

**Yuba County
Assessment Appeals Board**

**Rules
Of
Procedure**

**Adopted by
Yuba County Board of Supervisors
January 8, 2008**

In accordance with Article XIII, Section 16 of the California Constitution, these Rules are adopted by the Yuba County Board of Supervisors to govern Assessment Appeals Boards of the County of Yuba, State of California, and any Assessment Appeals Board panel appointed pursuant to Revenue and Taxation Code Section 1622.6.

Each and every provision of the California Constitution, the California Revenue and Taxation Code and Property Tax Rules of the California State Board of Equalization are adopted and incorporated into these Rules. Statements in these Rules describe procedures and requirements of the Yuba County Assessment Appeals Board and may not reflect all legal requirements that govern assessment appeals. If there is any conflict between these Rules and any California constitutional or statutory provision, the constitutional or statutory provision will supersede and invalidate any conflicting rule provision.

1. **DEFINITIONS**

For the purpose of these Rules, the following words shall have the meanings set forth below:

“Application” means a completed “Application for Changed Assessment” form filed with the Clerk of the Assessment Appeals Board.

“A.P.N.” or “Parcel Number” means the Assessor’s Parcel Number assigned to identify every parcel of real property in the County. The A.P.N. will appear on all correspondence received from the Assessor relating to the particular property parcel.

“Applicant” means a taxpayer who has filed an “Application for Changed Assessment” form.

“Assessee” is the person to whom property tax is assessed.

“Assessed Value” means the property value established by the County Assessor using various appraisal techniques and/or methods.

“Assessor” is the Assessor of the County of Yuba.

“Authorized Agent” is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding.

“Board” is the Assessment Appeals Board appointed by the Board of Supervisors of the County of Yuba. (Revenue and Taxation Code Section 1622.6).

“Continuation” is the continuation of a hearing after formal evidence and/or testimony has been received from one or more of the parties. The same Assessment Appeals Board Panel must hear said continued matter.

“County” is the County of Yuba.

“Code” is the California Revenue and Taxation Code.

“Chair” is the Chair of the Assessment Appeals Board.

“Clerk” is the Clerk of the Assessment Appeals Board.

“County Legal Advisor” is an attorney from the Office of the County Counsel for the County of Yuba.

“Equalization” is the determination by the Assessment Appeals Board of the correct full value for the property.

“Escape assessment” is an assessment on property which belonged on the local roll, but which escaped proper assessment.

“Full cash value” or “Fair market value” is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code.

“Full value” is either the full cash value or the restricted value.

“Lien date” is 12:00 a.m. January 1 of 1997 and each year after 1997. Prior to January 1 1997, the lien date was March 1.

“Local Roll” is the list of all property within the County that is assessed by the Assessor.

“Mail(ed)” is a term used which can be defined as delivered by U.S. postal service; special courier service; facsimile; or other means that can be proved/or identified as delivered by the parties.

“Party” is the applicant, applicant’s agent and the Assessor.

“Person affected” or “Party affected” is any person or entity having a direct economic interest in the payment of property taxed on the property for the valuation date that is the subject of the proceedings under this sub-chapter, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the application.

“Postponement” or “Rescheduled” is the continuation of a hearing by either or both of the parties prior to the submission of formal evidence or testimony relating to the issues of the assessment appeals application.

“Restricted value” is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

“**Rules**” are Yuba County Assessment Appeals Board Rules.

“**Supplemental assessment**” is an assessment to establish changes in value due to changes in ownership or new construction, which occurred after the local roll was compiled.

2. FUNCTION AND JURISDICTION OF BOARD

To accomplish equalization, Assessment Appeals Board conducts hearings on property assessment disputes between taxpayers and the Office of the Assessor. The Board adjusts property assessments and directs the Assessor to make changes, additions and cancellations to the local roll as necessary.

The Boards basic functions are:

- To increase after giving notice, or to lower after receiving an application, individual assessments in order to equalize assessments and to determine the allocation of value on the local tax assessment roll; and
- To Review and adjust penal and escaped assessments on the roll except escaped assessments made pursuant to Revenue and Taxation Code Section 531.1.
- To determine the classification of property, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property being exempt from taxation.

The Assessment Appeals Board has no power to assess, or re-assess property, but can only hear and determine whether the Assessor and staff have impartially performed their duties and equalize the valuations made by them. Board hears and decides issues relating to property valuation and some legal issues relating to property assessment. Board acts in a quasi-judicial capacity and may only act on the basis of evidence presented.

Boards cannot:

- Grant or deny exemptions or consider whether exemptions were improperly denied;
- Raise or lower the entire assessment roll;
- Extend the time for filing applications for equalization;
- Remove or waive penalties for delinquent payment of taxes;
- Reduce an assessment because the property was destroyed, damaged or depreciated after the lien date of the year in question;
- Change tax rates.

3. APPLICATION

No change in assessment can be made unless an “APPLICATION FOR CHANGED ASSESSMENT” form is filed with the Clerk, according to the procedures described in these rules.

- A. **WHO MAY FILE.** An Application may be filed by a property owner or by the owner’s spouse, parent, child or agent, or by any person having a direct economic interest in the payment of the property taxes. If the Application is made by an agent other than an attorney licensed to practice in this State, or by a spouse, parent or child of the owner, the “Authorization” portion of the Application form must be fully completed and signed by the person affected. If the Applicant is a corporation, the “Authorization” must be signed by an officer or individual authorized by the corporation. The corporate authorization may be requested at the time of the hearing before the Assessment Appeals Board.
- B. **SIGNATURE AND VERIFICATION.** The Application must be in writing, and the Application must be signed by the Applicant or his/her agent with declaration under penalty of perjury that the statements made in the Application are true.
- C. **WHERE FILED.** The Application must be filed with the Clerk of the Assessment Appeals Board. **Application for Changed Assessment forms may not be filed by facsimile transmission.**
- D. **FORMS AND CONTENTS.** The Application forms used to file assessment appeals are prescribed by the State Board of Equalization. A **separate** Application form must be filed for each property parcel, for each tax roll year being appealed. Any required attachments (such as assessment notices or tax bills) must be included with the Application form. The Clerk shall provide the Application forms.

To be valid, completed Applications **must** include **all** of the following Applicant provided information:

- Name and actual mailing address of the Applicant; and
- Name and mailing address of the Applicant’s agent, if any; and
- A description of the assessed property sufficient to identify on the local roll. The “A.P.N.” (Assessor’s Parcel Number) for secured property which appears on all correspondence mailed by the Assessor and/or the assessment number for unsecured property ; and

- The Applicant's opinion of the full value of the property on the valuation or lien date of the year in issue. If filing an Application with multiple facts/issues of value, separate opinions of value must be provided as part of the Application; and
- The taxable value on which the assessment of the property was based (shown on the notice of assessment or tax bill); and
- The facts relied upon to support the claim that the Board should order a change in the assessed value of the property; and
- The original signature of the Applicant or his/her agent; and
- The Applicant's signed agent's authorization, if filed by that agent who is other than an attorney, spouse, child or parent.

Applications that do not include all the above information are invalid due to incompleteness and cannot be acted upon by the Board.

E. **INCOMPLETE STATUS.** The Clerk is directed to promptly notify each Applicant, or his/her agent if applicable, of the missing information that results in an Application's incomplete status and invalidity. The Clerk's notice shall contain an explanation of the deficiency, a request for the missing information to correct the deficiency, and a warning that unless the missing information is provided within thirty (30) days from the date of the notice, the Application will be denied as incomplete and the appeal closed.

If the missing information is provided to correct the deficiency within the thirty (30) day prior, the Application will be deemed valid upon condition that the Applicant or agent executes a 1604(c) Waiver Agreement form waiving the two-year statutory deadline for hearing appeals under Code Section 1604.

F. **TIME FOR FILING.** To be considered valid, an Application must be filed with the Clerk during the appropriate filing period.

Regular Assessment Filing Dates are:

FOR YUBA COUNTY, THE FINAL DEADLINE IN NOVEMBER 30TH

- July 2 through September 15 for all property located in the county PROVIDED that the county assessor sent a notice, by August 1, of the assessed value to all assesses with real property on the local roll; OR
- July 2 through November 30 for all property located in the county IF the county assessor did not send assessment value notices by August 1

Applicants may file:

- Decline in value appeals
- Base year value appeals

- Personal property appeals
- Appeals of exempt value allocations
- Annual Property Statement penalties assessed under R&T Code Sections 463, 503 and 504

An Application filed by personal delivery must be received at the Clerk's office no later than 5:00 p.m. of the last day of the filing period.

An Application filed by mail that has the postage prepaid, is properly addressed and bears a U.S. postmark date no later than the last day of the filing period shall be deemed to have been filed timely. If the postmark date is later than the last day of the filing period, the Clerk may nevertheless find that the Application was filed timely if satisfactory proof, such as a Post Office certificate of mailing, is presented to show that the Application was mailed within the filing period. If an Application is being mailed near the filing deadline, it is highly recommended that a certificate of mailing be obtained and kept for the sender's records.

An Application filed by mail that bears both a private business postage meter postmark date **and** a U.S. postmark date will be deemed to have been filed as of the date that is the same as the U.S. postmark date, even if the private business postage meter date is the earlier of the two postmark dates.

If September 15 falls on Saturday, Sunday, or a legal holiday, an Application that is mailed and postmarked on the next business day shall be deemed to have been filed within "the time period beginning July 2 and continuing through and including September 15" or November 30th, if applicable. If on the dates specified in the paragraph the County's Offices are closed for business prior to 5 p.m. or for that entire day, that day shall be considered a legal holiday for purposes of this paragraph.

Assessments Made Outside the Regular Assessment Period. Appeals of supplemental assessments, and roll corrections made outside the regular assessment period must be filed with the Clerk no later than sixty (60) days after the date on which the Assessee was notified of the assessment by the Assessor's office.

(a) **Other Appeals Outside Regular Assessment Period.** Applications for other changes of assessment made outside the regular assessment period must be filed as follows:

- **Calamity or Misfortune Appeals.** An Application for change of an assessment made because the property was damaged by misfortune or calamity must be filed no later than six (6) months after the date on which the Assessor mailed notice of reassessment to the Assessee.

- **Escaped Assessment Appeals.** When an Assessor discovers property that was not assessed or was underassessed as a result of a business audit or other form of discovery, such that the property is subject to an escape assessment, the taxpayer has sixty (60) days from the date of the **final** notice of enrolled escape assessment to file and Application appealing the assessment. Final Notice constitutes one of the following:
 - Notice of Enrolled Assessment. A notice of “proposed” assessment does **not** constitute final notice; or
 - Notice of audit results. In the event the audit adjustments will not create a tax bill or will result in a refund to the Assessee.

(b) **Penalty Assessment Appeals.** When a penalty is assessed by the Assessor for failure to file or for the fraudulent filing of Change of Ownership Statements (COS) under Revenue and Taxation Code Sections 482, the taxpayer has 60 days from the date of notification of the penalty to file an Application appealing the assessment.

G. **Filed Untimely Status.** When any Application is received by mail or personal delivery on a date which is **after** that Application’s applicable filing deadline, the Clerk is directed to promptly notify the Applicant or his/her agent of the untimely filing status that results in a Clerk’s inability to accept the application. The Clerk’s notice shall contain an explanation of the untimely filing, a request for evidence of timely filing if any is available, and a warning that unless evidence is presented to demonstrate the timely filing of the Application within thirty (30) days from the date of the notice, the Application will be denied by the Board for lack of jurisdiction to hear any Application which was untimely filed and the appeal will be closed.

If evidence (such as a certificate of mailing, signed delivery receipt or the like) is provided within the thirty day period which, in the Clerk’s judgement, adequately demonstrates the timely filing of the Application, the Application will be deemed valid upon condition that the Applicant or agent executes a 1604(c) Waiver Agreement form waiving the two-year statutory deadline for hearing appeals under Code Section 1604.

If evidence is provided within the thirty day period which, in the Clerk’s judgement, does not adequately demonstrate the timely filing of the Application, or the Applicant refuses to execute any required declarations and/or 1604(c) Waiver Agreement, a hearing will be held before the Board to consider **only the issue of timeliness of filing.** The Applicant will be given notice of the hearing date and time where he/she will have the opportunity to present evidence. If the Board determines that the evidence demonstrates that the Application was filed

within the appropriate time requirements, the Board will declare the Application filed timely and the Application will be scheduled for a hearing on the merits of the appeal at a future date. If the Board determines that the Application was **not** filed within the appropriate time requirements, the Board will deny the Application for lack of jurisdiction to hear any Application that was untimely filed and the appeal will be closed.

H. **ESCAPE - AUDIT FILINGS.** If the results of an audit disclose property subject to an escape assessment and the Applicant not only wishes to contest the assessment of the personal property but the original assessment of the real property pursuant to Revenue and Taxation Code 469, providing it has not been previously adjudicated by an Assessment Appeals Board, the following filing procedures are required:

1. If unsecured and secured properties are valued separately then separate Applications must be filed for the secured and unsecured properties.
2. If unsecured and secured properties are jointly assessed on the secured roll then only one Application is required.

I. **PERSONAL PROPERTY ASSESSMENT AND PREVIOUSLY ADJUDICATED PROPERTY/APPLICATIONS.** In order to insure that property/applications are thoroughly and completely considered during the hearing process and that previously adjudicated property can be properly identified, it shall be the determination of the Assessment Appeals Board that all appeals on assessments brought before an Assessment Appeals Board are completely and totally considered and deliberated upon, including every item, category, or class of property, or portion of thereafter, during the hearing are provided for in the determination of value. This shall include all stipulations agreed upon by both the Assessor and the Applicant or the Applicant's Agent. In the event it is the desire of the Applicant or Applicant's Agent or Assessor to exclude consideration by the Assessment Appeals Board of any item, category, or class of property or any portion of thereafter under consideration by the Assessment Appeals Board, **it shall be the sole responsibility of the Applicant or Applicant's Agent or Assessor to clearly identify in writing and on the hearing audio record exactly what is not being considered by the Assessment Appeals Board and what is to be specifically excluded in the Assessment Appeals Board's final determination of value.** Any item, category, class of property or portion of thereafter, not specifically excluded by the Applicant or Applicant's Agent or Assessor in writing and on the audio record and not specifically addressed at the hearing shall be considered accepted and not challenged by the Applicant or Applicant's Agent or Assessor and shall be accepted as enrolled.

5. **AMENDMENTS AND CORRECTIONS**

The intent of this rule is to allow taxpayers who are unfamiliar with the property equalization process an opportunity to correct or amend an Application as long as they fall within the guidelines set forth in this rule. It is not the intent to allow the taxpayer or their agents to request additional relief or relief different in nature from that originally requested. Further, it is the Board's discretion to allow or disallow any amendments. The guidelines are as follows:

A. **BEFORE EXPIRATION OF THE FILING PERIOD:**

An Applicant or an Applicant's Agent may amend an Application until 5:00 p.m. on the last day upon which the Application might have been timely filed.

B. **AFTER THE FILING PERIOD HAS EXPIRED:**

The Applicant or the Applicant's Agent may amend an Application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

Upon request of the Applicant or the Applicant's Agent, the Board in its discretion may allow the Applicant to make amendments to the Application such as allowing Applicant or the Applicant's Agent to state additional or alternate facts claimed to seek a reduction in assessment of the property shown on the Application.

The Applicant or the Applicant's Agent shall state the reasons for the request, which shall be made in writing and filed with the Clerk of the Assessment Appeals Board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the Clerk shall provide a copy to the Assessor upon receipt of the request.

As a condition to granting a request to amend an application, the Assessment Appeals Board shall require the Applicant to sign a written 1604(c) Waiver Agreement extending the two-year period provided in Revenue and Taxation Code Section 1604.

If a request to amend is granted, upon the request of the Assessor, the hearing on the matter shall be continued by the Board for no less than 45 days, unless the parties mutually agree to a different period of time.

6. **EXCHANGE OF INFORMATION**

A. **REQUESTED BY APPLICANT OR ASSESSOR.** An exchange of information may assist the Assessor and/or the Applicant in understanding the bases for their differing opinions of value. When the assessed value of the property in question, before

any exemption deduction (such as a homeowner's or veteran's exemption) is applied, is \$100,000 or less, the Applicant may request an exchange of information with the Assessor. When the assessed value of the property in question, before deduction of any applicable exemption, is more than \$100,000, either the Applicant **or** the Assessor may request an exchange of information.

The request must be made in writing **to the Clerk** at the time an Application is filed or **to the other party** at any time prior to thirty (30) days before the hearing on the Application. The party requesting the exchange of information must provide his/her valuation information to the other party at the time the request for an exchange of information is made. When the exchange request is made directly to the other party, the Clerk should be notified that an exchange has been requested. A copy of the valuation information is not required to be provided to the Clerk. The request must contain the basis of the requesting party's opinion of value as well as the following:

- **Comparable Sales Data.** If the opinion of value is to be supported with evidence of comparable sales.
- **Income Data.** If the opinion of value is to be supported with evidence based on an income study.
- **Cost Data.** If the opinion of value is to be supported with evidence of replacement cost.

See Rule No. 13 for additional information about admissible evidence.

B. **DATA TO THE OTHER PARTY.** If the party requesting an exchange of information has submitted the data required above within the specified time period, the other party must mail a response at least fifteen (15) days prior to the hearing. The response must set forth the basis of the other party's opinion of value, and must contain the same type of information submitted by the requesting party. If the Assessor is the respondent, he/she is required to mail the response to the address shown on the Application.

C. **PROHIBITED EVIDENCE; NEW MATERIAL CONTINUANCE.** If an exchange of information is requested and information has been exchanged as described herein, thereafter, unless agreed to by both parties, the **only** evidence that may be introduced at a hearing is the information exchanged or developed as a consequence of the exchange. If a party introduces new evidence that has been "developed as a consequence of the exchange", the Board **must**, at the request of either party, continue the hearing for a reasonable period of time so that the other party may gather and present a response to the newly developed material at a future hearing.

7. **NOTICES**

All notices required or permitted by these Rules shall be in writing.

A. **CLERK'S NOTICE OF HEARING.** Once a complete Application is timely filed, the Clerk will schedule the appeal for hearing as soon as possible and will send a notice to the Applicant or his/her agent by mail directed to the address shown in the Application. The notice will give the time and place of the hearing. The notice will be given by certified mail, return receipt requested, at least forty-five (45) days before the scheduled hearing date unless a shorter notice has been stipulated to by the Assessor and the Applicant or his/her agent. The Clerk will also notify the Assessor and the County Legal Advisor of the time and place of the hearing. If the hearing is rescheduled for any reason, whether at the request of the Applicant, Assessor or Board, ten (10) days' notice shall be given for the rescheduled hearing unless waived by the parties or rescheduled/postponed or continued to a specific date and time at a hearing where both parties are present.

The Clerk may request that the Assessor and the Applicant or his/her agent provide written time estimates and statements of readiness to enable the Clerk to schedule major appeals when the parties are ready for hearing, and to set aside enough time in the schedule for each case to be heard in one block of time. If the parties have not responded with time estimates and statements of readiness not later than ninety (90) days before the scheduled hearing date, the Clerk will schedule the appeal for hearing.

The Clerk will make every effort to accommodate requests for specific hearing dates and time requirements if requests are submitted by stipulation signed by all parties and accompanied by a 1604(2) Waiver Agreement from the Applicant to extend the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604. The Assessment Appeals Board reserves the right to limit the time allotted for the presentation of evidence and argument at any hearing.

B. **NOTICE OF INCREASE OF ASSESSMENT ON BOARD'S OWN MOTION.** If proposing to raise an assessment on its own motion without an Application for reduction pending before it, the Board will give notice of the hearing to the Assessee and Assessor not less than twenty (20) days prior to the hearing unless notice is waived by the Assessee or his/her agent in writing in advance of the hearing or orally at the time of the hearing. A shorter notice may also be stipulated to by the Assessor and Assessee or his/her agent. The notice shall be mailed to the Assessee at this latest address on file in the Assessor's records.

C. **ASSESSOR'S NOTICE OF INTENT TO REQUEST A HIGHER VALUE.** When the Assessor intends to request at the hearing that the Board find a higher assessed value than was placed on the roll and intends to offer evidence to support the higher value, the Assessor must notify the Applicant or his/her agent

in writing by personal delivery or by mail directed to the address given in the Application, with a copy forwarded to the Clerk of the Board, at least ten (10) days before the hearing.

To facilitate hearings of this nature, the Assessor must initially establish that the appropriate notice was given to the Applicant not less than ten (10) days before the hearing. The Assessor shall also be requested by the Board to make the first presentation of evidence.

The Applicant may not abandon or withdraw their appeal upon receipt of Assessor's notice of intent to request a higher value. This notice requirement shall not prohibit the Board from finding a higher assessed value when it has not been requested by the Assessor.

8. PUBLIC HEARINGS

Assessment Appeals Board Hearings are open to the public. If, however, evidence to be presented will include trade secrets (e.g. formulas, manufacturing processes, etc) that the Applicant wishes to remain confidential the trade secrets portion of the hearing may be closed to the public upon the Applicant's request. The request must include a declaration under penalty of perjury that evidence is to be presented which relates to trade secrets, the disclosure of which will be detrimental to the business interests of the owner of the trade secrets. If the Board grants the request to close a portion of the hearing, only evidence relating to the trade secrets may be presented during the time the hearing is closed. Transcripts and/or exhibits that disclose any trade secrets will be maintained by the Clerk in a confidential manner both during and after the hearing and decision.

Further, upon the conclusion of the taking of evidence, the Board may deliberate in private in reaching a decision.

9. PRE-HEARING CONFERENCE

A. This Rule establishes the Assessment Appeals Boards' ability to conduct pre-hearing conferences. The purpose of a pre-hearing conference is to resolve issues such as, but not limited to, clarifying and defining the issues, determining the status of exchange of information requests, stipulating to matters on which agreement has been reached, combining applications into a single hearing, bifurcating the hearing issues and scheduling a date for the Assessment Appeals Board to consider evidence on the merits of the application. A pre-hearing conference may be set by the Clerk at the request of the Applicant or Applicant's Agent, the Assessor, or at the direction of the Assessment Appeals Board. If the request is by the Applicant or the Applicant's Agent, the Applicant shall be required to execute a 1604(c) Waiver agreement, indefinitely extending the two-year statutory deadline. The Assessor or the Assessment Appeals Board shall NOT request a pre-hearing conference if the Application is within 120 days

of expiration of the statutory 1604(c) deadline, unless the Applicant has on file with the Clerk an executed 1604(c) Waiver Agreement. Any such request for a pre-hearing conference shall be in writing and shall clearly outline the issues, purpose and intent of the conference and the estimated length of the conference so that each party may adequately prepare. NO OTHER ISSUE (S) MAY BE RAISED AT THE CONFERENCE UNLESS ALL PARTIES AGREE ORALLY OR IN WRITING TO ADDITIONAL SPECIFIC ISSUES OF DISCUSSION.

B. The Clerk of the Board shall set the matter for a pre-hearing conference and notify the Applicant or the Applicant's Agent, the Assessor and the Assessment Appeals Board's Counsel of the time and date of the conference. Notice of the time, date and place of the conference shall be given not less than thirty (30) days prior to the conference, unless the Assessor and the Applicant stipulate orally or in writing to a shorter notice period. The notice shall include a copy of the requesting party's written request.

C. All initial briefs or other written material to be presented at the pre-hearing conference shall be submitted to the Clerk of the Board and other parties (e.g. Assessor, Applicant/Agent, Board Counsel) no later than fifteen (15) days prior to the scheduled conference.

D. All response briefs are to be submitted to the Clerk or the Board and other parties (e.g. Assessor, Applicant/Agent, Board Counsel) no later than seven (7) days prior to the commencement of the scheduled conference.

E. In its discretion, the Board may require the requesting party to submit pre-hearing or post-hearing briefs or statements to identify and/or clarify issues material to the appeal.

F. The prevailing party may be directed to prepare an order(s) resulting from the pre-hearing conference. Said order(s) shall be submitted to the Clerk of the Board and other parties (e.g. Assessor, Applicant/Agent, Board Counsel) no later than fifteen (15) days prior to the commencement of the hearing to determine value or as determined and directed by the Assessment Appeals Board.

10. POSTPONEMENTS , RESCHEDULES, CONTINUANCES

Postponing/rescheduling a hearing means that the Board adjourns hearing (before the presentation of any evidence) and designates a future date and time for the initial presentation of any evidence on the same appeal. Rescheduling of an appeal is discussed in "A" below. Continuing an appeal means that the Board adjourns the hearing, following the submission of evidence, and designates a future date and time to continue hearing evidence previously begun on the same appeal. Continuance requirements are discussed on "B" below. In other words, the hearing may be postponed/rescheduled before any evidence is presented. Once any portion of the

evidence has been presented to the Board, if the hearing of the appeal is not completed during that hearing session, it must be continued, not postponed, and the continued hearing must be heard by the same Assessment Appeals panel.

A. **POSTPONING/RESCHEDULING THE HEARING BEFORE EVIDENCE IS PRESENTED:**

The Clerk is authorized to grant one (1) written request by either the Applicant or the Assessor, to postpone/reschedule a hearing date provided the written request is received by the clerk no later than ten (10) calendar days prior to the scheduled date of the hearing and no previous request to continue by the requesting party has been granted.

B. **CONTINUANCE OF HEARING ONCE EVIDENCE IS PRESENTED:**

Request by Applicant: At the Board's discretion, on the date of the hearing, a matter may be continued if so requested by the Applicant as long as:

- A 1604 (c) waiver is on file or is filed by the Applicant.
- The Applicant provides **good and reasonable** cause why a continuance should be granted.

Request by Assessor: At the Board's discretion, on the date of the hearing, a matter may be continued if so requested by the Assessor, as long as:

- The request is not made within the last 120 days of the two (2) year statutory deadline for hearing appeals pursuant to Code Section 1604;and
- The hearing is continued to a specific designated date which is within the two(2) year statutory deadline for hearing appeals pursuant to Code Section 1604;and
- The Assessor demonstrates **good and reasonable** cause why a continuance should be granted.

Motion of the Board: The Board may continue the hearing to allow for additional time for the presentation of evidence, or to obtain additional evidence, or whenever, in their discretion, a continuance is beneficial or required, provided:

- The continuance is not within the last 120 days of the two (2) year statutory deadline for hearing appeals pursuant to Code Section 1604; and
- The hearing is continued to a specific designated date which is within the two(2) year statutory deadline for hearing appeals pursuant to Code Section 1604; or

- An executed 1604 (c) Waiver Agreement form to extend the two (2) year statutory deadline for hearing appeals pursuant to Code Section 1604 is on file or filed with the Clerk of the Board.

11. **PROCEEDINGS RECORDED**

All Board proceedings will be tape-recorded. Any person may purchase a copy of the tape recording upon payment of a fee to the Clerk sufficient to cover its cost. A copy of the recording must be requested within sixty (60) days of the Board's final decision in the appeal, or the right to a copy of the recording will be deemed waived. In addition to the tape-recorded record, an Applicant or Agent may choose to have the hearing recorded by a stenographic transcriber, and must provide the Clerk with a copy of the transcript free of charge. Upon request, the Clerk will make arrangements for the stenographic transcriber services provided the request is made not less than ten (10) days before the hearing date, and that the requesting party pays, in advance, all associated fees.

12. **EXHIBITS**

Exhibits, maps, letters, papers, documents, charts, etc. to be submitted by an Applicant or the applicant's agent, as evidence in an appeal shall **not** be accepted prior to the hearing and should not be attached to an Application. If such attachments are filed with an application by the Applicant and inadvertently accepted by the Clerk, the Clerk **cannot** be responsible for maintaining them in the appeal file or for forwarding them to the Assessor and the Board. Neither party shall deliver any such exhibits, maps, etc. to members of the Board prior to being marked for identification and received into evidence **at the time of the noticed hearing**. Both the Applicant and the Assessor must submit five (5) copies of each written exhibit to be offered into evidence during the Board hearings.

13. **EVIDENCE/BURDEN OF PROOF**

A. **BURDEN OF PROOF**

The burden of proof is subject to exceptions set by law; it is presumed that the Assessor has properly performed his/her duties. The effect of this presumption is to impose upon the Applicant the burden of proving that the value on the assessment roll is not correct, or, where applicable, the property in question has not been otherwise correctly assessed. The law requires that Applicant proceed to present independent evidence relevant to the full value of the property or other issue(s) presented by the Application.

The Assessor has the burden of proof in the following instances:

- The imposition of a penalty assessment.
- Owner-occupied single-family dwelling or an escape assessment, providing the Applicant supplied all information to the Assessor as is required by statute.
- Values which exceed the purchase price at the time of a change in ownership.

If the Applicant has presented evidence, and the Assessor has also presented evidence, then the Board must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the Assessor's determination is incorrect. The presumption that the Assessor has properly performed his/her duties is not evidence and shall not be considered by the Assessment Appeals Board in its deliberations.

B. ADMISSIBLE EVIDENCE

1. COMPARABLE SALES DATA. If the opinion of value is to be supported with evidence of comparable sales, the properties sold should be described by the Assessor's Parcel Number, street address, or legal description sufficient to identify them. For every comparable property presented as evidence the approximate date of sale, the price paid, the terms of sale (if known), and the zoning of the property should be presented.

Comparable sales **cannot** include any sales that occur more than ninety (90) days **after** the date for which value is being estimated ("the 90-day rule"). In many cases, the date for which valuation is being estimated is the lien date, January 1 (March 1 for years prior to 1997). If the January 1 lien date is the date in question, the 90-day rule means that comparable sales **after** April 2nd (April 1st in leap years) will be inadmissible evidence, and may **not** be used to support an appeal. Comparable sales that occurred more than ninety (90) days **before** the lien date may be admitted into evidence, with sales closest in time to the lien date being given the most weight, all other things being equal.

2. INCOME DATA. If the opinion of value is to be supported with evidence based on an income study, the gross income, expenses, and capitalization method and the rate or rates employed should be presented.

3. COST DATA. If the opinion of value is to be supported with evidence of replacement cost, the following should be presented:

- With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.
- With regard to machinery and equipment; the date of installation, installed cost, and any history of extraordinary use.

- With regard to both improvements and machinery and equipment; facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

14. **EXAMINATION OF APPLICANT BY BOARD; STIPULATION**

No reduction of an assessment can be made unless the Applicant or his agent attends a hearing scheduled before a Board, offers evidence, under oath, regarding the value of the property, and answers all questions pertinent to the inquiry. An exception to this requirement is if a written stipulation is filed with the Board, signed by the Assessor and the County Legal Advisor on behalf of the County and the Applicant or the Agent making the Application, which includes the full value and assessed value of the property and the facts upon which the reduction in value is premised, the Board may, at a public hearing:

- Accept the stipulation, and by doing so, waive the appearance of the Applicant or the Agent and change the assessed value in accordance, or
- Reject the stipulation and schedule or reschedule the Application for hearing.

An Applicant who chooses to transmit a signed stipulation form by facsimile transmission should return the signed stipulation to the Assessor with adequate time for the Assessor to forward the stipulation to the Clerk. If a stipulation is **not** received by the Clerk within the time limitations set forth, the Applicant or Agent **must appear at the scheduled hearing** or the Application shall be denied by the Board for nonappearance.

15. **APPEARANCE AT HEARING**

A. **PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY REPRESENTATIVE.** The Applicant must appear personally at the hearing except as otherwise provided in these Rules, or be represented by an agent, attorney, corporate officer or employee, co-owner, or family member mentioned in paragraph B below who shall be thoroughly familiar with the facts pertaining to the matter before the Board. Any person, other than an attorney at law, purporting to act as agent for the Applicant must have been authorized in writing by the Applicant's completion of the "Agent's Authorization" section of the Application form.

If the Application was initially filed by the Applicant, any person (other than an attorney, corporate officer, co-owner, or family member mentioned in paragraph B below) who appears on behalf of the Applicant at the hearing must first file with the Clerk the Applicant's written authorization for representation of the Applicant at the hearing. If the Application when filed initially authorized a person other than the person who purports to represent the Applicant at the hearing, a written authorization signed by the Applicant must be provided to evidence the Applicant's consent to the change in representation.

The Clerk shall provide forms for this purpose that may **not** be transmitted to the Clerk by facsimile transmission.

If an Assessment Appeals Application is filed by an attorney representing the Applicant without the Applicant's authorization signature, the attorney signing the Application or an attorney from his/her law firm are the only individuals authorized to take action on, received information, or represent the Applicant at an Assessment Appeals Hearing.

B. **APPEARANCE BY MEMBERS OF FAMILY.** A husband may appear for his wife or a wife for her husband, and sons and daughters for parents or vice versa. No written authorization is required provided adequate evidence exists to prove the family relationship.

C. **PROPERTY IN COMMON OWNERSHIP.** If the property is held in joint or common ownership or in a co-ownership, the presence of the Applicant or any one of the owners constitutes a sufficient appearance. No written authorization is required provided adequate evidence exists to prove joint ownership or co-ownership.

D. **APPEARANCE BY CORPORATION.** Where the Applicant is a corporation, the corporation shall make an appearance by the presence of an attorney or of any duly authorized officer or employee who is knowledgeable on the matters before the Board.

E. **FAILURE TO APPEAR.** If an applicant or his/her appointed agent fails to appear at a scheduled hearing, the application for appeal will be denied. If the applicant or his designated representative subsequently contacts the Clerk of the Assessment Appeal Board within the next 30 days and demonstrates that he/she had good cause for the failure to appear, the Clerk shall set the matter for hearing. If the applicant, subsequent to his or her failure to appear at the scheduled hearing, contacts the Clerk and requests that the matter be set for hearing, and the Clerk determines that the applicant and /or his representative has not demonstrated good cause, a hearing before the Board may be set at the request of the Applicant to address the sole issue of whether there is good cause to excuse the applicant's failure to appear and to set the matter for hearing.

16. **AGENT AUTHORIZATION, REVOCATION, SUBSTITUTION**

A. **INITIAL AGENT AUTHORIZATION.**

An Applicant who wishes to authorize a firm or individual, who is not an attorney, parent, child, or spouse, must:

- Complete and sign Section 2 of the Application for Changed Assessment Appeal form, or
- May use the Authorization of Agent form available from the Clerk of the Assessment Appeal Board.

B. APPLICATIONS FILED BY AN ATTORNEY ON BEHALF OF AN APPLICANT.

If an Assessment Appeal Application is filed by an attorney representing the Applicant without the Applicant's authorization signature, the attorney signing the Application or an attorney from his/her firm are the only individuals authorized to take action on, receive information, or represent the Applicant at an assessment appeals hearing.

If, after the timely filing of an Assessment Appeal Application made by the Applicant, you have been authorized as the Applicant's Attorney to represent the Applicant, you must complete and execute an Attorney Authorization Certification Form.

C. REVOCAION, SUBSTITUTION OF AN AGENT.

An applicant who wishes to cancel or revoke the previous authorization of an agent, or who wishes to substitute a new agent for a former agent previously authorized, must do so in writing. The written request must be filed with the Clerk of the Assessment Appeals Board. Unless the written request for the revocation or substitution of the agent is filed, all correspondence regarding the appeal will be sent to the agent first authorized to act on the Applicant's behalf who will remain the Authorized Agent for the Application, and may settle by stipulation, withdraw or otherwise control the appeal.

17. TYPES OF ADMISSIBLE EVIDENCE:

The following types of evidence are admissible to real property:

CONDITION OF THE SUBJECT PROPERTY:

1. Physical condition of the land, including:
Size and shape
Nature of the terrain (hilly, flat, etc.)
Soil conditions
View
2. Improvements on the property, including;
Size
Utility for intended purpose
Condition (well-maintained or obsolete or run down)
Type of construction
3. Zoning restrictions, including the probability or improbability of changing the zoning classification of the property, e.g., the probability or improbability of changing property from residential zone to commercial zone.
4. Easements which are a burden on and/or affect the value of the property.

5. Governmental restrictions which restrict the use of the property.
6. Utilities and facilities available to the property, including but not limited to:
 - Water
 - Sewer
 - Gas
 - Telephone
 - Schools
 - Road access
 - Public transportation
7. Maps and photographs of subject property and vicinity and of comparable sales.
8. Sales (purchase) price of subject property, sold (purchased) within a reasonable time prior to or no later than ninety (90) days after the date of the valuation of the property.
9. Improvements on subject property, including:
 - Original cost, if constructed or installed within a reasonable time prior to date of valuation
 - Reproduction cost
10. Income from subject property:
 - Gross income
 - Expenses of operation
 - Net income
 - Capitalization rate to be applied in computing value based on income
11. Sales values of comparable property. In order for a sale to be admissible as a comparable sale, it must be shown to have been a fair and open market transaction. In general a sale becomes relevant and hence admissible when there is sufficient evidence before the Board to convince the Board that the sale actually took place and that the property sold is sufficiently similar to the subject property to assist in determining its value. Sufficient evidence of comparability must be established by the proponent before evidence of a sale is admissible.

To be comparable:

In the case of a sale, it must have occurred within a reasonable time before, but no later than ninety (90) days after the date for which value is being estimated.

The property must be located sufficiently near the subject property.

The property must be like the subject property in respect to character, age, situation, usability and improvements

18. **INADMISSIBLE EVIDENCE.**

Evidence of the following is inadmissible:

Increase in assessed value on subject property;
Taxes;
Listings or offers to purchase property. It is significant to note, however, that listings and offers may be admitted upon cross-examination as an admission against interest;
Assessed values of comparable properties.

Failure to enter timely objection to evidence constitutes a waiver of the objection.

19. **LEGAL COUNSEL FOR PERSON AFFECTED AND ASSESSOR**

The person affected and the Assessor may be represented by legal counsel.

20. **RECONSIDERATION AND REHEARING**

A. **BOARD DECISION IS FINAL** The decision of a Board upon an Application is final. The Board cannot change, reconsider the recommendation or rehear an Application.

B. **LACK OF APPEARANCE RECONSIDERATION.** In accordance with a procedure adopted by the Board, the Clerk is authorized and directed to reopen and reschedule Assessment Appeals previously denied for lack of appearance of the Applicant when all the following conditions are met:

The Appeal was denied solely on the ground that the Applicant failed to appear at the duly noticed and scheduled hearing on the Application; and

The Applicant files a written request for reconsideration of the denial for failure to appear within sixty (60) days from the date of mailing of the notification of denial; and

In the Clerk's judgement the Applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement of the hearing.

The Clerk is hereby instructed to administratively deny all requests that do not meet all of the conditions. Upon administrative denial by the Clerk, the Applicant may appeal the decision within 30 calendar days of the notice of denial and have the matter calendared before the Assessment Appeals Board for a hearing on the merits of the request for reconsideration issue only. The Board may reopen and take evidence upon an

Application denied solely because of the lack of appearance of the Applicant or Applicant's Agent to determine whether the request for reconsideration was timely filed and whether there was reasonable justification for the failure of the Applicant to appear at the scheduled hearing.

C. **CLERICAL ERROR.** The Board may reopen hearings on its own motions to correct any errors made in computing the subject property's value or any administrative errors discovered after the hearing.

21. **APPLICATION FOR EQUALIZATION BY MEMBER, ALTERNATE MEMBER, OR CLERK OF THE BOARD STAFF**

An Application for equalization filed pursuant to Revenue and Taxation Code Section 1603, by a member or alternate member of an Assessment Appeals Board or Clerk of the Board staff or an Application in which that member/individual represents his/her spouse, parent, or child shall be heard before an Assessment Appeals Panel consisting of three special alternate Assessment Appeals Board members appointed by an order of the presiding judge of the County of Yuba. A special alternate assessment appeals member may hear only the Application or Applications for equalization set forth in the superior court order appointing the members.

Any person shall be eligible for appointment as a special alternate Assessment Appeals Board member who meets the requirements of Section 1624 of the Revenue and Taxation Code. The residency requirement has been eliminated.

22. **SELECTION OF BOARD CHAIR**

The Board shall select one of its members to act as Chair and to preside over all hearings, beginning on the first Monday in September and shall continue to make such selections as necessary to hear and determine all assessment issues before them. No member may be selected as Chair unless he/she has served as a Board member for at least six (6) months and completed the mandatory State Board of Equalization training. The Chair shall exercise such control over hearings as is reasonable and necessary. The Chair shall make all rulings regarding procedural matters and admission on exclusion of evidence.

23. **QUORUM AND VOTE REQUIRED**

No hearing before the Assessment Appeals Board shall be held unless a quorum is present. No decision, determination, or order shall be made by the Assessment Appeals Board by less than a majority vote of all the members of the Board who have been in attendance throughout the hearing. If a hearing takes place before a board consisting of an even number of members and they are unable to reach a majority decision, the Application shall be reheard before the full Board. In matters where a case has been held before less than a full Board, the parties may stipulate that the

absent members may read or otherwise become familiar with the record and participate in the vote.

If either party so demands, a hearing must be held before a full 3-member Board. In the event that only a quorum is present and the Applicant demands a hearing, the Board shall request that the Applicant execute a 1604(c) Waiver Agreement, extending the 2-year expiration date if the demand precludes the matter from being heard within the statutory 2-year period. If the Applicant does not agree to execute the Waiver Agreement, the Board may deny the Applicant's demand for a hearing before a full 3-member Board.

24. **ASSESSMENT APPEALS BOARD**

To insure that members of the Assessment Appeals Board are knowledgeable on the statutes, rules, policies and administrative procedures within their jurisdiction, all members are required to attend the following training:

Every person newly appointed as an Assessment Appeals Board member shall successfully complete training conducted by the State Board of Equalization prior to the commencement of his/her term on the Board or as soon as is reasonable possible within one (1) year thereafter. A member who does not complete this mandated training as stated above shall complete the training within sixty (60) days of the date of the notice by the Clerk of the Board advising the member that his/her failure to complete the training constitutes resignation by operation of law. If the member fails to comply within the sixty (60) day period, the member shall be deemed to have resigned his/her position on the Board.

Every Assessment Appeals Board member shall attend a minimum of two hours of Ethics Training every two years and other training as may be or become required by law.

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