

COUNTY OF SAN DIEGO
ASSESSMENT APPEALS BOARDS
AND ASSESSMENT HEARING OFFICERS

RULES
OF
PROCEDURE

Clerk of the Board of Supervisors
and Assessment Appeals Boards
March 1, 2016

SAN DIEGO COUNTY
BOARD OF SUPERVISORS

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The Rules of Procedure of the
San Diego County Assessment Appeals
Boards and Assessment Hearing Officers
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ASSESSMENT APPEALS BOARDS
AND ASSESSMENT HEARING OFFICERS
COUNTY OF SAN DIEGO
RULES OF PROCEDURE

1. DEFINITIONS AND GENERAL PROVISIONS. (PROPERTY TAX RULE 301)

The provisions set forth in this section govern the construction of these rules.

- (a) “County” is the county wherein the property is located that is the subject of the proceedings under these rules.
- (b) “Assessor” is the assessor of the county.
- (c) “Auditor” is the auditor of the county.
- (d) “Board” is each of the assessment appeals board of this county.
- (e) “Chair” is the chair of the assessment appeals board.
- (f) “Clerk” is the clerk of the assessment appeals board.
- (g) “Person affected” or “party affected” is any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of the proceedings under these rules, 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.
- (h) “Full cash value”, or “fair market value” is the value provided in Sections 110 and 110.1 of the Revenue and Taxation Code.
- (i) “Restricted value” is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.
- (j) “Full value” is either the full cash value or the restricted value.
- (k) “Equalization” is the determination by the board of the correct full value for the property that is the subject of the hearing.
- (l) “County legal advisor” is the county counsel.
- (m) “Authorized agent” is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding.

2. THE BOARD'S FUNCTION AND JURISDICTION. (PROPERTY TAX RULE 302)

- (a) The functions of the board are:
 - (1) To lower, sustain, or increase upon application, or to increase after giving notice when no application has been filed, individual assessments in order to equalize assessments on the local tax assessment roll.
 - (2) To determine the full value and, where appealed, the base year value of the property that is the subject of the hearing.
 - (3) To hear and decide penalty assessment and to review, equalize, and adjust escaped assessment on that roll except escaped assessments made pursuant to Revenue and Taxation Code Section 531.1.
 - (4) To determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation.
 - (5) To determine the allocation of value to property that is the subject of the hearing, and
 - (6) To exercise the powers specified in Section 1605.5 and 1613 of the Revenue and Taxation Code.
- (b) Except as provided in rule (a)(4), the board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.
- (c) The board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.
- (d) Regarding property subject to change in ownership or newly constructed, the county board shall hear applications for a reduction in an assessment in cases in which the issue is whether or not property has been subject to a change in ownership, as defined in Chapter 2 (commencing with Section 60) of Part 0.5, or has been newly constructed, as defined in Chapter 3 (commencing with Section 70) of Part 0.5, of the Revenue and Taxation Code.
- (e) The county board shall hear and decide issues with respect to penalties assessed under Section 463, 482, or 504 where those issues arise in connection with an application timely filed under Section 1603 or 1065. The county board shall hear and decide penalty issues under this subdivision regardless of whether the taxpayer has filed an application for reduction disputing only penalty amounts or, during the appeal process, all non-penalty issues are resolved.

3. PUBLICATION GIVING NOTICE OF FILING PERIOD

Immediately upon delivery of the roll to the auditor, the clerk shall give notice of the period during which assessment protests will be accepted, the place where they may be filed, and the time the county board will meet to equalize assessments by publication in a newspaper, as provided in Revenue and Taxation Code Section 1601(c).

4. LOCATION OF LOCAL ROLL FOR INSPECTION. (PROPERTY TAX RULE 266)

The local roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours of the officer having custody thereof. Copies may be made available for inspection at other places for the convenience of the public.

5. APPLICATION. (PROPERTY TAX RULE 305)

No change in an assessment sought by a person affected shall be made unless the following application procedure is followed:

(a) **ELIGIBLE PERSONS.**

- (1) An application is filed by the person affected or the person's agent, or a relative mentioned in State Board of Equalization (SBE) Rule 317. If the application is made by an agent, other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, written authorization to so act must be filed with the application. For purposes of signing an application on behalf of an applicant, an agent shall be deemed to have been duly authorized if the applicant's written agent authorization is on the application or attached to each application at the time it is filed with the board. The attached authorization shall include the following:
 - (A) The date the authorization statement is executed;
 - (B) A statement to the effect that the agent is authorized to sign and file applications in the specific calendar year in which the application is filed;
 - (C) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the applicant on all parcels and assessments located in the specific county;
 - (D) The name, address, and telephone number of the specific agent who is authorized to represent the applicant;
 - (E) The applicant's signature and title; and
 - (F) A statement that the agent will provide the applicant with a copy of the application.
- (2) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.
- (3) If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.
- (4) No application shall be rejected as a duplicate application by the clerk unless it qualifies as a duplicate application within the meaning specified in section 1603.5 of the Revenue and Taxation Code.

- (b) **SIGNATURE AND VERIFICATION.** The application shall be in writing and signed by the applicant or the applicant's agent with declaration under penalty of perjury that the statements made in the application are true, and that the person signing the application is one of the following:
- (1) The person affected, a relative mentioned in SBE Rule 317, an officer of a corporation, or an employee of a corporation who has been designated in writing by the board of directors or corporate officer to represent the corporation on property tax matters;
 - (2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application; or
 - (3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.
- (c) **FORM AND CONTENTS.** The county shall provide free of charge forms on which applications are to be made.
- (1) The application form shall be prescribed by the State Board of Equalization and shall require that the applicant provide the following information:
 - (A) The name and address of the applicant.
 - (B) The name and address of the applicant's agent, if any. If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.
 - (C) The applicant's written authorization for an agent, if any, to act on the applicant's behalf.
 - (D) A description of the property that is the subject of the application sufficient to identify it on the assessment roll: secured property (land and improvements) to be identified by assessor parcel number and property address/location; unsecured property (business, marine, aviation) to be identified by the tax bill number, account number, boat or aircraft number.
 - (E) The applicant's opinion of the value of the property on the valuation date of the assessment year in issue.
 - (F) The roll value on which the assessment of the property was based.
 - (G) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.
 - (2) The form shall also include:
 - (A) notice that a list of property transfers within the county, which have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant and copies are available for purchase upon payment of a fee not to exceed ten dollars \$10.

(B) A notice that written findings of fact will be prepared by the board upon request if the applicable fee is paid. An appropriate place for the applicant to make the request shall be provided.

- (3) An application may include one or more reasons for filing the application. An application shall not include both property on the secured roll and property on the unsecured roll.
- (4) An application that does not include the information required in subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given 30 calendar days to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board.
- (5) An application that includes the correct information required by subdivision (1) is valid and no additional information shall be required of the applicant on the application form.
- (6) If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which the applicant may request that the application be heard by such an officer.
- (7) If the application appeals property subject to an escape assessment resulting from an audit conducted pursuant to section 469 of the Revenue and Taxation Code, then all property, both real and personal, of the assessee at the same profession trade or business location shall be subject to review, equalization, and adjustment by the appeals board, except when the property has previously been equalized for the year in question.

(d) TIME OF FILING.

- (1) An application appealing a regular assessment shall be filed with the clerk during the regular filing period beginning July 2, but no later than September 15. A regular assessment is one placed on the assessment roll for the most recent lien date, prior to the closing of that assessment roll. Additionally, an application appealing a base year value for the most recent lien date, where that value is not the value currently on the assessment roll, shall be filed with the clerk during the regular filing period beginning July 2, but not later than September 15.

NOTE: Section 1603 of the Revenue and Taxation Code now provides that the last day of the filing period shall be extended to November 30 where the county assessor does not provide, by August 1, a notice to all assessees of real property of the assessed value of their property.

The County Assessor has notified the Clerk of the Board that the notice described above will not be provided in 2007. Therefore the Clerk of the Board has notified the State Board of Equalization that the last day of the 2007 filing period for the County of San Diego will be November 30, 2007.

- (2) An application appealing an escape assessment or a supplemental assessment must be filed with the clerk no later than 60 days after the date of mailing printed on the tax bill or the postmark therefore, whichever is later.

- (3) An application appealing a proposed reassessment made for property damaged by misfortune or calamity pursuant to section 170 of the Revenue and Taxation Code must be filed with the clerk no later than 14 days after the date of mailing of the notice of proposed reassessment by the assessor. The decision of the board regarding the damaged value of property shall be final; however, the decision regarding the reassessment made pursuant to section 170 shall create no presumption regarding the value of the property subsequent to the date of the damage.
 - (4) An application will be deemed to have been timely filed:
 - (A) If it is sent by U. S. mail, properly addressed with postage prepaid and is postmarked on the last day of the filing period or earlier within such period; or
 - (B) If proof satisfactory to the board establishes that the mailing occurred on the last day of the filing period or within such period. Any statement or affidavit made by an applicant asserting such a timely filing must be made within one year of the last day of the filing period.
 - (5) An application filed by mail that bears both a private business postage meter postmark date and a U. S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U. S. Postal Service postmark date even if the private business postage meter date is the earlier of the two postmark dates. If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business shall be deemed timely filed. If the county's offices are closed for business day prior to 5 p.m., or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.
 - (6) Except as provided in sections 620.5, 1603, and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.
- (e) Amendments and Corrections
- (1) An applicant or an applicant's agent may amend an application until 5:00 p.m., on the last day upon which it might have been timely filed.
 - (2) After the filing period has expired:
 - (A) An invalid application may be corrected in accordance with subsection (c)(4) of this regulation
 - (B) 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.
 - (C)(i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

- (ii) 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 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.
 - (iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.
 - (iv) If a request to amend is granted, and 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.
- (3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application.
- (f) **CLAIM FOR REFUND.** If a valid application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.
- (g) **RETENTION OF RECORDS.** The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action of the application. The records may be destroyed three years after the final action on the application if the records have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used in this subsection, "final action" means the date of the final decision by the board.
- (h) **CONSOLIDATION OF APPLICATIONS.** The board, on its own motion or on a timely request of the applicant or applicants or the assessor, may consolidate applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation.

5.1 EXCHANGE OF INFORMATION. (PROPERTY TAX RULE 305.1)

- (a) **REQUEST FOR INFORMATION.** When the assessed value of the property involved, before deduction of any exemption accorded the property, is \$100,000 or less, the applicant may file a written request for an exchange of information with the assessor; and when the assessed value before deduction of any exemption exceeds \$100,000, either the applicant or the assessor may request such an exchange. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party and the clerk at any time prior to 20 days before the commencement of the hearing. The clerk shall at the earliest opportunity forward any request filed with the application or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date at issue and the following data:
- (1) **COMPARABLE SALES DATA.** If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, the terms of sale (if known) and the zoning of the property.

- (2) **INCOME DATA.** If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the expenses, and the capitalization method (direct capitalization or discounted cash flow analysis), and rate or rates employed.
- (3) **COST DATA.** If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:
 - (A) With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.
 - (B) With regard to machinery and equipment: the date of installation, replacement cost and any history of extraordinary use.
 - (C) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

- (b) **TRANSMITTAL OF DATA TO OTHER PARTY.** If the party requesting an exchange of data under the preceding subsection has submitted the data required therein within the specified time, the other party shall submit a response to the initiating party and to the clerk at least 10 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the assessor is the respondent, he or she shall submit the response to the address shown on the application or on the request for exchange of information, whichever is filed later.
- (c) **PROHIBITED EVIDENCE – NEW MATERIAL – CONTINUANCE.** Whenever information has been exchanged pursuant to this regulation, the parties may introduce evidence only on matters pertaining to the information so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.
- (d) **NONRESPONSE TO REQUEST FOR INFORMATION.** If one party initiates a request for information and the other party does not comply within the time specified in subsection (b), the board may grant a postponement for a reasonable period of time. The postponement shall extend the time for responding to the request. If the board finds willful noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.

5.2 PREHEARING CONFERENCE. (PROPERTY TAX RULE 305.2)

- (a) A prehearing conference may be set by the clerk at the request of the applicant or the applicant's agent, the assessor, or at the direction of the appeals board. The purpose of a prehearing 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 a hearing officer or the board to consider evidence on the merits of the application.
- (b) The clerk of the board shall set the matter for a prehearing conference and notify the applicant or the applicant's agent and the assessor of the time and date of the conference. Notice of the time, date, and place of the conference shall be given not less than 30 days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period.

5.3 APPLICATION FOR EQUALIZATION UNDER REVENUE AND TAXATION CODE SECTION 469. (PROPERTY TAX RULE 305.3)

- (a) General. In addition to any rights of appeal of escape or supplemental assessments as described in Rule 5(d)(2) of these rules, if the result of an audit discloses property subject to an escape assessment for any year covered by the audit, then, pursuant to section 1605 of the Revenue and Taxation Code, an application may be filed for review, equalization, and adjustment of the original assessment of all property of the assessee at the location of the profession, trade, or business for that year, except any property that has previously been equalized for the year in question.
- (b) Definitions. For purposes of subsection (a) of this rule:
 - (1) "Audit" means any audit of the books and records of a taxpayer engaged in a profession, trade, or business who owns, claims, possesses, or controls locally assessable business tangible personal property and trade fixtures within the county.
 - (2) "Property subject to an escape assessment" means any individual item of the assessee's property that was underassessed or not assessed at all when the assessor made the original assessment of the assessee's property, and which has not been previously equalized by an appeals board, regardless of whether the assessor actually makes or enrolls an escape assessment. Property is subject to an escape assessment even if the audit discloses an overassessment of another portion of an item of the property, and the amount of the underassessment could be offset completely by the amount of overassessment. If the audit discloses that any property was subject to an escape assessment, the assessor shall include that fact as a finding presented to the taxpayer in the assessor's written findings. If no such finding is made by the assessor, the taxpayer may file an application and present evidence to the board of the existence and disclosure of property subject to escape assessment. If the board determines that property subject to escape assessment was disclosed as a result of an audit, the board shall permit the taxpayer's appeal.
 - (3) "Result of an audit" means the final conclusions reached by the assessor during the audit process and shall include a description of any property subject to escape assessment as noted in the audit work papers or as identified in writing by the taxpayer.

- (4) “Original assessment” means the assessment and any subsequent roll corrections or roll changes prior to the date of the commencement of the audit for the roll year for which the result of the audit discloses property subject to an escape assessment.
 - (5) “All property of the assessee” means any property, real or personal, assessed to the assessee, or the assessee's statutory or legal predecessor in interest, at the location of the profession, trade, or business for the year of the audit.
 - (6) “Location of the profession, trade, or business” means a site, as determined by the board, where the property subject to the escape assessment is located. Site includes all property within the same appraisal unit as the property that is subject to escape assessment. Site also includes other property not within the same appraisal unit as the property that is subject to escape assessment, when the other property and the property that escaped assessment function as part of the same economic unit of profession, trade, or business. A “location of the profession, trade, or business” may include multiple parcels of real property, noncontiguous parcels, parcels with separate addresses, and parcels in separate revenue districts within the county.
 - (7) “Property that has been previously equalized for the year in question” means that the board has previously made a final determination of full value for that item, category, or class of property that was the subject of an assessment appeals hearing or was the subject of a stipulated agreement approved by the board. An item, category, or class of property, or portion thereof, shall be deemed to have been the subject of a hearing or of a stipulated agreement only to the extent the board's decision or the stipulated agreement specifically identify the value of such item, category, or class, or portion thereof, as having been contested and resolved at hearing or as having been agreed to by the parties in stipulation.
- (c) Notice for Filing an Application. An application shall be filed with the clerk no later than sixty days after the date of mailing by which the assessee is notified that the result of the audit has disclosed property subject to escape assessment. The notice shall be mailed to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor, unless, prior to the mailing of the notice, the assessor is notified in writing by the assessee of a change in address. The notice for purposes of filing an application shall be one of the following, depending upon the conclusion(s) of the audit:
- (1) Where an escape assessment is enrolled by the assessor, the notice shall be the tax bill based upon the results of the audit and resulting escape assessment(s).
 - (2) Where the assessor does not enroll an escape assessment resulting from the audit or when the escape assessment is enrolled but offset pursuant to Revenue and Taxation Code section 533, the assessor's written notification of the audit results for the property, locations, and each year that were the subject of the audit as described in subsection (c) of this rule shall be the notice. The notice of audit results showing property subject to escape assessment for each year shall indicate that it is the notice of the assessee's right to file an application.

5.5 BASE YEAR VALUE PRESUMPTION. (PROPERTY TAX RULE 305.5)

- (a) The appeals board decision that the full cash value as defined in section 110 of the Revenue and Taxation Code, is lower than the adjusted base year value (the base year value adjusted to reflect inflation as prescribed by section 110.1, subdivision (f), of the Revenue and Taxation Code) will not establish a new base year value, unless the base year value is the subject of the appeal.
- (b) Any base year value determined by a local board of equalization, an assessment appeals board, or by a court for any 1975 assessment shall be conclusively presumed to be the base year value of the property assessed.
- (c) The full cash value determined for property that is purchased, is newly constructed or changes ownership after the 1975 lien date shall be conclusively presumed to be the base year value, unless an application of equalization is filed:
 - (1) Within the time period specified in section 1605 of the Revenue and Taxation Code following a determination of new construction or change in ownership;
 - (2) During the regular equalization period provided for in section 1603 of the Revenue and Taxation Code for the year in which the assessment is placed on the assessment roll or is filed during the regular equalization period in any of the three succeeding years. Any determination of full cash value by a local board of equalization, an assessment appeals board, or by a court of law resulting from such filing shall be conclusively presumed to be the base year value beginning with the lien date of the assessment year in which the appeal is filed; or
 - (3) At any time after the time period specific in (1) or (2) if the applicant claims that an erroneous change in ownership determination occurred.
- (d) Any base year value determined pursuant to section 51.5 of the Revenue and Taxation Code shall be conclusively presumed to be the base year value unless an application is filed during the regular equalization period in the year in which the error was corrected or during the regular equalization period in any of the three succeeding years. Once an application is filed, the base year value determined pursuant to that application shall be conclusively presumed to be the base year value for that assessment event.
- (e) An application for equalization made pursuant to sections 1603 or 1605 of the Revenue and Taxation Code, when determined, shall be conclusively presumed to be the base year value for that assessment event.

6. COPY OF APPLICATION, AMENDMENT AND CORRECTION TO ASSESSOR. (PROPERTY TAX RULE 306)

The clerk shall transmit to the assessor a copy of each application for a change in assessment and each written request for amendment or correction that is received. A reasonable time shall be allowed before a hearing for the assessor to obtain information relative to the property and the assessment thereof.

7. NOTICE OF HEARING. (PROPERTY TAX RULE 307)

- (a) After the filing of an application for reduction of an assessment, the clerk shall set the matter for hearing and notify the applicant or the applicant's agent in writing by personal delivery or by depositing the notice in the United States mail directed to the address given in the application. If requested by the assessor or the applicant, the clerk of the board may electronically transmit the notice to the requesting party. The notice shall designate the time and place of the hearing. It shall also include a statement that the board is required to find the full value of the property from the evidence presented at the hearing and that the board can raise under certain circumstances, as well as lower or confirm the assessment being appealed. The notice shall include a statement that an application for a reduction in the assessment of a portion of an improved real property (e.g., land only or improvements only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment) may result in a reappraisal of all property of the applicant at the site which may result in an increase in the unprotested assessment of the other portion or portions of the property, which increase will offset, in whole or in part, any reduction in the protested assessment.
- (b) The notice shall be given no less than 45 days prior to the hearing unless a shorter notice period has been stipulated to by the assessor and the applicant or the applicant's agent pursuant to section 1605.6 of the Revenue and Taxation Code.
- (c) The clerk shall notify the assessor of the time and place of the hearing.
- (d) The clerk may implement a hearing confirmation method that the applicant or applicant's agent shall use to confirm attendance at the hearing. If a hearing confirmation method is implemented, the following provisions shall apply:
 - (1) The applicant or the applicant's agent shall confirm attendance at the hearing at least 21 days prior to the hearing date using the method of confirmation designated in the notice of hearing.
 - (2) If the applicant or the applicant's agent does not confirm attendance at the hearing using the designated method of confirmation at least 21 days prior to the hearing date, the assessor shall not be required to prepare and present a case should the applicant or the applicant's agent make an appearance on the hearing date.
 - (3) If the applicant or the applicant's agent appears at the hearing and has not confirmed attendance using the designated method of confirmation at least 21 days prior to the hearing date, at the assessor's request, the hearing shall be continued to a later date sufficient to allow the assessor time to prepare a presentation for hearing. A failure of the applicant or the applicant's agent to confirm attendance using the designated method of confirmation at least 21 days prior to the hearing shall be deemed a failure to provide full and complete information as required by law, such that if a hearing and final determination does not occur within two years of the filing of the application, the applicant will not be entitled to a reduction in assessment to the applicant's opinion of

value as reflected on the application for reduction in assessment pursuant to Rule 11 or section 1604(c) of the Revenue and Taxation Code.

- (4) If the applicant or the applicant's agent does not appear at the date and time noticed for the hearing, the Board shall proceed in accordance with Rule 15(a).
 - (5) For purposes of this subsection (d), the requirement that the applicant or the applicant's agent confirm attendance at the hearing at least 21 days prior to the hearing date shall only apply to hearings where notice is given no less than 45 days prior to the hearing. This subsection (d) shall not apply to hearings where a notice period of less than 45 days has been stipulated to by the assessor and the applicant or the applicant's agent, or to hearings that have been postponed by order of the board with notice given less than 45 days prior to the hearing.
- (e) When proposing to raise an assessment on its own motion without an application for reduction pending before it, the board shall give notice of the hearing in the manner provided herein below not less than 20 days prior to the hearing unless notice is waived by the assessee or the assessee's agent in writing in advance of the hearing or orally at the time of the hearing or a shorter notice period is stipulated to by the assessor and assessee or the assessee's agent. The notice shall be given to the assessee as shown on the latest assessment roll by depositing the notice in the United States mail directed to the assessee at the latest address of the assessee available to the assessor on file in the records in the assessor's office.

It shall contain:

- (1) A statement that a hearing will be held before the local board to determine whether or not the assessment shall be raised;
- (2) The time and place of the hearing;
- (3) The assessor's parcel number or numbers of the property as shown on the local roll;
- (4) A statement that the board is required to find the full value of the property from the evidence presented at the hearing;
- (5) The amount by which it is proposed to raise the assessment.

8. REQUEST FOR FINDINGS. (PROPERTY TAX RULE 308)

- (a) If an applicant or the assessor desires written findings of fact, the request must be submitted in writing and payment of the fee made to the clerk before commencement of the hearing. The requesting party may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons the request, at this time, the other party may orally or in writing renew the request at the conclusion of the hearing, and accompany the request with payment of the required fee or deposit. If, at the conclusion of the hearing, a party requesting written findings has failed to pay the required fee or deposit, the board need not prepare written findings. The board may deny a request made after the conclusion of the hearing that seeks to waive written findings. A fee of fifty dollars (\$50) for findings involving owner-occupied

single-family residences; a fee of eighty-five dollars (\$85) for findings not involving owner-occupied single family residences where the assessed valuation being appealed is less than \$500,000, regardless of the numbers of parcels in the economic unit; and a fee of one hundred twenty dollars (\$120) for findings not involving owner-occupied single-family residences, where the assessed valuation being appealed is \$500,000 or more regardless of the number of parcels in the economic unit, shall be charged to each applicant initially requesting findings or renewing a request upon abandonment by the assessor. The county must provide findings within 45 days after the final determination of the board, and shall accompany them with a notice that a request for a transcript of the hearing must be made within 60 days after the determination. (See Section 14 for other matters with regard to a transcript.)

- (b) The written findings of fact shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full cash value of the property. The County shall provide findings within 45 days after the final determination of the board is entered in to the record pursuant to SBE Rule 325, and shall accompany them with a notice that a request for a audio tape of the hearing must be made within 60 days after the final determination.
- (c) If the county board fails to make findings upon request, or if findings made are found by a reviewing court to be so deficient that a remand to the county board is ordered to secure reasonable compliance with the elements of findings required by section 1611.15 of the Revenue and Taxation Code, the action of the county board shall be deemed to be arbitrary and capricious within the meaning of section 800 of the Government Code, so as to support an allowance of reasonable attorney's fees against the county for the services necessary to obtain proper findings. The dollar limitation set forth in section 800 of the Government Code shall not apply to an allowance of attorney's fees pursuant to this section.
- (d) When either party to a hearing request findings, the procedure of the board shall be to hear the testimony and evidence of the party upon whom the burden of proof rests. Determine if sufficient evidence of value has been submitted, and if so, request the opposing party to present its case. If a determination is made that insufficient evidence of value has been presented and the application is therefore denied on presumption, then findings shall be deemed waived unless requested by either party at such time. After both parties have presented testimony and/or evidence as to value, the board shall take the matter under submission and announce its decision at the time of adoption of the findings. The decision of the board shall not be announced prior to the adoption of findings. The board shall prepare the written findings.

9. DISQUALIFICATION OF A BOARD MEMBER. (PROPERTY TAX RULE 308.5)

- (a) In those counties having assessment appeals boards or hearing officers, the party affected or the party's agent, or the assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the board or a hearing officer. The statement shall set forth the facts constituting the ground of the disqualification of the member or hearing officer and shall be signed by the party affected or the party's agent, or by the assessor and shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground of the member's or hearing officer's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member or hearing officer. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the board member or hearing officer alleged to be disqualified. Within 10 days after filing of the statement or 10 days after service of it on the board member, whichever is later, the board or hearing officer member may file with the clerk a written answer:

- (1) Consenting to the proceedings being heard by another member or hearing officer, in which event the clerk shall appoint a replacement member or hearing officer, or;
- (2) denying the board member's his or her disqualification which answer may admit or deny any or all of the facts alleged in the statement and set forth any additional facts relevant to the board member's his or her disqualifications.

The clerk shall forthwith transmit a copy of such answer to each party.

Every statement and answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure.

- (b) The question of the member's or hearing officer's disqualification shall be heard and determined by a board member, other than the member subject to the disqualification challenge, agreed upon by the parties who have appeared in the proceeding, or, in the event of their failing to agree, by a member assigned to act by the clerk. Within five days after the expiration of the time allowed by this regulation for the member to answer, the clerk shall assign a member to hear and determine the matter of the disqualification.

Once the member has been selected pursuant to subsection (b), that member shall determine the qualification of the challenged member or hearing officer.

10. APPLICATION FOR EQUALIZATION BY MEMBER, ALTERNATE MEMBER, OR HEARING OFFICER. (PROPERTY TAX RULE 308.6)

- (a) An application for equalization filed pursuant to Sections 1603 or 1605 of the Revenue and Taxation Code by a member or alternate member of an assessment appeals board or an appointed hearing officer shall be heard before an assessment appeals board panel consisting of three special alternate assessment appeals board members appointed by order of the presiding judge of the superior court in the county in which the application is filed.
- (b) A special alternative assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.
- (c) Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the California Revenue and Taxation Code.
- (d) Sections 1624.1 and 1624.23 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.

11. HEARING (PROPERTY AND TAX RULE 309)

- (a) In San Diego County the board shall meet to equalize the assessment of property on the local roll on the third Monday of July of each year and shall continue to meet for that purpose from time to time until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in this article. Nothing herein requires the board to conduct hearings prior to the final day for filing applications. On the fourth Monday in September of each year, the board shall meet to equalize the assessment of property on the local

roll and shall continue to meet for that purpose from time to time until the business of equalization is disposed of.

- (b) A hearing must be held and a final determination made on the application within two years of the timely filing of an application for reduction in assessments submitted pursuant to subdivision (a) of section 1603 of the Revenue and Taxation Code, unless the applicant or the applicant's agent and the board mutually agree in writing or on the record to an extension of time.
- (c) If the hearing is not held and a determination is not made within the time specified in subsection (b) of this regulation, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when:
 - (1) The applicant has not filed a timely and complete application: or,
 - (2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or
 - (3) The applicant has not complied full with a request for the change of information under SBE 305.1 of this rule or with the provisions of subdivision (d) of section 441 of the Revenue and Taxation Code; or,
 - (4) Controlling litigation is pending. "Controlling litigation" is litigation which is:
 - (A) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and,
 - (B) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing.
 - (5) The applicant has initiated proceedings to disqualify a board member pursuant to Revenue and Taxation Code section 1624.4 within 90 days of the expiration of the two-year period required by Revenue and Taxation Code section 1604; or,
 - (6) The applicant has requested that the hearing officer's recommendation be heard by the board pursuant to Revenue and Taxation Code section 1641.1, in those counties in which the board of supervisors has adopted a resolution implementing section 1641.1, within 90 days of the expiration of the two-year period required by Revenue and Taxation Code section 1604.

For applications involving base year value appeals that have not been heard and decided by the end of the two-year period provided in section 1604 of the Revenue and Taxation Code and where the two-year period has not been extended pursuant to subsections (b) and (c) of this regulation, the applicant's opinion of value will be entered on the assessment roll for the tax year or years covered by the pending application, and will remain on the roll until the fiscal year in which the board makes a final determination on the application. No increased or escape taxes other than those required by a change in ownership or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the board fails to act.

For applications appealing decline in value and personal property assessments that have not been heard and decided by the end of the two-year period provided in section 1604, the applicant's opinion of value will be enrolled on the assessment roll for the tax year or years covered by the pending application.

- (d) If the applicant has initiated proceedings pursuant to subsection (c)(5), or made a request pursuant to subsection (c)(6) of this regulation, the two-year time period described in subsection (b) shall be extended 90 days.
- (e) The applicant shall not be denied a timely hearing and determination pursuant to subsection (b) of this regulation, by reason of any of the exceptions enumerated in subsection (c) herein, unless within two years of the date of the application, the board, or the clerk at the direction of the board gives the applicant and/or the applicant's agent written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his or her right to protest the denial. If requested by the applicant or the applicant's agent, the clerk shall schedule a hearing on the validity of the application and shall so notify the applicant, the applicant's agent, and the assessor.

When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, excluding the period of time between the notice of pending litigation and the date that the litigation becomes final.

12. SELECTION OF BOARD CHAIR. (PROPERTY TAX RULE 310)

The board shall select one of its members to act as chair and preside over all hearings. This function may be rotated among board members. The chair shall exercise such control over the hearing as is reasonable and necessary. The chair person shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence.

13. QUORUM AND VOTE REQUIRED

- (a) No hearing before the board shall be held unless a quorum is present. Except as otherwise provided in SBE Rule 310 no decision, determination or order shall be made by the board by less than a majority vote of all the members of the board who have been in attendance throughout the hearing.
- (b) If either party so demands a hearing must be held before the full board or, assessment appeals boards appointed pursuant to Revenue and Taxation Code section 1622.1, a full three member panel. In the event that only a quorum is present and the applicant demands a hearing before the full board, or full three member panel designated pursuant to Revenue and Taxation Code section 1622.1, the board may request that the applicant extend the two-year period provided in section 1604 of the Revenue and Taxation Code if the demand precludes the matter from being heard and decided before the expiration of the two-year period. If the applicant does not extend the two-year period as requested, the board may deny the applicant's demand for a hearing before a full board or a full three member panel.

- (c) If a hearing takes place before the 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 any case wherein the hearing takes place before less than the full board, the parties may stipulate that the absent member or members may read or otherwise become familiar with the record and participate in the vote on the decision.

14. HEARINGS RECORDED. (PROPERTY TAX RULE 312)

- (a) All hearings of the board shall be recorded or reported, or videotaped subject to the conditions set forth in Code of Civil Procedure section 2025, subsection (1)(2).
- (b) Any person may purchase an audio tape or request certification of a transcript prepared by any person of that portion of a hearing that is open to the public upon payment of a reasonable fee, provided the request to purchase or certify has been made within 60 days after the final determination of the board.
- (c) The applicant, at the applicant's own expense, may have the hearing reported by a stenographer.
- (d) If a stenographic reporter is present, the county may designate the reporter's transcript as the official record upon being filed with the board.

15. HEARING PROCEDURE. (PROPERTY TAX RULE 313)

Hearings on applications shall proceed as follows:

- (a) The chair or the clerk shall announce the number of the application and the name of the applicant. The chair shall then determine if the applicant or applicant's agent is present. If neither is present, the chair shall ascertain whether the clerk has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor applicant's agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed prior to the hearing date, the board may postpone the hearing. If the notice has not been given, the hearing shall be postponed to a later date and the clerk directed to give proper notice thereof to the applicant.

The denial of an application for lack of appearance by the applicant, or the applicant's agent, is not a decision on the merits of the application and is not subject to the provisions of SBE Rule 326. The request for reconsideration must be made by the applicant within 60 days from the date of mailing of the notification of denial due to lack of appearance. Applicants who fail to request reconsideration within the period set, or whose requests for reconsideration are denied, may refile an appeal of the base year value during the next regular filing period in accordance with Revenue and Taxation Code section 80.

- (b) If the applicant or applicant's agent is present, the chair, clerk or county staff designated by the chair, shall announce the nature of the application, the assessed value of the property as it appears on the local roll and the applicant's opinion of the taxable value of the property. The chair may request that either or both parties briefly describe the subject property, the issues the board will be requested to determine, and any agreements or stipulations agreed to by the parties.

- (c) In applications where the applicant has the burden of proof, the board shall require the applicant or the applicant's agent to present his or her evidence first, and then the board shall determine whether the applicant has presented proper evidence supporting his or her position. This is sometimes referred to as the burden of production. In the event the applicant has met the burden of production, the board shall then require the assessor to present his or her evidence. The board shall not require the applicant to present evidence first, when the hearing involves:
- (1) A penalty portion of an assessment;
 - (2) The assessment of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the applicant has filed an application that provides all of the information required in SBE Rule 305(c) and has supplied all information as required by law to the assessor. In those instances, the chair shall require the assessor to present his or her case to the board first. With respect to escape assessments, the presumption in favor of the applicant provided in SBE 321(d) of this subchapter does not apply to appeals resulting from situations where an applicant failed to file a change in ownership statement, a business property statement, or to obtain a permit for new construction;
 - (3) A change in ownership and the assessor has not enrolled the purchase price, and the applicant has provided the change of ownership statement required by law. The assessor bears the burden of proving by a preponderance of the evidence that the purchase price, whether paid in money or otherwise, is not the full cash value of the property.
- (d) All testimony shall be taken under oath or affirmation.
- (e) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of proper evidence admitted into the record. Board members or hearing officers may not act or decide an application based upon consideration of prior knowledge of the subject property, information presented outside of the hearing or personal research. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses and material offered as evidence, for argument, and for rebuttal. The party having the burden of proof shall have the right to open and close the argument.
- (f) When the assessor requests the board find a higher assessed value than the assessor has placed on the roll, and offers evidence to support the higher value, the chair shall determine whether or not the assessor gave notice in writing to the applicant or applicant's agent by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered has been supplied at least 10 days prior to the hearing, the assessor may introduce such evidence at the hearing. When the assessor proposes to introduce evidence to support a higher assessed value than the value on the roll, the assessor no longer has the presumption accorded in SBE 321(a) of this subchapter and the assessor shall present evidence first at the hearing, unless the applicant has failed to supply all the information required by law to the assessor. The foregoing notice requirement shall not prohibit the board from a finding of a higher assessed value when it has not been requested by the assessor.
- (g) Hearings by boards and hearing officers shall be open accessible, and audible to the public, except that:

- (1) Upon conclusion of the evidentiary portion of the hearing, the board or hearing officer may take the matter under submission and deliberate in private in reaching a decision, and;
- (2) The board or hearing officer may grant a request by the applicant or the assessor to close to the public a portion of the hearing relating to trade secrets. For purposes of this regulation, a “trade secret” is that information defined by section 3426.1 of the Civil Code. Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the assessor or the applicant that relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the party to whom it relates.

16. LEGAL COUNSEL FOR APPLICANT AND ASSESSOR. (PROPERTY TAX RULE 314)

The applicant and the assessor may be represented by legal counsel except that when an assessment protest is heard by a hearing officer appointed pursuant to Section 1636 of the Revenue and Taxation Code, the assessor may have legal counsel only if the applicant is represented by an attorney.

17. EXAMINATION OF APPLICANT BY BOARD. (PROPERTY TAX RULE 316)

- (a) Except as hereinafter provided no reduction of an assessment or change in ownership or new construction determination shall be made unless the board examines, on oath, the applicant or the applicant’s agent concerning the value of the property, and/or the facts upon which the change in ownership or new construction determination is based, and the applicant or agent attends and answers all questions pertinent to the inquiry.
- (b) In the event there is filed with the board a written stipulation, signed by the assessor and county legal advisor on behalf of the county by the person affected or the authorized agent making the application, as to the full value and assessed value of the property, and/or a determination regarding a change in ownership or new construction, which stipulation sets forth the facts upon which the agreed upon value is premised, the board may, at a public hearing:
 - (1) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with Section 1610.8 of the Revenue and Taxation Code, or;
 - (2) reject the stipulation or set or reset the application for reduction for hearing.
- (c) The board may, in its discretion, waive the examination of the applicant or applicant’s agent if the board and the assessor are satisfied that the issues raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or the applicant’s agent requests such waiver in the application. The board shall consult with the assessor and shall act promptly on any request for waiver and give written notice of its decision no less than 30 days before commencement of the hearing on the application. If the board waives the examination of the applicant or the applicant’s agent, it shall decide the case on the merits of the application and on the basis of any evidence properly produced at the hearing by the assessor.

18. PERSONAL APPEARANCE BY APPLICANT – APPEARANCE BY AGENT. (PROPERTY TAX RULE 317)

- (a) The applicant must appear personally at the hearing or be represented by an agent unless the applicant’s appearance has been waived by the board in accordance with SBE Rule 316. If the applicant is represented by an agent, the agent shall be thoroughly familiar with the facts pertaining to the matter before the board.
- (b)
 - (1) If the application was filed by the applicant, any person (other than a California licensed attorney, retained by the applicant or a person mentioned in subsections (c), (d) except an agent, or (e)) who appears at the hearing purporting to act as agent for the applicant shall first file with the clerk a written authorization, signed by the applicant, to represent the applicant at the hearing.
 - (2) If at the hearing the applicant is represented by a person other than the person who was originally authorized by the applicant to appear at the hearing, that person shall present to the board a written authorization signed by the applicant indicating the applicant’s consent to the change in representation.
 - (3) The written authorization required pursuant to this regulation shall include the information required by SBE 305(a) of this subchapter and shall clearly state that the agent is authorized by the applicant to appear at hearings before the board.
- (c) If the property is held in joint or common ownership or in co-ownership, the presence of the applicant or any one of the owners shall constitute a sufficient appearance.
- (d) Where the applicant is a corporation, limited partnership, or a limited liability company, the business entity shall make an appearance by the presence of any officer, employee, or an authorized agent, thoroughly familiar with the facts pertaining to the matter before the board.
- (e) A husband may appear for his wife, or a wife for her husband, and sons or daughters for parents or vice versa.
- (f) If an agent is previously authorized by the applicant to file an application, no further authorization is required for that agent to represent the applicant at the subsequent hearing.

19. BURDEN OF PROOF. (PROPERTY TAX RULE 321)

- (a) Subject to exceptions set by law, it is presumed that the assessor has properly performed official 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 the applicant present independent evidence relevant to the full value of the property or other issue presented by the application.
- (b) 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 or her duties is not evidence and shall not be considered by the board in its deliberations.
- (c) The assessor has the burden of establishing the basis for imposition of a penalty assessment.

- (d) Exceptions to subsection (a) apply in any hearing involving the assessment of an owner-occupied single-family dwelling or an escape assessment. In such instances the presumption in section 167 of the Revenue and Taxation code affecting the burden of proof in favor of the applicant who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.
- (e) In hearings involving change in ownership, except as provided in section 110 of the Revenue and Taxation Code, the purchase price is rebuttably presumed to be the full cash value. The party seeking to rebut the presumption bears the burden of proof by a preponderance of the evidence.
- (f) In weighing evidence, the board shall apply the same evidentiary standard to the testimony and documentary evidence presented by the applicant and the assessor. No greater relief may be granted than is justified by the evidence produced during the hearing.

20. SUBPOENAS. (PROPERTY TAX RULE 322)

- (a) At the request of the applicant or the assessor in advance of the hearing or at the time of the hearing the board or the clerk on authorization from the board may issue subpoenas for the attendance of witnesses at the hearing. The board may issue a subpoena on its own motion. A subpoena may be served on any resident of the State of California or any person or business entity found within the state. All subpoenas shall be obtained from the board.
- (b) If a subpoena is issued at the request of the applicant, the applicant is responsible for serving it and for the payment of witness fees and mileage. Witness' fees for each day's actual attendance, when legally required to attend, are thirty-five (\$35) a day and mileage actually traveled, both ways thirty-two (\$0.32) a mile. Each subpoena issued shall contain a notice that the witness may be entitled to receive fees and mileage, and that the witness may demand the fees and mileage at the time of service, from the person serving him/her, or at the time of the hearing, from the party subpoenaing him/her. An application for such subpoena for the production of books, records, maps and documents shall be supported by an affidavit such as is prescribed by Section 1985 of the Code of Civil Procedure. No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the board.
- (c) An application for a subpoena for the production of books, records, maps, and documents shall be supported by an affidavit such as is prescribed by Section 1985 of the Code of Civil Procedure.
- (d) In the event a State Board of Equalization employee is subpoenaed pursuant to section 1609.5 of the Revenue and Taxation Code at the request of the applicant and the county board grants a reduction in the assessment, the county board may reimburse the applicant in whole or in part for the actual witness fees paid pursuant to section 1609.5
- (e) If a party desires the board to issue a subpoena, the party shall make the written request sufficiently in advance of the scheduled hearing date so that the subpoenaed party has an adequate opportunity to fully comply with the subpoena prior to the commencement of the hearing. Upon such request, the board may, whenever possible, issue subpoenas pursuant to sections 1609.4 and 1609.5 of the Revenue and Taxation Code. Subpoenas shall be restricted to compelling the appearance of a person or the production of things at the hearing and shall not be utilized for purposes of prehearing discovery. A subpoena issued near in time to or after commencement of the hearing should be as limited as possible, and a continuance of the hearing may be granted, if requested, for a reasonable period of time.

21. POSTPONEMENTS AND CONTINUANCES. (PROPERTY TAX RULE 323)

- (a) The applicant and/or the assessor shall be allowed one postponement as a matter of right, the request for which must be made not later than 21 days before the hearing is scheduled to commence. If the applicant requests a postponement as a matter of right within 120 days of the expiration of the two-year limitation period provided in section 1604 of the Revenue and Taxation Code, the postponement shall be contingent upon the applicant's written agreement to extend and toll indefinitely the two-year period subject to termination of the agreement by 120 days written notice by the applicant. The assessor is not entitled to a postponement as a matter of right if the request is made within 120 days of the expiration of the two-year period, but the board, in its discretion, may grant such a request. Any subsequent requests for a postponement must be made in writing, and good cause must be shown for the proposed postponement. A stipulation by an applicant and the assessor shall be deemed to constitute good cause, but shall result in extending and tolling indefinitely the two-year limitation period subject to termination of the agreement extending by 120 days written notice by the applicant. Any information exchange dates remain in effect based on the originally scheduled hearing date notwithstanding the hearing postponement, except as provided in SBE 305.1(d) of this subchapter.
- (b) At the hearing, the board or a hearing officer may continue a hearing to a later date. If the applicant requests a continuance within 90 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the board may require a written extension signed by the applicant extending and tolling the two-year period indefinitely subject to termination of the agreement by 120 days written notice by the applicant. The clerk shall inform the applicant or the applicant's agent and the assessor in writing of the time and place of the continued hearing not less than 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.

22. DECISION. (PROPERTY TAX RULE 324)

- (a) **DETERMINATION OF FULL VALUE, CLASSIFICATION, CHANGE IN OWNERSHIP, OR OTHER ISSUES.** Acting upon proper evidence before it the board shall determine the full value of the property including land, improvements, and personal property, that is the subject of the hearing. The determination of the full value shall be supported by a preponderance of the evidence presented during the hearing. The board shall consider evidence of value derived by the use of any of the valuation methods described in regulation 3 of subchapter 1 of this chapter. It shall determine whether the method(s) used was (were) properly applied, considering the type of property assessed, governmentally imposed land use restrictions, and any recorded conservation easements as described in Civil Code section 815.1 et seq., by examining the factual data, the presumptions, and the estimates relied upon. The board shall also determine the classification, amount, and description of the property that is the subject of the hearing, the existence of a change in ownership or new construction, or any other issue that is properly before the board, or that is necessary to determine the full value of the property. The board shall provide to the clerk such details as are necessary for the implementation of the board's decision.
- (b) **JURISDICTION.** The board's authority to determine the full value of property or other issues, while limited by the laws of this state and the laws of the United States and usually exercised in response to an application for equalization, is not predicated on the filing of an application nor limited by the applicant's request for relief.

When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the board may nevertheless determine the full value, classification, or other facts relating to other portions that have undergone a change in ownership, new construction or a change in value. Additionally, the board shall determine the full value of the entire appraisal unit whenever that is necessary to the determination of the full value of any portion thereof.

The board is not required to choose between the opinions of value promoted by the parties to the appeal, but shall make its own determination of value based upon the evidence properly admitted at the hearing.

An appraisal unit of property is a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law.

- (c) VALUATION PRINCIPLES. The board, the applicant, and appraisal witnesses shall be bound by the same principles of valuation that are legally applicable to the assessor.
- (d) COMPARABLE SALES. When valuing a property by a comparison with sales of other properties, the board may consider those sales that, in its judgment, involve properties similar in size, quality, age, condition, utility, amenities, site location, legally permitted use, or other physical attributes to the property being valued. When valuing property for purposes of either the regular roll or the supplemental roll, the board shall not consider a sale if it occurred more than 90 days after the date for which value is being estimated. The provisions for exclusion of any sale occurring more than 90 days after the valuation date do not apply to the sale of the subject property.

The board shall presume that zoning or other legal restrictions, of the types described in Revenue and Taxation Code Section 402.1, on the use of either the property sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the board to overcome that presumption.

- (e) FINDINGS OF FACT. When written findings of fact are made, they shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full value of the property or its components.

23. NOTICE AND CLARIFICATION OF DECISION. (PROPERTY TAX RULE 325)

- (a) A board may announce its decision to the applicant and the assessor at the conclusion of the hearing, or it may take the matter under submission. If the matter is taken under submission, the clerk shall notify the applicant in writing of the decision of the board by United States mail addressed to the applicant or to applicant's agent at the address given in the application. The decision becomes final when:
 - (1) The vote is entered into the record at the conclusion of the hearing provided no findings of fact are requested by either party, and all parties are present at the hearing or the hearing is subject to stipulation by both parties. The county may provide a written notice of the decision.

- (2) A written notice of the decision is issued provided no findings of fact are requested by either party, and the decision is taken under submission by the board at the conclusion of the hearing. The county shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. The clerk shall notify the applicant in writing of the decision of the board by United States mail addressed to the applicant or to the applicant's agent at the address given in the application.
- (3) A written notice of the decision is issued or the findings of fact are issued, whichever is earlier, provided findings of fact are requested. The county shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. If so requested by an applicant or an applicant's agent, the determination shall become final upon issuance of the findings of fact which the county shall issue no later than 180 days after the conclusion of the hearing. Such a request must be made by the applicant or the applicant's agent prior to or at the conclusion of the hearing. If the conclusion of the hearing is within 180 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the applicant shall agree in writing to extend the two-year period. The extension shall be for a period equal to 180 days from the date of the conclusion of the hearing.
- (b) The board may request any party to submit proposed written findings of fact and shall provide the other party the opportunity to review and comment on the proposed finding submitted. If both parties prepare proposed findings of fact, no opportunity to review and comment need be provided.
- (c) When findings of fact have been prepared, either party or the clerk may submit a written request for clarification about the details of the decision, but such clarification shall not alter the final determination of the board.

24. RECONSIDERATION AND REHEARING. (PROPERTY TAX RULE 326)

The decision of the board upon an application is final. The board shall not reconsider or rehear an application, or modify a decision unless:

- (1) The decision reflects a ministerial clerical error; or
- (2) The decision was entered as the result of the applicant's failure to appear for the hearing and within the period established pursuant to SBE 313 of this subchapter, the applicant furnishes evidence establishing to the satisfaction of the board, excusable good cause for the failure to appear.

25. RETURN OF EXHIBITS

Exhibits presented as evidence at the assessment appeals board hearing will be retained by the clerk unless it is stipulated by both parties in the hearing that the exhibits be returned to the respective parties presenting them. If no such stipulation is made, and after the hearing either party desires the return of exhibits presented, then that party must file with the board who heard the case a written request for a return of such exhibits, accompanied by proof of mailing a copy of the request on the opposing party. The clerk shall return the exhibits if the opposing party does not file an objection to the request for return of the exhibits within ten (10) days. If an objection is timely filed, the board shall determine whether to grant or deny the request for return of exhibits.

26. CONTINUANCES BY THE CLERK

A party to a proceeding may file with the clerk a stipulation that a set matter be continued to another time. If such stipulation is filed at least three business days before the scheduled hearing, the clerk shall vacate the hearing set and reschedule the matter for another date agreed to by the parties and convenient to the clerk's calendar. No further notice of such continued hearing need be given. If the parties and the clerk cannot agree upon a day convenient to all parties, the clerk shall set the matter for hearing at some future date certain convenient to the clerk's calendar. The clerk shall promptly notify each party of the date scheduled. Such notice may be by telephone. A request for reset or continuance filed with the clerk may be treated as a stipulation if a consent thereto is filed within the time permitted for filing such stipulation. The parties to a proceeding may request and be granted only one continuance by the clerk pursuant to this Section. In all other cases, requests for reset or continuance shall be determined by the board as provided in Section 21. Any party dissatisfied with the decision of the clerk in resetting or continuing a matter under this Section may appeal such decision to the board. The clerk shall promptly transmit such appeals to a board for decision.

27. HEARINGS BEFORE AN ASSESSMENT HEARING OFFICER

Hearing before an assessment hearing officer shall be conducted pursuant to the provisions of Revenue and Taxation Code Division 1, Part 3, Chapter 1, Article 1 (commencing with Section 1601) governing equalization proceedings by an assessment appeals board and Article 1.7 (commencing with Section 1636) relating to assessment hearing officers.

28. WITHDRAWALS

An applicant may withdraw his/her application for equalization of assessment by notifying the clerk of the board in writing. Upon receipt of the withdrawal notice, the clerk will notify the assessor and remove the application from the active file. No further action will be taken on the withdrawn application. If a withdrawal notice is filed after the applicant and assessor have initiated a stipulation as to value, the withdrawal shall be of no force and effect.

ASSESSMENT APPEALS BOARDS

COUNTY OF SAN DIEGO

RULES OF PROCEDURE

Originally Adopted by Board of Supervisors
June 6, 1967 (10)

Amendments incorporated and adopted by
Board of Supervisors

Dates of Actions by Board of Supervisors:

June 6, 1967	Board Order No. 10	(Adopted Revised Rules)
June 25, 1967	Board Order No. 10	(Amended)
November 7, 1967	Board Order No. 9	(Amended)
June 17, 1968	Board Order No. 58	(Adopted Revised Rules)
June 30, 1968	Board Order No. 9	(Amended)
October 14, 1968	Board Order No. 74	(Amended)
January 6, 1969	Board Order No. 19	(Adopted Revised Rules)
May 5, 1969	Board Order No. 62	(Amended)
June 22, 1969	Board Order No. 101	(Amended)
June 23, 1970	Board Order No. 68	(Adopted Revised Rules)
June 15, 1971	Board Order No. 35	(Adopted Revised Rules)
June 20, 1972	Board Order No. 73	(Adopted Revised Rules)
August 8, 1972	Board Order No. 20	(Amended)
September 4, 1973	Board Order No. 78	(Adopted Revised Rules)
September 17, 1974	Board Order No. 43	(Adopted Revised Rules)
September 30, 1975	Board Order No. 164	(Adopted Revised Rules)
November 4, 1975	Board Order Nos. 89 & 116	(Amended)
September 6, 1977	Board Order No. 198	(Adopted Revised Rules)
September 19, 1978	Board Order No. 19	(Amended)
October 3, 1978	Board Order No. 33	(Amended)
January 2, 1979	Board Order No. 17	(Amended)
April 10, 1979	Board Order Nos. 59 & 59a	(Amended)
May 10, 1979	Board Order No. 3	(Amended)
June 19, 1979	Board Order No. 21	(Amended)
September 30, 1980	Board Order No. 11	(Adopted Revised Rules)
October 6, 1981	Board Order No. 13	(Amended)
September 28, 1982	Board Order No. 7	(Amended)
September 27, 1983	Board Order No. 6	(Amended)
September 25, 1984	Board Order No. 14	(Amended)
June 27, 1995	Board Order No. 35	(Amended)
October 10, 2000	Board Order No. 16	(Amended)
October 22, 2002	Board Order No. 10	(Adopted Revised Rules)
March 1, 2016	Board Order No. 22	(Adopted Revised Rules)