



STATE BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
1-916-274-3350 • FAX 1-916-285-0134
www.boe.ca.gov

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No. 2019/037

November 19, 2019

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

ASSESSMENT APPEALS PROCESS

State Board of Equalization (BOE) staff held an interested parties meeting on September 26, 2019, to discuss issues related to (1) requests for taxpayer information by county assessors and (2) postponements and continuances of assessment appeals hearings. The objective of the meeting was to allow interested parties to offer their points of view on these issues and, where possible, find common ground.

BOE staff had previously met with interested parties about these issues on October 31, 2018. Based on discussions during that meeting, staff created a proposed *Request For Information* form and drafted guidance for postponements and continuances to be added to the *Assessment Appeals Manual*. This material was provided to interested parties with a request to provide comments by April 30, 2019. BOE staff reviewed all comments received and created a matrix for discussion at the interested parties meeting held on September 26, 2019.

At the September 26, 2019 interested parties meeting, BOE staff addressed all items on the matrix and were able to resolve all outstanding issues with input and agreement from interested parties. The enclosed documents reflect all changes agreed to during the September 26, 2019 interested parties meeting in ~~strikeout~~ and underline format. Please review the enclosed documents and submit all comments to Ms. Angie Berry at angie.berry@boe.ca.gov by December 20, 2019.

After all comments received are reviewed, BOE staff will hold an interested parties meeting if there are any outstanding issues. If no comments are received, the attached documents will be presented to the Board for adoption. Documents and comments related to this project are available on the BOE's website at: <http://www.boe.ca.gov/proptaxes/asmappealprocess.htm>.

If you have any questions regarding this project, please contact Ms. Angie Berry at angie.berry@boe.ca.gov or 1-916-274-3376.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:ab
Enclosures

REQUEST FOR INFORMATION

This request for information is being made by the assessor pursuant to the authority granted by Revenue and Taxation Code section 441(d). This provision requires you to comply.

NAME AND MAILING ADDRESS
(Make necessary corrections to the printed name and mailing address.)

[]

[]

DATE OF REQUEST		DUE DATE FOR REQUESTED INFORMATION		
STREET ADDRESS OR PHYSICAL LOCATION OF THE PROPERTY		CITY	STATE	ZIP
ASSESSOR'S PARCEL NUMBER				
ACCOUNT NUMBER/ASSESSMENT NUMBER				
EVENT DATE		EVENT TYPE		

SEE ENCLOSURE FOR THE LIST OF INFORMATION SPECIFICALLY BEING REQUESTED. IF YOU ARE UNCERTAIN AS TO WHAT INFORMATION IS BEING REQUESTED OR NEED MORE TIME TO COMPLY WITH THE REQUEST, PLEASE CONTACT THE ASSESSOR'S OFFICE EMPLOYEE WHOSE NAME AND CONTACT INFORMATION APPEAR ON THE ENCLOSURE.

Is this request being made in conjunction with an assessment appeal hearing?

NO

YES If yes, please complete the following:

Assessment Appeal Application number(s), if assigned: _____

Applicant: _____

Hearing date, if scheduled: _____

Type of assessment being appealed: _____

Various provisions in the Revenue and Taxation Code grant assessors the authority to obtain information to fulfill their assessment duties. This request for information is made pursuant to the authority granted by Revenue and Taxation Code section 441, subdivision (d), which states:

- (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding their property or any other personal property located on premises they own or control. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.
- (2) (A) Upon written request of an assessor, the assessee or the assessee's designated representative shall transmit the information or records described in paragraph (1) by mail, or in electronic format if the information or records are available in electronic format or have been previously digitized. This paragraph shall not be construed or interpreted to limit the assessor's authority to also examine information or records described in paragraph (1).
- (B) Information or records requested pursuant to this paragraph shall be transmitted within a reasonable time period.

(3) (A) This subdivision shall also apply to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

(B) The owner-builder or owner-developer of new construction described in subparagraph (A), shall, within 45 days of receipt of a written request by the assessor for information or records, provide the assessor with all information and records regarding that property. The information and records provided to the assessor shall include the total consideration provided either by the purchaser or on behalf of the purchaser that was paid or provided either, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or for any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

Please read the enclosure carefully, as the assessor may also request information authorized under other provisions of law, as set forth in the enclosure. All information requested by the assessor or furnished in the property statement shall be held secret by the assessor pursuant to Revenue and Taxation Code section 451.

If the assessor has checked the box "YES" indicating that this request is being made in conjunction with an assessment appeal hearing, based on the information you provide, 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. However, if you still do not agree with the recommended value, a hearing will proceed.

If you do not comply with this request, or provide only a portion of the information requested, your hearing may proceed as scheduled or it may be delayed or the assessment appeals board may schedule a prehearing conference to be held in advance of your hearing. If you do not provide the requested information to the assessor before the hearing or the prehearing conference (if scheduled), you will have an opportunity to explain to the assessment appeals board members or hearing officer why you have not complied with the request for information, and they will decide whether to hold the hearing without the information, whether to postpone or continue the hearing in order to give you time to comply with the request, whether to postpone or continue the hearing so that a subpoena can be issued, or whether any other action should be taken by the assessor or by the assessment appeals board.

If you appear at the hearing and introduce any information that had been requested under Revenue and Taxation Code section 441(d) and was not provided to the assessor, the assessor is entitled to a continuance of the hearing to examine the new information.

If you do not comply with this section 441(d) request, you may be asked to appear before the Superior Court. (See Revenue and Taxation Code section 468.) Please also be advised that noncompliance or the making of a false statement with regard to the request may subject you to criminal misdemeanor penalties. (See Revenue and Taxation Code sections 461 and 462.)

For more information about the assessment appeal process, including how to obtain information from the assessor, please see the State Board of Equalization's Assessment Appeals Manual at:

<http://www.boe.ca.gov/proptaxes/asmappeal.htm>

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POSTPONEMENTS AND CONTINUANCES

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3 It is within the Bboard's discretion to grant an extension of time before the commencement of a
4 hearing on an application (a postponement) or after the commencement of a hearing on an
5 application (a continuance). However, when such requests are not granted as a matter of right or
6 have not been agreed to between the parties, the Bboard should ensure that good cause exists to
7 grant a postponement or continuance. In this regard, the reasonable needs of the county board of
8 equalization or assessment appeals board or county hearing officer and the parties to the
9 proceedings should be considered in determining whether to grant a postponement or
10 continuance. The Bboard should make every reasonable effort, however, to hold the hearing
11 expeditiously.

12
13 The Bboard may postpone or continue a hearing to allow an applicant time to comply with a
14 request for information from the assessor or the Bboard. However, serial continuances or
15 postponements may not be granted where the Bboard determines the information requested is
16 unrelated to the issue or no responsive documents exist. Granting serial continuances or
17 postponements in such instances could effectively deny an applicant a hearing on the merits of
18 the case.

19
20 When an applicant's non-compliance to a request for information is at issue and a postponement
21 or continuance is unlikely to result in the production of responsive information, the Bboard, in
22 most cases, should hold a hearing weighing the available evidence and the credibility of the
23 testimony. If the Bboard determines that the applicant has not provided all of the information
24 required by law, the applicant will have the burden of proof.¹ The Bboard may also continue or
25 postpone a hearing to allow time necessary for the assessor or the Bboard to issue a subpoena for
26 the requested information, as well as any time necessary for related court proceedings.

27 28 POSTPONEMENTS

29
30 Postponements are extensions of time made before the hearing on an application has
31 commenced. Rule 323, subsection (a), provides in part:

32
33 The applicant and/or the assessor shall be allowed one postponement as a matter
34 of right, the request for which must be made not later than 21 days before the
35 hearing is scheduled to commence.

36
37 If the applicant requests a postponement of a scheduled hearing within 120 days of the expiration
38 of the two-year limitation period provided in section 1604, the postponement will be contingent
39 upon the applicant agreeing to extend and toll indefinitely the two-year period. The applicant has
40 the right to terminate the extension agreement upon 120 days written notice.

41
42 The assessor is not entitled to a postponement as a matter of right if the request is made within
43 120 days of the expiration of the two-year limitation period. However, the Bboard, in its
44 discretion, may grant such a request. The Bboard may also grant a postponement for a reasonable

¹ Section 167(ab). See also Rule 321(a)&(d).

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1 period of time if one party initiates an information exchange and the other party does not comply
2 within the time specified in section 1606 and Rule 305.1, subdivision (b).²

3
4 In addition, if the applicant or the applicant's agent is unable to attend a properly noticed hearing,
5 the applicant or the applicant's agent may request, prior to the hearing date, a postponement of
6 the hearing with a showing of good cause to the Bboard.³

7
8 Requests for postponements beyond those that are a matter of right, whether by the applicant or
9 the assessor, must be made in writing and good cause must be shown for the requested
10 postponement. A mutual agreement between an applicant and the assessor shall be deemed to
11 constitute good cause. Postponements granted because of a mutual agreement or other good
12 cause shall result in extending and tolling indefinitely the two-year limitation period, subject to
13 termination of the agreement upon 120 days written notice by the applicant.⁴

14
15 Any information exchange dates established pursuant to Rule 305.1 remain in effect based on the
16 originally scheduled hearing date, notwithstanding the hearing postponement, except when a
17 hearing is postponed due to the failure of a party to respond to an exchange of information.⁵

18
19 A board of supervisors may delegate decisions concerning postponement to the clerk in
20 accordance with locally adopted rules.

21 22 23 CONTINUANCES

24
25 Continuances are extensions of time made after the hearing on an application has commenced.
26 The Bboard may, in its discretion, continue a hearing to a later date.⁶

27
28 If the hearing is continued, the clerk must notify both the applicant (or agent) and the assessor, in
29 writing, of the time and place of the continued hearing. This notification must be made not less
30 than 10 days prior to the date of the continued hearing, unless the parties agree in writing or on
31 the record to waive written notice.⁷ The Bboard may work with the parties to determine a
32 mutually acceptable date for the next hearing.

33
34 If the applicant requests a continuance within 90 days of the expiration of the two-year limitation
35 period provided in section 1604, the Bboard may require a written extension signed by the
36 applicant extending and tolling the two-year period indefinitely. The applicant has the right to
37 terminate the extension agreement upon 120 days written notice.⁸

38

² Rule 305.1subdivision(d).

³ Rule 313(a).

⁴ Rule 323subdivision(a).

⁵ Rule 305.1subdivision(d).

⁶ Rule 323, subdivision (d).

⁷ Rule 323subdivision(c).

⁸ Rule 323subdivision(a).

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1 There are five primary reasons for continuing a hearing:
2

3 • **Amendment of an application.** If the Bboard grants an applicant's request to
4 amend an application, upon request of the assessor the hearing on the matter shall
5 be continued by the Bboard for no less than 45 days, unless the parties mutually
6 agree to a different period of time.⁹
7

8 • **Applicant has failed to provide all information required by law.** If an
9 applicant has not yet provided all information required by law, the hearing may be
10 continued to a later date for a hearing on the merits of the application or for the
11 Bboard to further inquire into the status of whether applicant has yet provided all
12 information required by law.
13

14 If an applicant fails to provide information to the assessor pursuant to
15 section 441(d) and introduces any requested materials or information at any
16 assessment appeals board hearing, the assessor may request and shall be granted a
17 continuance for a reasonable period of time. The continuance shall extend the
18 two-year period specified in Ssection 1604(d) for a period of time equal to the
19 length of the continuance.¹⁰
20

21 • **New information introduced at the hearing.** If new material relating to
22 information received from the other party during an exchange of information
23 under section 1606 is introduced, the other party may request a continuance for a
24 reasonable period of time.¹¹
25

26 • **Inspection of assessor's records.** If the assessor fails to permit the inspection or
27 copying of materials or information, as requested by the applicant pursuant to
28 section 408(d) or (e), and the assessor introduces any such requested materials or
29 information at any assessment appeals board hearing, the applicant may request a
30 continuance for a reasonable period of time. The continuance shall extend the
31 two-year period specified in section 1604(c) for a period of time equal to the
32 length of the continuance.¹²
33

34 • **Further information required by the Bboard.** If, in the opinion of the Bboard,
35 not enough evidence was provided during the course of the hearing for the Bboard
36 to make a proper determination of value, the Bboard may continue the hearing so
37 that information the Bboard believes is pertinent may be assembled and brought
38 before it. A board should exercise caution in deciding that a continuance is
39 warranted.

⁹ Rule 305subdivision(e)(2)(C)(iv).

¹⁰ Section 441(h).

¹¹ Rule 305.1subdivision(c).

¹² Section 408(f)(3).