

Memorandum

To : Honorable Dean F. Andal
Vice Chairman

Date: November 5, 1999

From : Timothy W. Boyer
Chief Counsel

Subject: *Different Panels of the Same Assessment Appeals Board
Can Meet Concurrently Under Certain Circumstances*

In your memo of October 12 to Lawrence A. Augusta, you asked whether two separate panels of the same Assessment Appeals Board in San Francisco can be in session concurrently so that (1) two panels hear two cases at the same moment in time, or (2) one panel can deliberate at the same moment in time that the other panel is hearing a matter. It is our opinion that the answer to your question is yes, two panels can be in session concurrently to either hear cases or deliberate under certain circumstances as set forth below

There is no statute, regulation or court case answering this question. We also looked for parallel situations in other boards and commissions and found no law on the subject. When there is no specific law or precedent, we look to both legislative history and the plain words of the statute. We found no helpful documents in our legislative history files so we contacted the State Archives, and reviewed the documents in their files on the bill that added the option of five member panels to Rev. and Tax Code §1622.1, AB 1786 (Petris), ch. 568 of 1984.

The legislative history files did not have extensive documentation with respect to the purpose and intent of the change in the law. However, the analyses and letters of support in the file indicate that the purpose of the bill, which was sponsored by Contra Costa County and supported by the County Supervisors Association (CSAC), was to provide greater flexibility in the operations of assessment appeals boards and ultimately increase the efficiency of appeals. The larger panels were intended to make it easier to schedule appeals hearings at a time convenient for the property owner.

The legislative history supports our reading of the language of the statutes. Indeed, in our view the primary purpose for having five member boards is to allow the appointment of a number of different panels to alleviate the kind of scheduling problems that are apparently extant in San Francisco.

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Rev. and Tax. Code §1622.5 provides that in counties, such as San Francisco, in which two or more boards have been created, the clerk may assign one or more members from one panel to serve temporarily as members of another board. The statute then provides for the appointment of alternate members for each board, who are to serve when any regular member of the board is temporarily unable to act as a member of the board. By ordinance, San Francisco has implemented both inter-board service (Board 2 to Board 1) and the appointment of alternates.

Under this reading, there could be as many as ten separate panels created from a five member board to hear ten separate appeals. Since there would always be overlapping membership, however, the panels thus created could not meet or deliberate at the same time unless an alternate qualified to serve, or a member of board 2 served on board 1.

In response to your question, panels could meet concurrently under facts such as the following. The board has five members, A, B, C, D and E. The clerk creates panel X consisting of A, B and C, to hear one appeal, and panel Y consisting of C, D and E to hear another appeal. C is excused from panel Y because of a conflict of interest as provided in Rev. and Tax. Code §1624.2, and alternate F is assigned. We now have two panels consisting of A, B and C, and Y, D and E. The two panels could meet concurrently.

If you have any questions, please contact Larry Augusta at 916-445-6493.

Attachment

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property/precedent/astandiv/99/12kec.doc

cc: Honorable Johan Klehs
Honorable Claude Parrish
Honorable John Chiang
Honorable Kathleen Connell
Mr. E. L. Sorensen, Jr. MIC:73
Mr. Dick Johnson MIC:63
Mr. Larry Augusta MIC:82
Ms. Jennifer Willis MIC:70

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bc: Ms. Marcy Jo Mandell (Culver City)
Mr. Jon Sperring MIC:78
Ms. Annie Huang MIC:71
Mr. Alan Miller MIC:71
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Mr. Steve Kamp MIC:72