



OFFICE OF  
**ASSESSOR-COUNTY CLERK-  
RECORDER & ELECTIONS**  
COUNTY OF SAN MATEO

**MARK CHURCH**  
ASSESSOR-COUNTY CLERK-  
RECORDER & CHIEF ELECTIONS OFFICER

November 30, 2018

Hon. George Runner, Chairman  
Hon. Fiona Ma, Vice-Chair  
Hon. Jerome Horton, Third District  
Hon. Diane L. Harkey, Fourth District  
Hon. Betty T. Yee, State Controller  
Board of Equalization  
450 N Street  
P.O. Box 942879  
Sacramento, CA 94279-007

Re: Interested Parties Meeting – October 31, 2018  
Confidentiality of Taxpayer Information in Assessment Appeals

Dear Chairman Runner and Members of the Board,

Thank you for the opportunity to comment on potential changes to rules regarding the use of confidential taxpayer information. The San Mateo County Assessor's Office believes that the current rules provide adequate protection for taxpayer information submitted to the Assessor and we have a strong commitment to maintaining taxpayer privacy.

The issue, as we understand it, is that certain tax representatives object to the Assessor's use of de-identified or aggregated confidential data to support an assessment. While we understand why that may be a concern, we do believe that the law provides adequate remedies to address any such concerns. Specifically, when a taxpayer challenges the Assessor's use of de-identified confidential data as lacking specificity, he or she may cross examine the appraiser as to the reliability of that data and may argue how much weight the AAB should attribute to that valuation. We believe that this provides the taxpayer with sufficient protection. The taxpayer who has submitted confidential information is protected by the strict de-identification of the data and the taxpayer challenging an assessment may make any arguments necessary to discredit the use of such de-identified data.

Notwithstanding the above, our office *always* strives to use publicly available information as a first resort. Our priority is to fulfill our constitutional duty to determine the fair market value of a property as prescribed by Revenue & Taxation Code §110. In so doing our office utilizes a variety of approaches per the Property Tax Rules established by your Board with publicly available data. It is only on the rarest of

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occasions that we resort to the use of de-identified confidential data to support our assessments. Indeed, we subscribe to many sources that aggregate public and confidential data and is available to anyone for a fee. However, there are times when confidential information received from taxpayers provides us with the best data to determine the market value of a given property.

As documented by Assessment Appeals Board hearing transcripts, taxpayers and their representatives have access to and the ability to use the same type of confidential information which they can secure from public sources for a fee or from within their industry. Nevertheless, taxpayers and their representatives routinely object to the Assessor's use of this essential information. As it is our constitutional duty to arrive at the fair market value of the property, it is fitting and proper that Assessors continue to use all relevant information when it is the best indicator of value. Indeed, the current statutory scheme contemplates that the Assessor should do just that. See Revenue & Taxation Code §408.

That said, we understand that you are now asking us to provide you with our opinion of what data may be disclosed by an Assessor while still maintaining the confidentiality of such information. This should assist a taxpayer in challenging any part of an Assessor's valuation that is based on the use of de-identified confidential data. You asked us to respond to the following questions, specifically as they pertained to (1) lease data, (2) data needed for development of capitalization rates, and (3) construction costs:

1. What items or categories of data do applicants and assessors require to determine whether or not particular information that is deemed confidential by the other party is valid for use as a comparable to the property that is the subject of the appeal?
  - a. Can ranges of values or general categories (e.g., a range of square footage vs. an exact square footage, classifications by Standard Industrial Classification code vs. specific use, etc.) be acceptable?
2. What identifying information must the applicant or assessor redact or mask to ensure that they do not breach their duty (whatever the source of that duty (e.g., statute, ethics rules, etc.)) to hold information confidential?

In response we have attached a spreadsheet of categories of data that we believe may be disclosed, categories of data we believe may only be disclosed with some redaction or masking and categories of data we believe should not be disclosed as it would breach taxpayer confidentiality for each of the areas you outlined. In providing this

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opinion, we make the following observations for your consideration in any rule-making process:

- Any rule that limits or expands the Assessor's use of confidential information must apply equally to taxpayers. Our experience is that tax representatives have access to the same or greater confidential market data of other taxpayers but do not have the same constraints in using such data. Moreover, tax representatives often present aggregated or de-identified data at a hearing without further explanation. Any rules that require the Assessor to disclose certain categories of data when presenting aggregated or de-identified confidential data should apply to taxpayers' use of similar information.
- None of these rules should apply to any information that is already in the public domain. If the Assessor gets the information from confidential taxpayer data and later locates it in the public domain, such information should not be considered confidential.
- We recognize that even with this level of de-identification and masking, certain taxpayer representatives may be able to identify a property based on their own databases of confidential information and proprietary market knowledge. The Assessor does not believe that this fact means that the confidentiality of the information is not sufficiently maintained – it is the taxpayer's own specialized knowledge that would allow him or her to identify the property regardless of any efforts to keep the information confidential by the Assessor.

We thank you for the opportunity to comment in this process. We reiterate that we believe that the current rules provide adequate protection for taxpayers and Assessors alike and that no change is necessary. If anything, the Board should look to make it easier for the Assessor to obtain and use market information as it is in the best interests of all constituents and taxpayers that the Assessor have the best data available to determine the fair market value of a property.

Sincerely,



Mark Church

cc Dean Kinnee, Executive Director, California Board of Equalization  
Joann Richmond-Smith, California Board of Equalization Proceedings

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David Yeung, Chief, County-Assessed Properties Division, Board of Equalization  
Henry D. Nanjo, California Board of Equalization Chief Counsel  
Hon. Charles Leonhardt, CAA President, Plumas County Assessor  
Michael Callagy, County Manager, San Mateo County  
Rebecca Archer, Deputy County Counsel, San Mateo County

Enclosure

## San Mateo County Response

This document is a response to BOE requests for information related to use of de-identified confidential information at assessment appeal hearings. In general, we prefer the approach of being less specific in guidance on this matter. Our concern is that it is impossible to anticipate every situation that could arise, thus locking us or applicants in to inflexible guidance that could ultimately hurt our ability to use the data at our disposal to fairly and accurately conduct appraisals for appeals. CATA's last proposal during the IP session was that confidential info should be allowed, but that Assessor's representatives should be encouraged to answer questions on cross examination. This seems to be a reasonable, and also not overly specific, approach to addressing CATA's concerns. We also feel the topic of how to handle confidential information is a worthwhile discussion, so we have provided this document with our thinking on how best to handle that data if it were to be used at hearing.

The following three tabs present the attributes of Leases, Cap Rate/Financial Data, and Construction Cost Data. The attributes for each are subdivided into one of three categories: Attributes that are OK to share, Attributes that should be partially redacted, and Attributes that should be fully redacted. The intention being to reveal as much information about each data type as possible without revealing confidential information at hearing.

**Lease Data**

For establishing market rent

**Attributes OK to Share****Show****These items are the minimum needed and can be the actual values**

Effective Rental Rate

Actual Information

(Will also need to describe methodology used to find this)

Term

Actual Information

Market Area

Actual Information

Example: Mid County, North County, Northern California, Western US

Use Type/Property Type

Actual Information

Expense Model

Actual Information

Example: NNN/Gross/Mod Gross/Full Service

Source of Data

Actual Information

Example: Rent roll, Lease, Broker

Landlord TI contribution \$

Actual Information

Dollar Amount

Tenant TI contribution \$

Actual Information

Options

Actual Information

Escalation

Actual Information

Free rent/Concessions

Actual Information

**Attributes that should be partially redacted****Show****These items would provide too much specific data if actual values were used, so should be assigned a range**

Sign Date

By Quarter

Example: Q1-2018, or Q3-2014

Commencement Date

By Quarter

Example: Q1-2018, or Q3-2014

Which floor in bldg

Range of values

Example: Floors 5-10, or Floors 40-60

Year Built/Effective Age

Range of values

Example: 2000-2010, or 2010 to present

Rentable SF

Range of values

Example: 5,000-10,000 SF

**Attributes that should not be shared****Hide****These items would identify the property, or are used in other calculations**

Street Address

Actual Information

APN

Actual Information

Tenant Name

Actual Information

Owner Name

Actual Information



## Cap Rate Data

From internally derived data

### Attributes OK to Share

#### Show

These items are the minimum needed and can be the actual values

Use Type/Property Type

Actual Information

Cap Rate

Actual Information

Market Area

Actual Information

Example: Mid County, North County, Northern California, Western US

Source of Data

Actual Information

Example: Property Owner, Broker

### Attributes that should be partially redacted

#### Show

These items would provide too much specific data if actual values were used, so should be assigned a value within a range

Year Built

Range of values

Example: 2000-2010, or 2010 to present

Rentable SF

Range of values

Example: 5,000-10,000 SF

Sales Price

Range of values

Example: \$1-\$5 Mil, or \$5-\$10 Mil

Sales Date

Range of values

Example: 2016-2017, or 2017-2018

ADR

Range of values

Example: 10% - 20%

Vacancy rate/Occupancy rate

Range of values

Example: 10% - 20%

### Attributes that should not be shared

#### Hide

These items would identify the property, or are used in other calculations

Owner

Actual Information

Street Address

Actual Information

APN

Actual Information

Income

Actual Information

Expenses

Actual Information

NOI & NOI/SF

Actual Information

## Construction Cost Data

For extraction of typical \$/SF costs, or extraction of entrepreneurial profit after sale

### Attributes OK to Share

#### Show

These items are the minimum needed and can be the actual values

\$/SF Hard Costs

Actual Information

\$/SF Soft Costs

Actual Information

Entrepreneurial Profit

Actual Information

Must explain whether it includes imps only or imps & land

Construction Class

Actual Information

Example: Class A, Class D, or Concrete Tilt Up, Steel Reinforced Concrete

Market Area

Actual Information

Example: Mid County, North County, Northern California, Western US

Source of Data

Actual Information

Example: Property Owner, Project Manager, Contractor

### Attributes that should be partially redacted

#### Show

These items would provide too much specific data if actual values were used, so should be assigned a value within a range

Year Built

Range of values

Example: 2000-2010, or 2010-present

Gross SF

Range of values

Example: 5,000-10,000 SF

Use Type

Generic Type

Example: Industrial, Retail, Office

Sales Price

Range of values

Example: \$1-\$5 Mil, or \$5-\$10 Mil

Sales Date

Range of values

Example: 2016-2017, or 2017-2018

### Attributes that should not be shared

#### Hide

These items would identify the property, or are used in other calculations

Owner

Actual Information

Street Address

Actual Information

APN

Actual Information