

POSTPONEMENTS AND CONTINUANCES

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3 It is within the board's discretion to grant an extension of time before the hearing on an
4 application has commenced (a postponement) or after the hearing on an application has
5 commenced (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 board 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 board should make every reasonable effort, however, to hold the hearing
11 expeditiously.

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

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20 When an applicant's non-compliance with a request for information is at issue and a
21 postponement or continuance is unlikely to result in the production of responsive information,
22 the board, in most cases, should hold a hearing weighing the available evidence and the
23 credibility of the testimony. In these cases, the board may place the burden of proof on the
24 applicant for the failure to provide information required by law.¹ The board may also continue or
25 postpone a hearing to allow time necessary for the assessor or the board to issue a subpoena for
26 the requested information, as well as any time necessary for related court proceedings.

POSTPONEMENTS

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

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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.

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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 with 120 days written notice.

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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 board, in its
44 discretion, may grant such a request. The board may also grant a postponement for a reasonable

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

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

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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 board.³

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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

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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

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

21 22 23 **CONTINUANCES**

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

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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

32
33 If the applicant requests a continuance within 90 days of the expiration of the two-year limitation
34 period provided in section 1604, the board may require a written extension signed by the
35 applicant extending and tolling the two-year period indefinitely. The applicant has the right to
36 terminate the extension agreement upon 120 days written notice.⁸

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38 There are five primary reasons for continuing a hearing:
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² Rule 305.1, subdivision (d).

³ Rule 313.

⁴ Rule 323, subdivision (a).

⁵ Rule 305.1, subdivision (d).

⁶ Rule 323, subdivision (d).

⁷ Rule 323, subdivision (c).

⁸ Rule 323, subdivision (a).

1 • **Amendment of an application.** If the board grants an applicant's request to
2 amend an application, upon request of the assessor, the hearing on the matter shall
3 be continued by the board for no less than 45 days, unless the parties mutually
4 agree to a different period of time.⁹
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6 • **Applicant has failed to provide all information required by law.** If an
7 applicant has not yet provided all information required by law, the hearing may be
8 continued to a later date for a hearing on the merits of the application or for the
9 board to further inquire into the status of whether applicant has yet provided all
10 information required by law.
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12 If an applicant fails to provide information to the assessor pursuant to section
13 441(d) and introduces any requested materials or information at any assessment
14 appeals board hearing, the assessor may request and shall be granted a
15 continuance for a reasonable period of time. The continuance shall extend the
16 two-year period specified in 1604(d) for a period of time equal to the length of the
17 continuance.¹⁰
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19 • **New information introduced at the hearing.** If new material relating to
20 information received from the other party during an exchange of information
21 under section 1606 is introduced, the other party may request a continuance for a
22 reasonable period of time.¹¹
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24 • **Inspection of assessor's records.** If the assessor fails to permit the inspection or
25 copying of materials or information, as requested by the applicant pursuant to
26 section 408 (d) or (e), and the assessor introduces any such requested materials or
27 information at any assessment appeals board hearing, the applicant may request a
28 continuance for a reasonable period of time. The continuance shall extend the
29 two-year period specified in section 1604(c) for a period of time equal to the
30 length of the continuance.¹²
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32 • **Further information required by the board.** If, in the opinion of the board,
33 not enough evidence was provided during the course of the hearing for the board
34 to make a proper determination of value, the board may continue the hearing so
35 that information the board believes is pertinent may be assembled and brought
36 before them.

⁹ Rule 305, subdivision (e)(2)(C)(iv).

¹⁰ Section 441(h).

¹¹ Rule 305.1, subdivision (c).

¹² Section 408(f)(3).