONS. For purposes of subsection (a) of this regulation:

"Audit" means any audit of the books and records of a taxpayer engaged in a profession, trade, or business who owns, claims, possesses, or controls locally assessable business tangible personal property and trade fixtures within the county.

"Property subject to an escape assessment" means any individual item of the assessee's property that was underassessed or not assessed at all when the assessor made the original assessment of the assessee's property, and which has not been previously equalized by an appeals board, regardless of whether the assessor actually makes or enrolls an escape assessment. Property is subject to an escape assessment even if the audit discloses an overassessment of another portion of an item of the property, and the amount of the underassessment could be offset completely by the amount of overassessment. If the audit discloses that any property was subject to an escape assessment, the assessor shall include that fact as a finding presented to the taxpayer as required by Rule 191. If no such finding is made by the assessor, the taxpayer may file an application and present evidence to the board of the existence and disclosure of property subject to escape assessment. For purposes of this regulation only, ?material value? means value of no less than 1 percent of the audited value of the taxpayer?s trade fixtures and tangible personal property for the year under audit. If the board determines that property subject to escape assessment was disclosed as a result of an audit, the board shall permit the taxpayer's section 469 appeal.

"Result of an audit" means the final conclusions reached by the assessor during the audit process as described in Rule 191.

"Original assessment" means the assessment and any subsequent roll corrections or roll changes prior to the date of the commencement of the audit for the roll year for which the result of the audit discloses property subject to an escape assessment.

"All property of the assessee" means any property, real or personal, assessed to the assessee, or the assessee's statutory or legal predecessor in interest, at the location of the profession, trade, or business for the year of the audit.

"Location of the profession, trade, or business" means a site, as determined by the board, where the property subject to the escape assessment in located. Site includes all property within the same appraisal unit as the property that is subject to escape assessment. Site also includes other property not within the same appraisal unit as the property that is subject to escape assessment, when the other property and the property that escaped assessment function as part of the same economic unit of profession, trade, or business. A "location of the profession, trade, or business" may include multiple parcels of real property, noncontiguous parcels, parcels with separate addresses, and parcels in separate revenue districts within the county.

"Property that has been previously equalized for the year in question" means that the board has previously made a final determination of full value for that item, category, or class of property that was the subject of an assessment appeals hearing or was the subject of a stipulated agreement approved by the board. An item, category, or class of property, or portion thereof, shall be deemed to have been the subject of a hearing or of a stipulated agreement only to the extent the board's decision or the stipulated agreement specifically identify the value of such item, category, or class, or portion thereof, as having been contested and resolved at hearing or as having been agreed to by the parties in stipulation.

C. NOTICE OF AUDIT RESULTS. Upon completion of an audit of the assessee's books and records, the assessor shall notify the assessee in writing of the results of the audit as defined in subsection (b)(3) of this rule for all property, locations, and years that were the subject of the audit. At the request of the assessee, the assessor shall permit the assessee or his or her designated representative to inspect or copy any information, documents, or records relating to the audit in accordance with the provisions of Revenue and Taxation Code section 408.

D. NOTICE FOR FILING AN APPLICATION. An application shall be filed with the clerk no later than 60 days after the date of mailing by which the assessee is notified that the result of the audit has disclosed property subject to escape assessment. The notice shall be mailed to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor, unless, prior to the mailing of the notice, the assessor is notified in writing by the assessee of a change in address. The notice for purposes of filing an application shall be one of the following, depending upon the conclusion(s) of the audit:

1. Where an escape assessment is enrolled by the assessor, the notice shall be the tax bill based upon the results of the audit and resulting escape assessment(s) for counties of the first class or any county that has adopted a resolution pursuant to Revenue and Taxation Code section 1605, subdivision (c). If the county is not a county of the first class or has not adopted a resolution pursuant to Revenue and Taxation Code section 1605, subdivision (c), the notice of escape assessment pursuant to Revenue and Taxation Code section 534 shall serve as the notice.

2. Where the assessor does not enroll an escape assessment resulting from the audit or when the escape assessment is enrolled but offset pursuant to Revenue and Taxation Code section 533, the assessor's

written notification of the audit results for the property, locations, and each year that were the subject of the audit as described in subsection (c) of this rule shall be the notice. The notice of audit results showing property subject to escape assessment for each year shall indicate that it is the notice of the assessee's right to file an application.

E. EXAMPLES. The following examples are illustrative of the foregoing criteria. Examples 1 and 2 concern "who may file" an application on the assessee's property. Examples 3, 4, and 5 clarify the "location" of the profession, trade, or business.

1. EXAMPLE 1. Taxpayer DRK owns and is assessed for land, a building, and business property. DRK leases the entire business to RCJ. The county assessor conducts an audit of DRK and the result of the audit discloses property subject to an escape assessment. DRK, as the assessee, can file an application for equalization for all property, real and personal, where the property subject to the escape assessment is located. In addition, RCJ may file an application for equalization of DRK's property if RCJ qualifies as a person affected pursuant to rule 302 of this subchapter.

2. EXAMPLE 2: Taxpayer DRK owns and is assessed for land and a building. DRK leases the land and building to RCJ. RCJ operates a business in DRK's building and is assessed for business tangible personal property and trade fixtures. The county assessor conducts an audit of RCJ, and the result of the audit discloses property subject to an escape assessment. RCJ, as the assessee, can file an application for equalization on his personal property and trade fixtures only. RCJ cannot file an application on DRK's land and building as this is not property of the assessee. In addition, since DRK is not a person affected pursuant to rule 302 of the subchapter, he cannot file an application on either his land and building or RCJ's personal property and fixtures.

3. EXAMPLE 3: An assessee conducts a profession, trade, or business on a campus-like setting that is composed of three separate buildings. Each building has its own address and assessor's parcel number and is owned and operated by the same assessee. If an audit discloses any property subject to an escape assessment, then all property of the assessee on the campus is eligible for equalization if the board determines that it functions and is operated as one economic unit of profession, trade, or business.

4. EXAMPLE 4. An assessee operates five grocery stores in a county. Although the stores are owned and operated by one assessee, carry the same type of merchandise, and share in common advertising, each store operates independently. If property subject to an escape assessment is discovered only at one store, the property at that store's location is subject to equalization following an audit. The other four stores are not considered property at the site of the profession, trade, or business where the escape assessment occurred, as they operate independently as separate economic units.

5. EXAMPLE 5: An assessee owns and operates a department store with a parking garage on an adjacent parcel. The parcel that houses the parking garage has no personal property or fixtures located on it. If an audit discloses personal property subject to an escape assessment for the department store, the parking garage would also be eligible for equalization if the board determines that the parcels with the garage and the store are part of the same appraisal unit or economic unit of the profession, trade, or business.

F. JURISDICTION OF THE BOARD. Nothing in this rule shall be interpreted to limit or enlarge a board's jurisdiction under specific statutory provisions or other rules of this subchapter.

- **.2.16 Base Year Value Presumption**

Reference: Sections 80, 81, 110.1, 1603, 1605, Revenue and Taxation Code.

A. The appeals board decision that the full cash value, as defined in section 110 of the Revenue and Taxation Code, is lower than the adjusted base year value (the base year value adjusted to reflect inflation as prescribed by section 110.1, subdivision (f), of the Revenue and Taxation Code) will not establish a new base year value, unless the base year value is the subject of the appeal.

B. Any base year value determined by a local board of equalization, an assessment appeals board, or by a court for any 1975 assessment shall be conclusively presumed to be the base year value for the property assessed.

C. The full cash value determined for property that is purchased, is newly constructed, or changes ownership after the 1975 lien date, shall be conclusively presumed to be the base year value, unless an application for equalization is filed:

1. Within the time period specified in section 1605 of the Revenue and Taxation Code following a determination of new construction or change in ownership;

2. During the regular equalization period provided for in section 1603 of the Revenue and Taxation Code for the year in which the assessment is placed on the assessment roll, or is filed during the regular equalization period in any of the three succeeding years. Any determination of full cash value by a local board of equalization, an assessment appeals board, or by a court of law resulting from such filing shall be conclusively presumed to be the base year value beginning with the lien date of the assessment year in which the appeal is filed; or

3. At any time after the time period specified in (1) or (2) if the applicant claims that an erroneous change in ownership determination occurred.

D. Any base year value determined pursuant to section 51.5 of the Revenue and Taxation Code shall be conclusively presumed to be the base year value unless an application is filed during the regular equalization period in the year in which the error was corrected or during the regular equalization period in any of the three succeeding years. Once an application is filed, the base year value determined pursuant to that application shall be conclusively presumed to be the base year value for that assessment event.

E. An application for equalization made pursuant to sections 1603 or 1605 of the Revenue and Taxation Code, when determined, shall be conclusively presumed to be the base year value for that assessment event.

- ## .2.18 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 unprotested 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 herein below 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.

- ## .2.20 Request for Findings

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. (Under Appendix A of Chapter 5.23 of the Administrative Manual the party must pay a fee for written findings of fact in the amount of a $162 deposit per parcel, plus the balance of costs incurred by the County Counsel in

preparing the findings. The deposit must be paid before the matter is submitted for decision. Any additional amount will be billed by the County and must be paid prior to the transmittal of the findings and conclusions to any party) 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 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, (When findings are requested on an application which involves both value issues (heard by the Board) and change-in-ownership or new construction issues (heard by the hearing officer) findings are not completed until after a final determination is made on all issues.) 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.

- ## .2.22 Conflict of Interest

- ## .2.24 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 sections 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.

- ## .2.26 Application for Equalization by Member, Alternate Member, or Hearing Officer

Reference: Section 1622.6, Revenue and Taxation Code.

A. An application for equalization filed pursuant to sections 1603 or 1605 of the Revenue and Taxation Code by a member or alternate member of an assessment appeals board or an appointed hearing officer 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.

B. A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

C. Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the Revenue and Taxation Code.

D. Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.

- ## .2.28 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, (The County of Glenn has a population of less than 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. (Notwithstanding the foregoing, the Board meets regularly on the first, third and fifth Tuesday of each month. The Board may modify this schedule to accommodate holidays or the nature and duration of scheduled hearings. The Board will continue to sit from time to time until the business of assessment appeals is completed. At its first meeting after each January 1, the Board will adopt a schedule for the calendar year if regular meeting dates need modification for the holidays.) 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.

- ## .2.30 Selection of Board Chair

Reference: Section 1609, Revenue and Taxation Code.

The board shall select one of its members to act as chair and preside over all hearings (At its first regular meeting in January of each year the Board will select a chairperson.) This function may be rotated among board members. The chair shall exercise such control over the hearings as is reasonable and necessary. He or she shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence. (All other decisions of the Board must be made by motion carried by a majority of Board members present and voting. The chairperson may make a motion. In the chairperson?s absence, provided a quorum is present, a chairperson pro tem shall be elected to preside over the meeting and will have all the powers and duties of the chairperson. In addition to all powers and duties expressed or implied by law, the chairperson will: (1) have general direction of the meeting room; (2) preserve order and decorum; prevent demonstrations; (3) assure that attendance of the public at meetings is limited to that number which can be accommodated by the seating facilities regularly maintained therein, and ask standees to leave when room capacity exceeds that number set by the Fire Marshal; (4) recess the meeting if deemed necessary due to disturbance; (5) remove from the meeting room any person who commits: disorderly, contemptuous or insolent behavior toward the Board or any member of the public or staff, tending to interrupt the due and orderly course of the meeting; a breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of the meeting; disobedience of any lawful order of the chairperson which including an order to be seated or to refrain from addressing the Board; or any other unlawful interference with the due and orderly course of the meeting; and (6) prohibit or permit

the distribution of literature, of whatever nature or kind, in the meeting room.)

- ## .2.32 Quorum and Vote Required

Reference: Sections 1601, 1620, 1622.1, 1622.5, 1622.6, Revenue and Taxation Code.

A. No hearing before the board shall be held unless a quorum is present. Except as otherwise provided in regulation 310 of this subchapter, no decision, determination, or order shall be made by the board by less than a majority vote of all the members of the board who have been in attendance; throughout the hearing.

B. If either party so demands, a hearing must be held before the full board or, for assessment appeals boards appointed pursuant to Revenue and Taxation Code section 1622.1, a full three member panel. In the event that only a quorum is present and the applicant demands a hearing before the full board, or full three member panel designated pursuant to Revenue and Taxation Code section 1622.1, the board may request that the applicant extend the two-year period provided in section 1604 of the Revenue and Taxation Code if the demand precludes the matter from being heard and decided before the expiration of the two-year period. If the applicant does not extend the two-year period as requested, the board may deny the applicant's demand for a hearing before a full board or a full three member panel.

C. If a hearing takes place before a board consisting of an even number of members and they are unable to reach a majority decision, the application shall be reheard before the full board. In any case wherein the hearing takes place before less than the full board, the parties may stipulate that the absent member or members may read or otherwise become familiar with the record and participate in the vote on the decision.

- ## .2.34 Hearings Recording

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, subsection (l)(2). (Notwithstanding SBE Rule 312, all Board proceedings will be recorded. Unless all parties and the Clerk agree otherwise, any transcript of a proceeding must be prepared and paid for by the party requesting it, based on a copy of the Clerk?s official recording made by the party. The party must provide a copy of the transcript to the Clerk as soon as it is completed. Any party which believes the transcript contains trade secret materials, or is otherwise exempt from disclosure under the California Public Records Act (Gov. Code, § 6250 et seq.), bears the burden of demonstrating facts sufficient to support the claimed exemption(s). The party will also be required to agree in writing to defend and hold the County harmless if the County denies a public records request on the basis of the party?s asserted exemption(s) and the legal action is initiated against the County.)

B. Any person may purchase a transcript of that portion of a hearing 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. (Notwithstanding SBE Rule 312, the Clerk does not arrange for stenographic reporters. If a party arranges for a reporter, notice must be received by the Clerk at least five days before the hearing. The expense of the reporter must be borne by the party arranging the reporter.)/(Private deliberations of the Board will not be recorded.)

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.

- ## .2.36 Hearing Procedure

Reference: Article XIII A, California Constitution. Sections 110, 167, 1605.4, 1607, 1609, 1609.4, 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. (Any request for reconsideration of a denial for lack of appearance must be filed within sixty (60) days from the date of mailing of the notification of denial.) 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. 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. (After an application for changed assessment has been filed, no Board member will discuss the application with proponents, opponents, or other interested parties, except in the course of and during the public hearing and authorized private deliberations thereon. Case information provided to the Clerk must not be provided to Board members in advance of the scheduled hearing date because of the possibility that such information may change or not be admitted in evidence, with the exception of any motions or pre-hearing briefs filed by either party. No member, however, is prohibited from discussing a pending matter with the Clerk or the County Counsel.) 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 (The Attorney General of California has determined that the Brown Act (Gov. Code, § 54950 et seq.) does not apply to assessment appeals boards

when they hear property tax appeals. 79 Ops.Cal.Atty.Gen. 124 (1996).), 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.

- ## .2.38 Legal Counsel for Applicant and Assessor

Reference: Sections 1620 et seq., 1638, Revenue and Taxation Code.

The applicant and the assessor may be represented by legal counsel, except that when an assessment protest is heard by a hearing officer appointed pursuant to section 1636 of the Revenue and Taxation Code, the assessor may have legal counsel only if the applicant is represented by an attorney.

- ## .2.40 Examination of Applicant by Board

Reference: Sections 1605.5, 1607, 1608, 1620 et seq., Revenue and Taxation Code.

A. Except as hereinafter provided, no reduction of an assessment or change in ownership or new construction determination shall be made unless the board examines, on oath, the applicant or the applicant's agent concerning the value of the property and/or the facts upon which the change in ownership or new construction determination is based, and the applicant or the applicant's agent attends and answers all questions pertinent to the inquiry.

B. In the event there is filed with the board a written stipulation, signed by the assessor and county legal advisor on behalf of the county and by the person affected or the authorized agent making the application, as to the full value and assessed value of the property and/or a determination regarding a change in ownership or new construction, which stipulation sets forth the facts upon which the agreed upon value is premised, the board may, at a public hearing,

1. Accept the stipulation, waive the appearance of the person affected or the agent (Generally the Board does not require the presence of the applicant or agent when it considers written stipulations. The Board may defer its decision on a proposed stipulation when it desires further information or clarification which is not immediately available from the Assessor at the hearing.) and change the assessed value in accordance with section 1610.8 of the Revenue and Taxation Code, or,

2. Reject the stipulation or set or reset the application for reduction for hearing.

C. The board may, in its discretion, waive the examination of the applicant or the applicant's agent if the board and the assessor are satisfied that the issues raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or the applicant's agent requests such waiver in the application. The board shall consult with the assessor and shall act promptly on any request for waiver and give written notice of its decision no less than 30 days before commencement of the hearing on the application. If the board waives the examination of the applicant or the applicant's agent, it shall decide the case on the merits of the application and on the basis of any evidence properly produced at the hearing by the assessor.

- ## .2.42 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. (A domestic partner registered with the State may also appear for his or her partner, and sons and daughters may appear for registered domestic partners who are their parents, and 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.

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.2.44 Burden of Proof

Reference: Sections 110, 167, 1601 et seq., Revenue and Taxation Code; Section 664, Evidence Code.

A. Subject to exceptions set by law, it is presumed that the assessor has properly performed his or her duties. The effect of this presumption is to impose upon the applicant the burden of proving that the value on the assessment roll is not correct, or, where applicable, the property in question has not been otherwise correctly assessed. The law requires that the applicant present independent evidence relevant to the full value of the property or other issue presented by the application.

B. If the applicant has presented evidence, and the assessor has also presented evidence, then the board must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the assessor's determination is incorrect. The presumption that the assessor has properly performed his or her duties is not evidence and shall not be considered by the board in its deliberations.

C. The assessor has the burden of establishing the basis for imposition of a penalty assessment.

D. Exceptions to subsection (a) apply in any hearing involving the assessment of an owner-occupied single-family dwelling or an escape assessment. In such instances, the presumption in section 167 of the Revenue and Taxation Code affecting the burden of proof in favor of the applicant who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.

E. In hearings involving change in ownership, except as provided in section 110 of the Revenue and Taxation Code, the purchase price is rebuttably presumed to be the full cash value. The party seeking to rebut the presumption bears the burden of proof by a preponderance of the evidence.

F. In weighing evidence, the board shall apply the same evidentiary standard to the testimony and documentary evidence presented by the applicant and the assessor. No greater relief may be granted than is justified by the evidence produced during the hearing.

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.2.46 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 Clerk may issue subpoenas after consulting with the County Counsel and receiving oral approval from the chairperson of the Board which will conduct the hearing. The requesting party is responsible for timely service of the subpoena in a legally valid manner.) 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. (The County will not authorize the expenditure of any funds to reimburse an applicant pursuant to SBE Rule 322, subdivision (d), for costs associated with issuing a subpoena to a SBE employee.)

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 depositions be considered for any purpose by the board.

- ## .2.48 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. (Any request for a second or subsequent continuance must be in writing and must be received by the Clerk no later than 4:00 p.m. at least three business days in advance of the hearing. If both sides agree to the continuance it will be granted. If a party objects, the matter will be set for a hearing before the Assessment Appeals Board to determine whether good cause for the requested continuance exists.) 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.

- ## .2.50 Decision

Reference: Article XIIIA, 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 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. FINDINGS OF FACT. 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.

- ## .2.52 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. (In any case in which findings of fact are requested, whether the case is heard by the Board or a legal hearing officer, the party prevailing on each issue must prepare proposed findings and submit them to the Board for review, as well as submit the proposed findings to the opposing party for comment as required by Rule 325. The copy provided to the Board must be in electronic format unless the party does not have reasonable access to a computer.)

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.

- ## .2.54 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 (At any time before the Board announces its decision on the matter, the Board on its own motion may reopen any matter pending before it and set it for further hearing to receive additional evidence or to obtain clarification of issues from any party or parties.) 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 for the failure to appear.

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