



CALIFORNIA ASSESSORS' ASSOCIATION EXECUTIVE COMMITTEE

December 11, 2020

Honorable Antonio Vazquez, Chair
California State Board of Equalization
621 Capitol Mall, Suite 2100
Sacramento, CA 95814

RE: COVID-19 County Boards of Equalization / Assessment Appeals Boards Collaborative Workgroup: Consensus Guidance/Letters to Assessors, ITE AA. 1. AAB Hearings: Additional Items.

Dear Chair Vazquez

I write to you regarding the additional items listed on the December 17, 2020 Board Meeting under item AA 1) developing efficiencies around scheduling and scheduling mechanisms; 2) establishing a meet and confer process; and, 3) offering pre-hearing conferences. The CAA agrees that these are long term issues and are therefore not COVID-19 connected per se.

There are many larger counties in California that have a significant number of unresolved (backlogged appeals) which have only in part been caused by the COVID-19 pandemic and the temporary suspension of hearings across the state. The limitation on numbers of permissible appeals boards has contributed significantly to unresolved hearings in Los Angeles County, for example. Small and medium sized counties in California generally have few issues with large numbers of unresolved appeals now, however, the current economic issues caused by the pandemic will likely change that depending on the county.

The enactment of AB 3373 removing the five AAB per county cap will have long term benefits in improving the time to resolve hearings in the larger counties. Likewise, the addition of section 1616 to the Revenue and Taxation Code to encourage remote hearings, the actions of local AAB's to initiate remote hearings and the agreed upon BOE LTA recommendations/guidance regarding conduct of remote hearings will significantly improve the short-term outlook for all counties.

Meet and Confer

Establishing a formal "Meet and Confer" process would be duplicative of processes and options already existing in the Revenue and Taxation Code, Board of Equalization Rules and guidance in the Board of Equalization Assessment Appeals Manual. The Meet and Confer Process Is largely a construction of the courts where parties are naturally in an adversarial position and the court seeks to force the parties to interact within the confines a very formal and structured legal framework.

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By contrast the Assessment Appeals process is a quasi-judicial process designed to be more informal and allow the applicant and the assessor numerous options and opportunities to resolve the issues at hand. Applicants are free to engage with the Assessor at any time before or after the filing of a formal appeal and should be encouraged to do so as early as possible in the process.

The CAA opposes any recommendation or creation of a formal Meet and Confer process and sees management of the appeals case load as the purview of a local AABs to be managed through the formulation of their local rules and procedures.

Pre-Hearing Conferences

In many larger counties pre-hearing conferences are already used on a regular basis. Although my county, Stanislaus County, has not previously had local procedures for pre-hearing conferences our AAB is now in the process of developing pre-hearing procedures in response to recent appeals that would have benefitted from the process. The following excerpt from the BOE Assessment Appeals Manual shows how duplicative the Meet and Confer process would be given existing procedures:

“PRE-HEARING CONFERENCES A county board of supervisors may establish procedures for holding prehearing conferences which can be a valuable tool in the orderly scheduling and conduct of hearings. Such conferences are usually appropriate for hearings that will consume more than one day of appeals board time and may be set by the clerk at a time convenient to the taxpayer and assessor. The conference may deal with a variety of subjects, including but not limited to, application validity, bifurcation of hearings, time estimates, resolution on noncontroversial factual or valuation issues, outline basic legal and/or valuation issues to the appeals board, stipulations, status of requests for information, and calendaring of the full hearing on the issues.

Pre-hearing conferences have been shown to save considerable time and expense for the appeals board as well as the parties. They are most helpful in minimizing the need for the parties to request continuances of hearings that are unilaterally set by the clerk.”

The CAA recognizes the usefulness of pre-hearing conferences especially in larger and some mid-sized counties, but opposes any statewide requirement for Pre-Hearing Conferences and instead supports the authority of local AABs to create the local rules and structures needed in their counties utilizing existing laws, rules and guidance.

Developing Efficiencies Around Scheduling and Scheduling Mechanisms

The clear majority of appeals are resolved by withdrawal by the applicant or by a stipulation between the parties as to value. Additionally, most appeals are filed on Commercial and Industrial properties where the burden of proof is generally on the applicant. We agree with CATA that, frequently, engagement does not occur early enough after filing of appeal applications, however, we may disagree as to the reason in most cases.

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Assessors statewide are frustrated that information supporting an applicant's opinion as to value is frequently not provided until appeals are scheduled or until just before a scheduled hearing and that there is too often no response to requests for information earlier in the process. This is not a new issue and was discussed extensively in the Interested Parties discussions with CATA in 2018 that resulted in, among other changes, a standardized BOE 441(d) request cover letter approved by this Board and designed to improve the request process and response.

Assessors find that most agent-filed appeals have an applicant opinion of value that simply is not realistic and often is a low percentage of the assessed value. Assessors also understand that most of those appeals are protective appeals where it is unlikely that the value analysis has been completed at the time of filing. However, in the interest of improved efficiency, the earlier taxpayers or their agents review their own appeals for merit or supply information to the assessor, the sooner their applications can be resolved. Even if a withdrawal is not made or a stipulation is not possible, the discussion with the assessor's office will improve the efficiencies of scheduling applications that require an actual hearing. Improved and early communication will dramatically improve overall efficiencies.

Thank you for your consideration of the CAA input and viewpoints into the Assessment Appeals Process.

Sincerely,



Don H. Gaekle, President
California Assessors' Association

Cc: The Honorable Mike Schaefer, Vice Chair, BOE Member District
The Honorable Ted Gaines, BOE Member District 1
The Honorable Malia Cohen, BOE Member District 2
Ms. Yvette Stowers, Deputy State Controller for Taxation
Ms. Brenda Fleming, BOE Executive Director
Ms. Catherine Taylor, Chief of Board Proceedings
CAA Members