



Calaveras County Assessor's Office

Leslie K. Davis
Assessor

July 23, 2018

Honorable George Runner, Chairman
State Board of Equalization
450 N Street
Sacramento, CA 95814

re: Agenda Item L1, July 24, 2018 BOE Meeting

Dear Senator Runner:

I have read and considered the proposals to amend Property Tax Rules related to Assessment Appeals. Try as I might, I see no productive reason for these amendments.

The Rule Making process is well-established. While the Board certainly has the right to ignore its own past practices, to do so when the Interested Parties are in the middle of the process established and requested by your Board boggles the mind.

I remember an AG Opinion in 1984 that included this quote from a well-known court case:

We have elected to employ an adversary system of criminal justice in which the parties contest all issues before a court of law. The need to develop all relevant facts in the adversary system is both fundamental and comprehensive. The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts, within the framework of the rules of evidence. To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence needed either by the prosecution or by the defense.

In the assessment of property for property tax purposes, we have elected to employ a system of self-reporting by taxpayers. Sometimes, that system does not work because a taxpayer may not want to report. Is the appropriate response to tie the hands of the government official charged with the constitutional responsibility to assess property fairly and equitably? Is the appropriate response to reward the taxpayer who hides critical information? And, then, when we reach the appeal process do we continue to reward that inappropriate behavior?

The appeal process is, as alluded to by your own counsel in the attachment to item L2, similar to the "adversary system of criminal justice" referred to in the AG Opinion. We need all of the information available to make an informed decision. This proposal prohibits disclosure. In this era of shining light on government activities, it is perplexing that your Board would champion this approach. It also baffles me

that no one felt compelled to bring your own Board Rules into conformance with the many requirements you would now impose on counties.

I have three main concerns with your proposal. First, you attempt to legislate by using the Rule Making process.

- Article XIII, Section 33 vests the authority to pass all laws necessary to carry out the provisions of the Article to the Legislature.
- Article XIII, Section 16 of the California Constitution provides that a county board of supervisors shall prescribe the rules of notice for a county board of equalization.

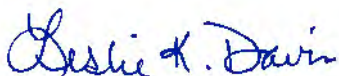
I would suggest that one of the so-called clarifications is more confusing than existing statute or the Rule you propose to amend. Rule 305.1 does not require a name change. If you really hope to clarify that an Exchange of Information differs from a Request for Information pursuant to Section 441, then you should keep the words "and Request for Information" out of the title.

Second, the proposal creates unfunded state mandates. Specifically, the requirement that a continuance be heard within 10 days requires additional compensation for Assessment Appeals Board Members who meet less often than weekly. And it will add a burden to Clerks and Assessors where appeals are heard less often than weekly. It's understandable that you think all counties operate like the urban areas where you live. It would require that you realize that there are a number of smaller rural counties who do not need to meet as often to see the problem you are creating.

Third, this proposal directly conflicts with existing law. Perhaps to be clear within the context of Revenue and Taxation Code Section 538, I should say that I believe your proposed rule changes will be invalid because they attempt to override existing law. Section 441 begins with the words "at any time." Yet, your proposal attempts to limit the time for assessors to request information. Likewise, your proposal to restrict an assessor's authority and ability to inspect or request information needed to correctly assess property directly conflicts with Sections 442, 454, and 470 of the Revenue and Taxation Code. Because of that belief, you are putting me in the undesirable position of having to sue to overturn these Rules if they are adopted.

The Interested Parties process is designed to vet issues like these in advance of Board action. It is not a guarantee of success for any party's position. It is an attempt to consider what is best for the taxpayers we serve and avoid the need for litigation to settle the question. This proposal is not in the best interest of the public nor is it in the best interest of the taxpayers who will end up footing the bill. I would ask that you allow the process to work and step back from taking action at this time. Alternatively, I would ask that you vote against the proposals.

Sincerely,



Leslie K. Davis
Calaveras County Assessor

- c: Members, California State Board of Equalization
Dean R. Kinnee, Executive Director, State Board of Equalization
Joann Richmond-Smit, State Board of Equalization Proceedings
Charles Leonhardt, CAA President, Plumas County Assessor