



# CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

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November 16, 2017

### Via email

Diane L. Harkey, Chairwoman  
State Board of Equalization  
450 N Street  
Sacramento, CA 95814

Dear Ms. Harkey:

### Interested Parties Meeting re: County Assessment Appeals

The members of the Clerk of the Board of Supervisors Section of the California Association of Clerks and Election Officials appreciate this opportunity to participate in the Interested Parties Process triggered by complaints of the California Alliance of Taxpayer Advocates (CATA) at your Board's August 29, 2017 meeting about a lack of intercounty uniformity in the assessment appeal process. As you are aware, Clerks of the Board of Supervisors manage the county assessment appeals program in the 58 counties.

Although CATA's complaints focused primarily on issues surrounding the Section 441(d) procedures, some of their concerns specifically had to do with county assessment appeals. And even some of their concerns and suggestions regarding the 441(d) process have spillover effect on county equalization. It is these complaints and concerns that our members wish to comment upon.

We would like to state very clearly that our overall concern is that the county assessment appeals programs function smoothly and efficiently in a cost-effective manner so that taxpayers and assessors, alike, receive fair treatment and an equal opportunity to put on their case before our boards. We realize that the equalization process is an adversarial one. However, we expect that the parties coming before our boards will not engage in game playing intended to advantage one party over the other. These maneuvers only serve to cause unnecessary delays and add severe economic costs to the process and thwart our efforts to provide both parties a just and equitable venue in which to resolve property tax disputes. We would like to comment on a few of CATA's complaints, specifically with regard to our assessment appeal process, but we also have comments relating to some of the other issues and suggestions that CATA has made that have an indirect, but very significant, effect of the county appeal process that we are responsible for managing.

## 1. Information Exchanges

- **The assessor must make Section 441(d) requests at least two weeks prior to hearing.**  
Our concern here is that a rigid requirement might add unnecessary postponements in our providing a timely hearing. We believe that 441(d) and 408(e) requests be made more than two weeks in advance of the hearing. However, we would oppose any inflexible timetable that would provide a party with grounds to justify a postponement or continuance of the hearing where one is not truly necessary. While a county board does have - and should have - the authority to grant a disadvantaged party a postponement or continuance, some county boards have so many appeals to handle that they simply can't afford to vacate hearing days due to the parties' failure to comply with a rigid time requirement. Again, we stress the need for the parties to act responsibly, but some flexibility here is crucial.

## 2. Improper Rejection of Assessment Appeal Applications

- **County clerks cannot reject applications because of the false belief that agency authorizations must be signed by taxpayers in the same calendar year as the application was filed. Agency authorizations can be signed in earlier years as long as they state that the agent is authorized to sign and file applications for the relevant roll years.**

We agree. However, we would like to point out that some clerks and appeals boards have been very strict about agent authorizations because of a history of abuse by a few tax agents. Over the years there have been many incidents of agents filing old authorization forms or photocopies of old authorization forms that were no longer valid and where, in fact, the taxpayer never authorized the agent to file for the year in question. Some taxpayers never even knew an appeal had been filed on their behalf. This is largely, but not exclusively, a problem with appeal mills.

We note that Rule 305 prohibits retroactive authorizations and permits an agent to sign and file applications in the specific calendar year in which the application is filed. However, neither statute nor regulation is entirely clear about whether the authorization must be signed in the same calendar year as the appeal. Perhaps some additional clarification in Rule 305 would be useful. We are willing to work with the BOE and the parties in that regard.

- **The agency authorization rules must be clarified for processing on-line filings. For in-person filings, current rules require applicants to attach agency authorizations to their appeal applications. But these rules don't work for on-line filings.**  
We agree that it would be desirable for any county using an on-line filing system to have a mechanism that permits submission of agency authorization on-line. However, some counties simply do not have the necessary funding to do so, at least in the near-term. Although neither law nor rule requires on-line filing, including on-line filing of agent authorization, we are willing to work with the BOE and interested parties to develop an appropriate amendment to Rule 305 to provide some permissive guidance to counties, since the current version of the Rule was issued in 2004, before on-line filing was authorized by law.
- **Standardized state-wide assessment appeal applications should be considered. Although we have BOE guidelines, these forms vary county to county and result in accepted or rejected statuses depending upon the specific county.**  
We don't see the problem here. The BOE standardized the *Application for Assessment Appeal* in 2015. Although a few appropriate variations are permitted by the BOE (counties with a hearing officer program, being one), BOE staff is very strict in making sure a county's form complies with BOE requirements for standardization.

### 3. Continuous Hearing Dates.

- **In some counties the Assessor asks for indefinite postponements after the taxpayer presents its case-in-chief. This, CATA members believe, is done to buy time to prepare for cross-examination, thus compromising taxpayers' due process rights. AABs should be required to make every reasonable effort to maintain continuous hearing dates. Delays longer than a week should require a showing of undue hardship on the part of the Assessor**

While we agree that AABs should make every reasonable effort to keep the hearing moving, rather than continue it to some future date, it would not be useful, nor even proper in our view, for the BOE to impose restrictions on the AAB with regard to whether a continuance should be granted or what the appropriate length of continuance should be. This must be left up to the county board to decide, based on arguments presented at the hearing by the parties.

We are willing to work with the BOE and the parties to develop a sentence for inclusion in the *Assessment Appeals Manual* urging the county board to make every reasonable effort to maintain continuous hearing dates, given the reasonable needs of the county board and of the parties to the proceeding.

We appreciate this opportunity to provide you and your staff our input with respect to CATA's suggestions and complaints. Our members will attend the upcoming meeting with interested parties at your Board's Headquarters next month and we look forward to engaging in a meaningful conversation with all parties. In the meantime, should you or your staff have any questions, please do call me at (213) 200-9610.

Very truly yours,

John McKibben, Chairman  
CACEO Board of Equalization Rules Work Group

c: Each Member, State Board of Equalization  
Mardiros H. Dakessian, President, CATA  
Richard N. Benson, President, California Assessors' Association  
Marc Aprea, Legislative Advocate, CATA  
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