

Board Members,

I was asked to appear and speak to the Board at the hearing tomorrow. Unfortunately, I don't have the time and I'm not inclined to participate in a disingenuous format that does not allow for a free-flowing conversation, and that does not allow the Board to admit its shortcomings and agree to correct the errors of its ways.

**Background:**

I was a property tax appraiser with 15 years of experience in California. I know the tax laws, tax rules, and applicable tax appraisal methodology. Fourteen years ago, my colleagues shared with me a string of illegal assessment practices, which I shared with the State Board. The State Board did nothing. I was portrayed as the problem. My name was publicized by the current Controller, a violation of State and Federal whistleblower statutes, and none of the illegal assessment practices were acknowledged or corrected. The transgressors were subsequently lauded, promoted, and allowed to perpetuate their illegal practices. I was viciously attacked and my employer sought to terminate my employment. Thank you, Betty Yee. You have no idea the damage you inflicted on my children and on me!

**Today:**

I have subsequently been asked by countless property owners to address a host of illegal assessment practices in multiple counties. Perhaps it should not be surprising.

**Absolutely nothing has change in the last 14 years!**

Counties continue to place illegal values on the tax roll: Going Concern Values, Lease Fee Values, and Arbitrary Values (see Mission Housing vs The City and County of San Francisco), when legally only a Fee Simple value may be enrolled.

The former head of the State Board survey team asserted that he would not be conflicted if as a staff appraiser he was asked to appraise property owned by the Assessor or Assessor management! He was not savvy enough to understand the difference between his personal discomfort and the legal standard of a conflict of interest (see the advice letters from the State Attorney General). Yet, this was the individual charged with reviewing the practices in each Assessor office! Why then, should anyone be surprised by the continuance of illegal behavior? Why are such individuals at the State Board and County Assessor Offices allowed to collect public compensation and retirement benefits when they have not fulfilled their legal duty for such compensation?

I recently reviewed the standard assessment practices in San Mateo County. They are using an online cost estimator to value new construction. That estimator has default settings that are based on market data. Unfortunately, the office practice is to over-ride the market-based default settings in that application with their own arbitrary factors, and auto-enroll the value conclusion. They do not perform a market-based cost estimate, they do not cross-check the results of the estimator, they do not perform another approach to

value, they do not perform an appraisal of fair market value. This violates Article 13 of the CA Constitution, Property Tax Rule 6, and proper appraisal methodology, and all pertinent court rulings (see above). This is documented! Naturally, the Board will send a query to the San Mateo Assessor, who will deny this practice. Absolutely ludicrous!

This is standard illegal practice across the State and you and your survey team allow it to continue.

As part of a property tax appeal, I asked San Mateo County to answer some basic questions about their assessment practices. They refused. They refused to explain how they treat new construction, renovations; replacement and repair; remediation of lead-based paint, asbestos, mold, termite damage, and dry rot; or their determination of equivalent of new construction. Needless to say, their practices are arbitrary and illegal. How then, can anyone exercise an effective appeal? I'm happy to document each item. Just don't bother me with your yes-men staff members who think they know better than I do.

### **They don't.**

In Solano County, I reviewed a case of unquestionable fraud. Admitted fraud by the County Assessor, and subsequent fraud in the course of a tax appeal, and by the decision of the tax appeal board. I would be happy to present this example to the Board and am preparing to do so for the public.

In Sacramento County, I presented an appeal showing the Assessor enrolled the Leased Fee Value... and I presented the Fee Simple Value. The Appeal Board split the difference. Do I have to explain why that is unacceptable? I'm glad to do so, but this should be caught and corrected by your survey team!

There were multiple recent whistleblowers in the Sacramento County Assessor's Office. Multiple news agencies asked me to review their complaints. All of the complaints were valid. All were erroneously dismissed by the County and by the State Board. Lawyers seeking to avoid liability rather than compliance with the law. Appalling!!! Those whistleblowers were terminated, for doing what the law requires. The violators continue to be compensated for what the law prohibits. What the hell are you doing??? Do you even give a damn???

In Yolo County there is a text book case of multiple illegal assessments of the Dollar General in Esparto. Anyone who cannot identify the multiple errors in that record should be terminated for utter incompetence. Yet, that illegal assessment continues on the tax roll. The Assessor and the Chief Appraiser in Yolo County are just not qualified to understand their errors or what they need to do to correct them. How is the State Board filling the gap???

Rather than continue with thousands of additional examples, I will offer some simple steps that can and should be taken:

#### Fix the appraisal system, and stop obstructing accountability

1. Property tax appraisers should have to license through the BREA and be held accountable by them, the same as every other appraiser. Accountability through the State Board is a conflict of interest
2. There should be a standard complaint form that citizens can submit to an Assessor and to BREA. This would provide a tracking mechanism for the BOE to determine how an office responds to complaints. It also provides an accountability checklist to contrast with the actions of the BREA
3. Require appropriate and complete appraisal documentation in the property records
4. Place all property information online, and have it free to the public. Stop this absurd almost statewide practice of trying to withhold public information and public records.
5. Document online the appraisal and appeal processes, with templates to help taxpayers better understand and enforce their rights or complaints

#### Fix the appeal process, and stop obstructing accountability

1. Prohibit charging a fee for filing an appeal
2. Prohibit charging for findings of an Appeal Board
3. Standardize a form for appeal board findings, and ask that a copy be prepared and submitted by an applicant prior to the appeal hearing
4. Prohibit a County from hiring a former employee as a member of their appeal board (Do I have to explain the conflict of interest?)
5. Require appeal board members be fully versed in the property tax laws, rules and appraisal procedures.
6. Prohibit County legal counsel from participating in appeal hearings and decisions (Do I have to explain this conflict of interest?)

#### Fix the tax rules regarding the appeal process

1. The burden of proof shall be on the Assessor in all cases.
2. Provide a burden of proof form, where the Assessor can explain what is in the record that supports the burden of complying with the law, the tax rules, and proper appraisal procedure.
3. Provide a burden of proof form, where the appellant can explain what the property record lacks that demonstrates failure to meet the burden of proof.
4. When the Assessor fails to meet the burden of proof or admits to such a failure, the Assessor shall pay a fee to the applicant (\$1,000 for residential and \$2,000 for commercial appeals) Create incentives for compliance and penalties for violations
5. Assessor failure to meet the burden of proof shall strike the Assessor's valuation from the tax roll
6. Upon vacating an assessment, the appeal board shall hear the applicant presentation

7. Where an applicant meets the burden of proof, the applicant value conclusion shall be placed on the tax roll
8. If the Assessor sends a notice to increase an assessment: the assessor shall send to the property owner an admission of failing to meet the burden of proof for the original assessment, the appropriate fee for such failure, and a complete appraisal that concludes to the higher proposed value. Do you understand that Assessors are merely sending a list of sales with a threat letter, and no analysis at all?
9. For the process in 8, the appeal board shall vacate the value on the roll, hear the applicant presentation and decide whether the applicant's value is placed on the roll. If so, this new value and the analysis which determined this value is presumed to be correct. The Assessor may then present the case for an increase. The appeal board may only select the Assessor's value conclusion if and only if the Assessor has conclusively demonstrated material error in the applicant's methodology and conclusion, and has conclusively demonstrated no material error in its own methodology and conclusion.

Fix the property tax laws

1. Require sellers and landlords to record a sale or lease abstract with each sale and lease transaction... this should help the Assessor to avoid enrolling Going Concern and Leased Fee values. However, without proper training... these errors are going to continue. Fix your system!
2. Failure to record the abstract shifts the legal burden of proof for enforcing the agreement in favor of the buyer or tenant. That will motivate the seller/landlord to comply
3. Post all abstracts through an online GIS and have them available to the public for free

And, for Christ's sake, have your (qualified) survey teams review each County's tax appeal file to see if they are complying with the law, the tax rules, and proper appraisal methodology.

Let this serve as a notice of liability to the State of California, to the State Board of Equalization, and to each of you as members of the Board of Equalization. You can reach me at the address below. I would like to fix the problems in our property tax system. Past experience tells me that isn't going to happen. Surprise me!

Sincerely,

Robert Milbrodt

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[REDACTED]