

From: Leslie Davis <LDavis@co.calaveras.ca.us>

Sent: Thursday, October 18, 2018 9:53 AM

Subject: RE: Proposed Form for 441(d) and Draft Language for the Assessment Appeals Manual

David,

Here are my thoughts:

Request for Information for Assessment Appeal Application

I thought the purpose of the form was to cover all requests for information pursuant to Revenue and Taxation Code Section 441(d). This seems to apply only to those requests where an Appeal has been filed. I may have misunderstood. However, I'll restrict my comments on the form to that limited scope...until I don't.

1. In the AH 201 and other Assessor's Handbooks, the Parcel Numbers are referred to as "Assessor's Parcel Number" [APN] not "Assessor's Identification Number." While I understand that some vendors have attempted to veer from that label as they develop new Property Tax Systems, it is in place in the vast majority of counties. I wonder why a new label has been developed for this form if the intent is to use this statewide. And, since it flies in the face of continued uniformity, I don't think this is the place to make a change.
2. It is my sincere hope that we may issue these requests well in advance of a hearing. So, in many cases, a hearing date may not have been assigned. I hope that you do not expect that every blank is completed.
3. Is it your intent that Page 2 constitutes the 441(d) request form? Again, perhaps I misunderstood but I thought the intent was to create a cover letter that allowed the assessor to attach the actual request. Many offices may already have a preferred format to follow. If the BOE prescribes page 2 as part of the form, that will eliminate the ability of an office to tailor the request to the property type.
4. "Assessment" is misspelled in the first sentence.
5. The second paragraph bothers me. My policy is to roll correct the value if we made a mistake or obtain new information that indicates our value is too high. We do not wait until the hearing because the applicant may not show up. In that case, we win for lack of appearance. In general, I won't stipulate because that still opens it up for review.
 - a. This paragraph implies that the review of the information will only result in a lower value. That may not be the case.
 - b. This paragraph implies/states that the Assessor will make a recommendation to the Appeals Board. That may not be the case if the

applicant does not show up or if we have already processed a roll correction. We will simply defend the new value, provided it's lower. Of course, there's a whole different approach if the value conclusion is higher.

- c. This paragraph does not ask the applicant to consider withdrawing the application if the Assessor arrives at a value conclusion that is satisfactory.
6. The third paragraph states "This will allow adequate time for an appraisal to be prepared, reviewed, and approved prior to your hearing." We [Calaveras] aren't going to prepare another appraisal. We are going to review the information and consider whether it would materially change our original conclusion. Stating that we will prepare another appraisal implies that one will be created that the applicant can request to see. It's just not going to happen. I would suggest that the sentence read something like: This will allow adequate time to consider your information so the Assessor can determine if a roll correction is in order. Of course, since many offices don't roll correct, I don't know how you get around that.
7. Also in the third paragraph, the "Important Information" is currently contained on Page 3 of the form. Then again, if you remove your page 2, all is well.
8. Page 2 refers to an "Application for Change Assessment." Notwithstanding the fact that it has a typo, that isn't what the form has been called for a few years. It is now an Assessment Appeal Application.
9. I would hope that you aren't intending to limit the request to eight items. We may need more information depending on the property type.

Important Information

This is exactly what I had in mind for a "Cover Letter" for a 441(d) request...with a few edits. This information clearly says why the assessor can request the information and what can happen if the assessee does not provide it. However, I have always been taught that using "however" softens the statement that follows. In the case of two such sentences, the words that follow soften the message even further. I would recommend that you remove the two instances of "however" in the verbiage.

I believe the sentence that begins with "Noncompliance may result..." should be moved to the fourth paragraph. This sentence clearly relates to an appeal and I like the fact that the issues surrounding an appeal are called out in their own paragraph.

With regard to the fourth paragraph on appeals, might I suggest that you change "appraiser" to some more generic job title. In Calaveras County, appraisers are not the only ones who request additional information. Information may be needed to

determine if a Change in Ownership actually occurred. In that case, my Assessment Technicians [who are certified as Assessment Analysts] will not only make the request, they will defend the decision at the appeal hearing.

Summary on Proposed Form

I think the verbiage on the third page, with a few tweaks, is a great cover letter as we requested. I do not think the first two pages are needed at all. However, I've mocked up a different version that uses parts of your entire proposal for your consideration. It is attached.

I apologize but I don't have time to read the draft language for the Assessment Appeals Manual. I will try to look at it but I'm booked solid between now and your deadline.

Leslie

REQUEST FOR INFORMATION

Date of Request

Assessee Mailing Address Box

Re: APN

Event Type:

Various statutes authorize an assessor to obtain property valuation information from taxpayers to carry out his or her duty to assess all property in the county. One such statute, Revenue and Taxation Code section 441(d), requires every person to make information available to the assessor regarding property he or she owns or is located on property he or she owns. The assessor may request any information that is reasonably related to the ~~proposed tax~~ **assessment of the property.**

In accordance with section 441(d) of the Revenue and Taxation (R&T) Code, **the Assessor is requesting the information listed on the 441(d) request form included with this letter.**

You are required by law to comply with this request. Statutes provide that noncompliance with a section 441(d) information request is a misdemeanor punishable by fine or imprisonment. (See Rev. & Tax. Code, § 462.)

While an assessor may request information from you, section 441(d) does not authorize an assessor to require you to submit to formal discovery techniques that would be used in a court of law, such as depositions, formal interrogatories, or requests for admissions. Please note that this does not mean an assessor may not ask you questions about the property or to seek to have a dialogue about the property.

Furthermore, section 441(d) does not allow an assessor to require you to provide information under penalty of perjury. But, please be advised that you may be subject to criminal penalties if you do not provide the requested information notwithstanding the fact that you did not sign a penalty of perjury statement.

Please send your information to:

Name
Title

Mailing Address

Email Address

If you have filed an Assessment Appeal Application, please read the **Important Information** contained on the next page.

IMPORTANT INFORMATION

If this request is being made by the assessor in conjunction with an assessment appeal hearing and you need more time to gather the requested information, you may write to the Clerk of the County Board of Equalization or the Assessment Appeals Board to request more time. If you are uncertain as to what information is being requested by the assessor, please contact the **person** whose name and contact information appear on the form.

The requested information must be provided by [Insert Date]. This will allow adequate time for ~~an appraisal to be prepared~~, the assessment to be reviewed, ~~and approved~~ prior to your hearing. Failure to provide this information may delay the resolution of your appeal. ~~It may also lead to other consequences as described in the "Important Information" on page 2 of this form.~~

Additionally, an appraiser may contact you to request an inspection of the property or to discuss other relevant information relating to the property, so that both you and the Assessor are aware of all information pertaining to the subject property prior to an assessment appeal hearing.

Based on the information you provided, the Assessor may arrive at a value conclusion that is satisfactory to you. If this occurs, the Assessor will make a recommendation to the Assessment Appeals Board that your assessed value be changed to that value. If you still do not agree with the recommended value, a hearing will proceed.

Noncompliance may result in postponement or continuance of your hearing date, or the issuance of a subpoena for production of information.

You may ~~also~~ appear at the hearing without having produced the requested information. In that case, if you introduce the previously requested information at the hearing, the assessor is entitled to a continuance of the hearing to examine the new information. If you do not bring the requested information, you will have an opportunity to explain to the board members why you have not complied with the request for information, and they will decide whether to hold the hearing without the information, whether to continue the hearing in order to give you time to comply with the request, or whether to continue the hearing so that a subpoena or other action can be taken by the assessor or by the board.