

CONTINUANCES AND POSTPONEMENTS

CONTINUANCES

The board may, in its discretion, continue a hearing to a later date.¹ The board should make every reasonable effort, however, to hold the hearing expeditiously.

Where practicable, a continuance should not exceed 90 days unless the parties stipulate to a longer continuance, or either (1) good cause for the continuance is established to the satisfaction of the board by the requesting party or (2) the reasonable needs of the board dictate the need for a longer continuance. In all cases, the reason for the continuance shall be stated on the record.

If the hearing is continued, the clerk must notify both the applicant (or agent) and the assessor, in writing, of the time and place of the continued hearing. This notification must be made not less than 10 days prior to the date of the continued hearing will inform the applicant (or agent) and the assessor in writing of the time and place of the continued hearing not less than 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.²

There are ~~two~~ four primary reasons for continuing a hearing:

- **New information introduced at the hearing.**— If new material relating to the information received from the other party during an exchange of information is introduced, the other party may request a continuance for a reasonable period of time.³
- **Requested information not provided.** If the assessor did not receive information from the applicant, as requested pursuant to section 441(d), and the applicant presents such information at the hearing, the assessor may request a continuance for a reasonable period of time.⁴
- **Inspection of assessor's records.** If the assessor fails to permit the inspection or copying of materials or information, as requested by the applicant pursuant to section 408 (d) or (e), and the assessor introduces any such requested materials or information at any assessment appeals board hearing, the applicant may request a continuance for a reasonable period of time.⁵
- **Amendment of an application.**— If the ~~appeals~~ board grants an applicant's request to amend an application, upon request of the assessor, the hearing on the

¹ Rule 323, subdivision (d).

² Rule 323, ~~subsection~~ subdivision (c).

³ Rule 305.1, ~~subsection~~ subdivision (c).

⁴ Section 441(h).

⁵ Section 408(f)(3).

matter ~~will~~shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.⁶

If the applicant requests a continuance within 90 days of the expiration of the two-year limitation period provided in section 1604, the board may require a written extension signed by the applicant extending and tolling the two-year period indefinitely. The applicant has the right to terminate the extension agreement upon 120 days written notice.⁷

POSTPONEMENTS

Rule 323, subsection (a), provides in part:

The applicant and/or the assessor shall be allowed one postponement as a matter of right, the request for which must be made not later than 21 days before the hearing is scheduled to commence.

If the applicant requests a postponement of a scheduled hearing within 120 days of the expiration of the two-year limitation period provided in section 1604, the postponement will be contingent upon the applicant agreeing to extend and toll indefinitely the two-year period. The applicant has the right to terminate the extension agreement with 120 days written notice.

The assessor is not entitled to a postponement as a matter of right if the request is made within 120 days of the expiration of the two-year limitation period. However, ~~at the discretion of the board, in its discretion, may grant~~ such a request ~~may be granted~~.

Requests for postponements beyond those that are a matter of right, whether by the applicant or the assessor, must be made in writing, and good cause must be shown for the requested postponement. A stipulation by an applicant and the assessor shall be deemed to constitute good cause. Postponements granted to an applicant for good cause or by stipulation shall result in extending and tolling indefinitely the two-year limitation period, subject to termination of the agreement by 120 days written notice by the applicant.

In addition, if the applicant or the applicant's agent are unable to attend a properly noticed hearing, the applicant or the applicant's agent may request, prior to the hearing date, a postponement of the hearing with a showing of good cause to the board.⁸

-Any information exchange dates established pursuant to Rule 305.1 remain in effect based on the originally scheduled hearing date, notwithstanding the hearing postponement, except when a hearing is postponed due to the failure of a party to respond to an exchange of information.⁹

A board of supervisors may delegate decisions concerning postponement to the clerk in accordance with locally adopted rules.

⁶ Rule 305, ~~subsection-subdivision~~ (e)(2)(C)(iv).

⁷ Rule 323, ~~subsection-subdivision~~ (a).

⁸ Rule 313.

⁹ Rule 305.1, ~~subsection-subdivision~~ (d); Rule 323, ~~subsection-subdivision~~ (a).

It is within the board's discretion to grant requests for a continuance or postponement of a hearing. However, the board or hearing officer in considering such requests beyond those that are a matter of right, must ensure that unnecessary continuances and postponements are not granted. The board or hearing officer may consider the reasonable needs of the county board of equalization or assessment appeals board or county hearing officer and the parties to the proceedings in determining whether to grant a continuance or postponement.

The board may continue or postpone a hearing to allow an applicant time to comply with an assessor or board request for information. However, serial continuances or postponements may not be granted solely to force compliance with an information request with which a taxpayer has stated in writing will not be forthcoming. Granting such serial continuances or postponements would effectively deny an applicant a hearing on the merits of his case. When a taxpayer's non-compliance of requested information is at issue, the board, in most cases, should hold a hearing weighing the evidence and the credibility of the testimony appropriately. The board may also continue or postpone a hearing to allow time to resolve the issue with an applicant's noncompliance with an information request, which may include time necessary for an assessor to issue a subpoena for the requested information, or for the board to issue its own subpoena for the requested information.