

SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

204



FROM: County Counsel

SUBMITTAL DATE: April 9, 2007

SUBJECT: Adoption of Resolution No. 2007-195, Adoption of Amendments to Rules of Notice and Procedure of the Assessment Appeals Boards of the County of Riverside

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the amendments to the Rules of Notice of Procedure of the Assessment Appeals Boards for the County of Riverside; and
2. Adopt Resolution No. 2007-195, Adoption of Amendments to Rules of Notice and Procedure of the Assessment Appeals Boards for the County of Riverside.

BACKGROUND: The Rules of Notice and Procedure of the Assessment Appeals Boards for the County of Riverside (Rules) was last amended on May 20, 2003. On June 27, 2006, the Board of Supervisors approved increasing the fee for written findings of fact in cases heard before the Assessment Appeals Boards. The amendments to the Rules contain this new fee. Additionally, Rule 6 was amended to clarify the procedure for submitting an application for changed assessment and Rules 12, 33 and 34 were amended to better reflect the rules adopted by the State Board of Equalization regarding notices, continuances and postponements. Finally, numerous non-substantive amendments are being made to promote clarity and internal consistency.

Attachment "A" shows the amendments and attachment "B" reflects the new updated Rules.

Resolution No. 2007-195 establishes the updated Rules and supersedes the existing edition of the Rules.

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*Michelle McClellan for*  
JOE RANK  
County Counsel

Policy  
 Policy

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

*Steve Sproule*

Consent  
 Consent

Department Recommendation:  
Per Executive Office:

APR 11 2007

2  
3 RESOLUTION NO. 2007-195  
4 ADOPTION OF AMENDED RULES OF NOTICE AND PROCEDURE  
5 OF THE ASSESSMENT APPEALS BOARDS OF THE COUNTY OF RIVERSIDE

6 **WHEREAS**, pursuant to Riverside County Ordinance No. 510.5, the Board of Supervisors  
7 provided for and created two Assessment Appeals Boards for the purposes of equalizing the valuation of  
8 taxable property within the County of Riverside as well as to determine issues concerning changes in  
9 ownership and new construction within the County as they relate to local property taxation; and

10 **WHEREAS**, Rules of Notice and Procedure of the Assessment Appeals Boards of the County of  
11 Riverside ("Rules") have been established to guide the parties in proceedings before the Assessment  
12 Appeals Boards; and

13 **WHEREAS**, the need exists to make non-substantive and substantive amendments to the Rules to  
14 better reflect both the rules adopted by the State Board of Equalization and recent local changes in the fee  
15 for written findings of fact in cases heard before the Assessment Appeals Boards.

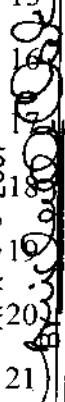
16 **BE IT RESOLVED, FOUND, DETERMINED AND ORDERED** by the Board of Supervisors  
17 of the County of Riverside, in regular session assembled on April 17, 2007, that:

18 A. Attachment "B" is adopted and incorporated herein as the new Rules of Notice and  
19 Procedure of the Assessment Appeals Boards of the County of Riverside.

20 B. The new Rules attached hereto shall become effective sixty (60) days from the date  
21 of adoption, shall supersede all present Rules and shall be applicable to all applications for  
22 changed assessment that have not received a final decision from the Assessment Appeals Boards  
23 prior to the effective date of the new Rules.

FORM APPROVED  
COUNTY COUNSEL

APR 05 2007



# **ATTACHMENT “A”**

RULES OF NOTICE AND PROCEDURE OF THE ASSESSMENT APPEALS  
BOARDS

OF THE COUNTY OF RIVERSIDE

1<sup>st</sup>. Floor, County Administrative Center

4080 Lemon Street, Riverside, California 92501

(951) 955-1060

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(Revised April 17, 2007)

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by

Riverside County Board of Supervisors

These Rules of Notice and Procedure of the Assessment appeals Board of the County of Riverside are adopted by the County Board of Supervisors under the authority of article XIII, section 16 of the California Constitution. These, rules, in large part, are a compilation of the statutory law and of rules adopted by the State Board of Equalization relevant to assessment appeal proceedings,

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**RULES OF NOTICE AND PROCEDURE OF THE ASSESSMENT APPEALS  
BOARDS  
OF THE COUNTY OF RIVERSIDE**

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**\*DISCLAIMER\***

PLEASE BE ADVISED THAT IN ADDITION TO THE AAB RULES PROVIDED HEREIN, THERE ARE OTHER GOVERNING LAWS AND REGULATIONS WHICH APPLY TO ASSESSMENT APPEALS. THOSE LAWS AND REGULATIONS ARE FOUND IN THE CALIFORNIA REVENUE AND TAXATION CODE AND THE CALIFORNIA CODE OF REGULATIONS. FOR CURRENT FILING DEADLINES, PLEASE REFER TO INSTRUCTIONS THAT ACCOMPANY THE APPLICATION FOR CHANGED ASSESSMENT.

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Unless stated otherwise, all future references will be to the California State Constitution designated as "the Constitution," or the California Revenue and Taxation Code designated as "the Code" and referenced by "Section." Any references to the Rules of Notice and Procedure of the Assessment Appeals Boards of the County of Riverside will be designated as "the Rule," and references to provisions under the California State Board of Equalization Rules (California Code of Regulations, Title 18) will be designated as "the State Board Rule."

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**RULE NO. 1 DEFINITIONS AND GENERAL PROVISIONS**

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The definitions and provisions set forth in this rule govern the construction of the Rules of Notice and Procedure of the Assessment Appeals Boards of the County of Riverside.

(a) "Applicant" is a Person or Party Affected, or his or her duly authorized agent, who files an application for changed assessment.

(b) "Assessor" is the Assessor of the County. During the session of the Board, the Assessor or a deputy shall be present and may make any statement or produce

evidence on matters before the Board.

(c) "Auditor" is the Auditor of the County.

(d) "Authorized agent" is one who is directly authorized by the Applicant to represent the Applicant in an assessment appeals proceeding.

(e) "Base Year" means the assessment year for which a Base Year Value determination is made with respect to any interest in real property, or any portion thereof, which has experienced a change in ownership or the completion of new construction. The assessment year 1975-76 serves as the original Base Year under Article XIII A of the California Constitution. Thereafter, any assessment year in which real property, or a portion thereof, is purchased, is newly constructed, or changes ownership, as defined in Sections 60 et seq., and 70 et seq., of the Revenue and Taxation Code, shall become the Base Year used in determining the Base Year Value for such real property, or a portion thereof.

(f) "Base Year Value" means the Full Cash Value of real property as determined pursuant to Sections 50 and 110.1(a) of the Revenue and Taxation Code.

(g) "Board," depending upon context, refers to each or both of the three-member Assessment Appeals Boards of the County.

(h) "Chairperson" is the Chairperson of the Board.

(i) "City" includes the following within the County: incorporated City, City and County, municipal corporation, municipality, town and incorporated town.

(j) "Continuance" is the postponement of a hearing or other proceeding to a subsequent day or time by the Board.

(k) "Clerk" is the Clerk of the Board.

(l) "County" is the County of Riverside

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(m) "County Counsel" is the County legal advisor. The Counsel or his deputy shall be available for all hearings to give legal advice to the Board. A different Deputy County Counsel shall be available to render legal advice to the Assessor.

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(n) "Economic unit" is the integrated combination of a parcel of land or contiguous

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parcels of land, and existing appurtenances, including structures affixed thereto, reasonably necessary to put the whole property to its highest and best use.

(o) "Fair Market Value" means the amount of cash or its equivalent which the property would bring if exposed for sale in the open market under conditions in which neither the buyer nor seller could take advantage of the exigencies of the other and both with knowledge of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon those uses and purposes.

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(p) "Full Cash Value" means the "fair market value" of property as defined in Sections 110 and 110.1 of the Revenue and Taxation Code.

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(q) "Full Value" means either the Full Cash Value or the Restricted Value.

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(r) "Inflation Factor" means the annually compounded adjustment to the Base Year Value, not to exceed two percent per year, as determined pursuant to paragraphs (1) and (2) of subdivision (a) of Section 51 of the Revenue and Taxation Code.

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(s) "Local Roll" means the assessment roll of the County prepared by the Assessor pursuant to Section 601 et seq., of the Revenue and Taxation Code.

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(t) "Person" includes any person, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited liability partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind. Person shall also include trustee, trustee in bankruptcy, receiver, executor, administrator, or assignee.

(u) "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 this subchapter, 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.

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(v) "Regular Assessment Period" is the period January 1 to and including July 1, or such later date authorized by the State Board of Equalization, during which the Assessor compiles the Local Roll.

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(w) "Restricted Value" means a value standard other than Full Cash Value prescribed by the Constitution or by statute authorized by the Constitution.

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(x) "Supplemental Assessment" means an assessment placed on the Supplemental Roll pursuant to Section 75.11 of the Revenue and Taxation Code.

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(y) "Supplemental Roll" means the roll prepared or amended by the Assessor in accordance with the provisions of Chapter 3.5 of Part 0.5 of Division 1 of the Revenue and Taxation Code, beginning at Section 75 thereof, and containing properties which have changed ownership or had new construction completed.

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(z) "Taxable Value" means, for each lien date, the lesser of either the Base Year Value, compounded annually by the Inflation Factor, or the Full Cash Value, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value.

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## RULE NO. 2 THE BOARDS FUNCTION AND JURISDICTION.

The Functions of the Board are:

(a) 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.

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(b) To determine the full value and where appealed the base year value of the property that is the subject of the hearing.

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(c) To hear and decide penalty assessments, and to review, equalize, and adjust escaped assessments on that roll except escaped assessments made pursuant to Section 531.1 or penal assessment levied in respect thereto.

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(d) 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.

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(e) To determine the allocation of value to property that is the subject of the hearing.

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(f) To exercise the powers specified in Sections 1605.5 and 1610.8 of the Revenue and Taxation Code.

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(g) The Board can hear matters concerning Assessor's allocation of exempt values. However, except as provided under this Rule, the Board has no jurisdiction to consider, and therefore shall not consider matters pertaining to a Person's eligibility for a property tax exemption, including:

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Deleted: Except as provided in subdivision (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.

1. Grant or denial of exemptions;
2. Allegations that claims for exemption from property taxes have been improperly denied; or
3. Denials based on issues other than value or allocation of value.

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(h) Notwithstanding any other section of this Rule, the Board will hear appeals and make adjustments to value or allocation of value that has led to the qualifying or disqualifying of exclusions. Therefore, if the denial was based on a determination of value, or allocation of value, applicants may appeal a denial of exclusion to the Board.

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(i) The Board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.

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**RULE NO. 3 PUBLICATION OF NOTICE OF BOARD MEETING**

Immediately upon delivery of the Local Roll to the Auditor, the Clerk shall give notice by publication in a newspaper of general circulation in the County of the period during which assessment protests will be accepted, the place where they may be filed, and the time the Board will meet to equalize and correct assessments.

**RULE NO. 4 TIME AND PLACE OF BOARD MEETINGS**

Except, as the Board of Supervisors shall, by order, otherwise provide, the Board shall sit for the purpose of hearing applications for correction and equalization of assessments on the Local Roll, as hereinafter provided.

(a) Board No. 1 shall sit during each alternate week, beginning on and after the fourth Monday in July, annually. Board No. 2 shall sit during each alternate week beginning on and after the third Monday in July, annually. This schedule may be modified to accommodate the nature and duration of scheduled hearings. The Board shall continue to sit from time to time until the business of assessment appeals is completed. All hearings before the Board shall be conducted in the manner provided in these rules subject to the condition expressed in Rule 39.

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Nothing herein requires the Board to conduct hearings prior to the final day for filing applications.

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(b) The time and place of meetings shall be Wednesday, Thursday or Friday, beginning at 9:00 a.m., in one of the meeting rooms at the County Administrative Center, 1st Floor, 4080 Lemon Street, Riverside, California, or at alternate locations as determined by the Board and posted by the Clerk.

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(c) Neither the Clerk of the Board nor the Board shall provide bilingual interpreters for the hearings. The Applicant or agent to the Applicant must make arrangements to obtain their own interpreter if one is needed.

**RULE NO. 5 LOCATION OF LOCAL ROLL AND INSPECTION**

The Local Roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours at the offices of the Assessor, Treasurer-Tax Collector, and Auditor-Controller. Copies of the Local Roll are also available at the district offices of the Assessor.

**RULE NO. 6 APPLICATION FOR CHANGED ASSESSMENT**

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

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**(a) WHO MAY FILE**

The application shall be made by the person affected or the person's agent. If the application is made by an agent other than an attorney licensed to practice in this state who has been authorized by the person affected to file the application, or a relative mentioned in Rule 30 and/or State Board Rule 317, written authorization to so act must be properly indicated on the application. If the applicant is a corporation, the application must be signed by an officer. No application shall be accepted for filing nor heard by the Board unless the applicant has an ownership or direct economic interest in the property subject to the application, or has a direct interest in the payment of taxes on such property.

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**(b) SIGNATURE AND VERIFICATION**

The application shall be in writing and signed by the applicant, or the applicant's agent, with the declaration under penalty of perjury that the statements made in the application are true.

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1. 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:

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- a. The date the authorization statement was 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 administration, 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.
- f. A statement that the agent will provide the Applicant with a copy of the application.

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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.

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### (c) FORMS AND CONTENT

The County shall provide, free of charge, forms on which applications are to be made. The application forms shall be in a form prescribed by the State Board of Equalization. The application shall show:

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1. The name and address of the applicant;
2. The name and address of the applicant's agent, if any;
3. A description of the property which is the subject of the application sufficient to identify it on the assessment roll;
4. The applicant's reasonable opinion of the full cash value; and
5. The facts relied upon in support of the claim or a reduction in assessed value or classification. The amount of tax, the amount of a tax increase, or the amount of an assessed value increase shall not constitute facts sufficient to warrant a reduction in assessed values.

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Separate applications must be submitted for separate parcels. An Application

which does not show the foregoing items is invalid and shall not be acted upon by the Board. Prompt notice that an application is invalid shall be given.

**(d) TIME OF FILING**

1. The application shall be filed with the Clerk of the Board. An application for a reduction of an assessment made during the regular assessment period must be filed with the clerk between July 2 through September 15 at 5:00 p.m provided that the filing period shall be July 2 through November 30 for all property located in the county if the county assessor did not send assessed value notice by August 1. The regular assessment period is from January 1 to and including July 1, or to such later date for completion of the roll as may be authorized by the State Board of Equalization. An application for a reduction of an assessment made outside the regular assessment period must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment. For purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

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2. If the notice of assessment is not received at least 15 calendar days prior to the deadline to file the application described in Section 1603, an application may be filed within 60 days of receipt of the notice of assessment or the mailing of the tax bill, whichever is earlier, along with an affidavit declaring under penalty of perjury that the notice was not timely received. The Board has no jurisdiction to hear an application unless filed within the time specified, except as provided in Sections 1603, 619.2 and 620.

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3. An Application appealing an escape assessment must be filed with the Clerk no later than 60 days after the date on which the assessee was notified of the assessment.

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4. An application will be deemed to have been timely filed:

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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.

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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.

c. Under no circumstances will an application be accepted by a

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facsimile or other electronic means.

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 Services 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 day shall be deemed timely filed. If the county's offices are closed for business 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.

No application may be amended after 5:00 p.m. on the last day upon which it might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested.

#### (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 on 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 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.

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Deleted: No change in the Local Roll sought by a Person Affected shall be made unless the following application procedure is followed:¶

¶  
<#>ELIGIBLE PERSONS:¶

¶  
<#>An application is filed by a person affected or the person's agent or a relative mentioned in Local Rule 1 and/or State Board Rule 317. If the application is made by an agent, other than an 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:¶

¶  
<#>The date the authorization statement was executed.¶

¶  
<#>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.¶

¶  
<#>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 spe... [1]

**RULE NO. 7 BASE YEAR VALUE PRESUMPTION**

(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.

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(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 for the property assessed.

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(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 for equalization is filed:

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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,

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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.

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3. At any time after the time period specified in (1) or (2) if the Applicant claims that an erroneous change in ownership determination occurred.

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(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.

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(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

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be the base year value for that assessment event.

**RULE NO. 8 EXCHANGE OF INFORMATION**

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**(a) REQUEST FOR EXCHANGE OF 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 full 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 30 days before the commencement of the hearing. The Clerk shall at the earliest opportunity forward a copy of any request filed with the application to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date and the following data:

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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.

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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 allowable expenses, the capitalization method (direct capitalization or discounted cash flow analysis), and rate or rates employed.

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3. **COST DATA.** If the opinion of value is to be supported with evidence of replacement cost, there shall be presented;

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a. With regard to improvements to real property, the date of construction, type of construction, and replacement cost of construction.

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b. With regard to machinery and equipment; the date of installation, replacement cost, and any history of extraordinary use.

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

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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.

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(b) TRANSMITTAL OF DATA TO OTHER PARTY. If the party requesting an exchange of data under this rule has submitted the data required within the specified time, the other party shall submit a response to the initiating party and to the Clerk at least 15 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.

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(c) The parties shall use adequate methods of submission to ensure to the best of their ability that the exchange of information process is completed at least 10 days prior to the hearing.

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(d) PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE. Whenever information has been exchanged pursuant to this rule, 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 new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

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(e) NON-RESPONSE TO REQUEST FOR INFORMATION. If one party initiates 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 non-complying 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.

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## RULE NO. 9      PRODUCTION AND INSPECTION DEMANDS

(a) To the end that proceedings before the Board move forward in a timely and efficient manner, the Applicant and the Assessor are expected to cooperate and communicate with each other prior to any hearing before the Board. The Applicant shall comply with any written request by the Assessor, pursuant to Revenue and Taxation Code Section 441, for information, books and records, or inspections of the subject property that disclose acquisition or construction costs, income and

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expense data, construction details, or physical condition. When requested to do so in writing by the Assessor, the Applicant also shall disclose the basis or bases, whether due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value, such as a changed physical environment, changed income and expense experiences and capitalization or yield rate expectations, or new market comparables events, which form or support the Applicant's opinion(s) of value set out in the application filed with the Clerk. On written request of the Applicant, the Assessor shall make available for inspection or copying any data or information that is kept or maintained by the Assessor about the subject property, as provided in Revenue and Taxation Code Section 408, subdivisions (d), (e), and (f). The information requested by the Assessor or the Applicant shall be provided no later than thirty (30) calendar days from the date of the request unless another date is mutually agreed upon.

(b) Should the Applicant or the Assessor not comply with the requirements of the preceding subparagraph (a) in a timely manner and introduces any requested materials or information at the Board hearing, then in accordance with Revenue and Taxation Code section 408, subdivision (f)(3), or section 441, subdivision (h), the party affected by the non-compliance may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in Revenue and Taxation Code section 1604, subdivision (c), for a period of time equal to the period of the continuance. The period of time granted for the continuance shall be established at the discretion of the Board, taking into account the nature and amount of the information introduced, the Board's calendar assignments, the Assessor's caseload demands, and the schedules of the parties.

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#### RULE NO. 10 PREHEARING CONFERENCE

(a) A pre-hearing 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 issues, determining the status of "exchange of information" request, 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.

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(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

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of the conference. Notice of 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.

**RULE NO. 11 COPY OF APPLICATION AND AMENDMENT TO ASSESSOR**

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

**RULE NO. 12 NOTICE OF HEARING**

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(a) HEARING. After the filing of an application for reduction of an assessment, the Clerk shall set the matter for hearing and notify the Applicant or 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 unprotected 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.

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(b) NOTICE TO APPLICANT. The notice of the time and place of hearing shall be given not less than 45 days prior to the hearing unless notice has been waived or a shorter notice is stipulated to by the Assessor and the Person Affected or his or her agent.

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(c) NOTICE TO ASSESSOR AND COUNTY COUNSEL. The Clerk shall notify the Assessor and County Counsel of the time and place of the hearing at the time of, or prior to, the giving of notice of hearing to the Person Affected or his or her agent.

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(d) **REPLY NOTICE.** Included with the Notice of Hearing shall be a reply notice addressed to the Clerk of the Board for confirmation of the Applicant's attendance at the hearing, request for a one-time postponement, or withdrawal of the application scheduled for hearing. This reply notice must be returned to the Clerk of the Board so that it is received at least twenty-one (21) days prior to the hearing date. If no reply notice has been received by the Clerk of the Board at least twenty-one (21) days prior to the hearing date, the Assessor shall have, on the date of the hearing, the option of requesting that the hearing be continued to a later date. A return of the reply notice that is received less than twenty-one (21) days prior to the hearing date is deemed to be a failure to provide full and complete information to the Clerk of the Board pursuant to this rule such that if a hearing and decision of the Board may not occur within two years of the filing of the application, the provisions of Section 1604(c) of the Revenue and Taxation Code shall not apply and the Board shall advise the Applicant that a timely hearing and determination is being denied as provided by Section 1604(c) of the Revenue and Taxation Code and Property Tax Rule 309 (18 Cal. Code of Regulations § 309).

(e) **NOTICE OF RAISED ASSESSMENT.** 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 his or her 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 the assessee or his or her agent. The notice shall be given to the assessee as shown on the latest Local 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 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; and
5. The amount by which it is proposed that the assessment be raised.

(f) **NOTICE WHEN HEARING VACATED.** If the hearing on a particular application is vacated for any reason, the Clerk shall notify the Applicant or his or her agent of the new time, date and place of the hearing not less than 10 days prior to the new

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hearing date, unless the Assessor and the Applicant or his or her agent stipulate orally or in writing to a shorter notice period.

### RULE NO. 13    REQUEST FOR FINDINGS

If an Applicant or the Assessor desires written findings of fact, his or her request must be in writing and submitted 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 his or her request at this time, the other party may orally or in writing renew the request. The fee for preparation and delivery of written findings of fact shall be \$256.00 per parcel up to a maximum of \$768.00 for findings covering applications on contiguous parcels or assessments involving the same issues and the same owners. The fee is payable at the time of the request. Written findings are only necessary if the Applicant intends to seek judicial review of an adverse decision. If such review is sought, a transcript of the proceedings before the Board may be necessary and can be obtained as prescribed in Rule No. 26.

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### RULE NO. 14    DISQUALIFICATION OF A BOARD MEMBER: CHALLENGE FOR CAUSE

(a) The Person Affected or his or her 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. The statement shall set forth the facts constituting the ground of the disqualification of the member and shall be signed by the Person Affected or his or her 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 disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the Board member alleged to be disqualified. Within 10 days after filing of the statement or 10 days after service of it on him or her, whichever is later, the Board member may file with the Clerk a written answer;

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1. Consenting to the proceeding being heard by another member, in which event the Clerk shall appoint a replacement member; or
2. Denying 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 his or her denial of disqualification.

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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.

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(b) The question of the member'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 subparagraph (b) above, that member shall determine the qualification of the challenged member.

**RULE NO. 15 CONFLICT OF INTEREST**

(a) It shall be a conflict of interest for a Board member to hear or decide any matter in which he or she has a financial interest as defined in Government Code Section 87103 and a Board member shall disqualify himself or herself forthwith upon becoming aware of such conflict.

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(b) A Board member may also disqualify himself or herself from any matter pending before the Board for good cause, which shall be stated on the record.

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(c) The Clerk may appoint an alternate member to substitute for the disqualified member.

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**RULE NO. 16 RECEIPT OF EVIDENCE OUTSIDE OF HEARING**

(a) Except as provided herein, no member of the Board shall, after an application for equalization has been filed with the county, solicit or receive evidence outside of the public hearing relating to said application.

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(b) Receipt of unsolicited letters or other documents shall not constitute a violation of this rule but shall be disclosed as provided in Rule No. 18.

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**RULE NO. 17 VIEW OF PROPERTY**

(a) After an application for equalization has been filed with the County, no member of the Board shall knowingly view the subject property except as provided in subdivision (b) of this rule.

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(b) Where, during the course of a hearing it appears that one or more Board members desire to view the subject property, the hearing may be continued for that purpose. When the hearing is continued, and if the members of the Board so desire, they may individually view the site and shall thereafter report their observations at the continued hearing or, as a body, may view the site and may be accompanied by proponents, opponents, and other interested parties.

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#### RULE NO. 18 DISCLOSURE

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A member of the Board who has received evidence outside of a hearing, or has viewed the subject property, or is familiar with the subject property, shall fully disclose at the hearing such evidence and such observations of and familiarity with the property so that the Applicant, the Assessor, other interested parties, and other members of the Board may be aware of the facts or evidence upon which he or she is relying and have an opportunity to controvert it. All written evidence received outside of the hearing shall be filed with the Clerk.

#### RULE NO. 19 DISCUSSION OF PENDING MATTERS

No member of the Board shall, after an application for equalization has been filed with the County, discuss said matter with proponents, opponents, or other interested parties, except in the course of and during said public hearing and authorized private deliberations thereon. Nothing herein shall prohibit the members of the Board from discussing a pending matter with County Counsel as their legal advisor.

#### RULE NO. 20 CONTACT WITH STAFF ON MATTERS FOR WHICH \_\_\_\_\_ HEARINGS ARE REQUIRED

(a) No member of the Board shall, after an application for equalization has been filed with the County, solicit or receive any substantive information from County staff outside of the public hearing on said matters.

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(b) The provisions of this rule do not apply to the following:

1. To those matters which have broad application in the county as distinguished from specific application to individual parcels of property that are or will be the subject of a hearing; or

2. To those matters which relate to only procedural aspects of the hearing process, such as anticipated dates of hearings or reasons for delays in

setting hearings.

~~(c) Nothing herein shall prohibit the members of the Board from discussing a pending matter with the Clerk or with County Counsel as their legal advisor.~~

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**RULE NO. 21 HEARINGS; ORGANIZATION**

The Board shall meet on the third Monday in July, as specified in Section 1604 (b) of the Revenue and Taxation Code, for purposes of equalization, organization, orientation, election of Board Chairpersons, and to set a date for the beginning of hearings if different than the date established in Rule No. 4. (Written notice of the organizational meeting shall be given to the Board members, County Counsel, the Assessor, and other interested parties at least fourteen days prior to the meeting).

**RULE NO. 22 TIME FOR HEARING AND DECISION**

(a) 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 assessment 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.

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(b) If the hearing is not held and a determination is not made within the time specified in subsection (a) 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:

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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 fully with a request for the exchange of information under regulation 305.1 of this subchapter 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 which the application was filed in; 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; or,

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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 by Revenue and Taxation Code section 1604; or,

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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 (a) or (b) 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.

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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.

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(c) If the Applicant has initiated proceedings pursuant to subsection (b)(5), of this rule, the two-year time period described in subsection (b) shall be extended 90 days.

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(d) The Applicant shall not be denied a timely hearing and determination pursuant to subsection (a) of this regulation, by reason of any of the exceptions enumerated in subsection (b) 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.

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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.

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#### RULE NO. 23 CONSOLIDATION OF HEARINGS

In addition to consideration for grounds of consolidating applications for hearing as specified in Rule 6(h) supra, hearings on separate applications concerning properties in the same ownership and/or used as an economic unit may be grouped for a consolidated hearing by the Board. Applications involving properties that make up several economic units may be severed by the Board for separate hearings. Applications concerning properties held in different ownership but involving common questions of fact may be consolidated for hearing, but only with unanimous consent of the members of the Board who will hear the matter, and with the concurrence of the Assessor and the Applicants or their authorized agents.

#### RULE NO. 24 SELECTION OF BOARD CHAIRPERSON

The members of the Board shall select one of their members to act as Chairperson and to preside over all hearings. This function may be rotated among Board members at any time. The Chairperson shall exercise such control over the hearings as is reasonable and necessary. He or she shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence subject to being overruled by action of the Board.

#### RULE NO. 25 QUORUM AND VOTE REQUIRED

No hearing before the Board shall be held unless two members of the Board are present. Except as otherwise provided in Rule No. 24, no decision, determination, or order shall be made by the Board by an affirmative vote of less than two members of the Board. Except as otherwise provided herein, only those members who have been in attendance throughout the hearing may rule on the decision. A hearing must be held before the full Board if either the Applicant or the Assessor so demands. In any case wherein the hearing takes place before less than the full Board, the parties may stipulate that the absent member may read or otherwise

familiarize himself or herself with the record and participate in the vote on the decision.

**RULE NO. 26 PROCEEDINGS RECORDED**

(a) All proceedings of the Board shall be recorded. If a party makes a request for a transcript at the time of or after the hearing, he or she shall make arrangements to copy the official tape recording so that the transcript may be made. A copy of the transcript shall be given to the Clerk. All expenses incurred for the transcript shall be borne by the party requesting the transcript.

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(b) Any Applicant who desires that the proceedings be reported stenographically must make arrangements with the Clerk at least ten days before the hearing. The expense of the reporter shall be borne by the party making the request. Any transcript prepared by the reporter at the party's request shall be at his or her expense, and a copy of the transcript shall be filed with the Clerk.

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**RULE NO. 27 HEARING PROCEDURE**

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 the 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 hearing. If the notice has been given and neither the Applicant nor the 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 there of to the Applicant,

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A denial 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 State Board Rule 326. Reconsideration of the denial may occur where the Applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement and files a written request for reconsideration bearing a postmark within 60 days from the date of mailing of the notification of denial due to lack of appearance. Applicants who fail to timely request reconsideration, or whose requests for reconsideration are denied, may file an appeal of the base year value during the next regular filing period provided the requirements of Revenue and

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Taxation Code section 80 have been met.

(b) If the Applicant or the Applicant's agent is present, the chair or the Clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the Applicant's opinion of the 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.

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(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 property 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 State Board 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 State Board Rule 321(d) 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 evidence that the purchase price, whether paid in money or otherwise, is not the full cash value of the property.

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(d) All testimony shall be taken under oath or affirmation.

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(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

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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 cross-examination of all witnesses and materials proffered as evidence, for argument, and for rebuttal. If any party intends to offer in evidence at the hearing a written opinion of value, including, but not limited to an appraisal report, that party shall cause the author of the written opinion of value or appraisal report, to be present at the hearing and to be available for cross examination by the other party and by members of the Assessment Appeals Board. Notwithstanding the foregoing, the parties may stipulate to the admissibility of the written opinion of value or appraisal report or portion thereof without the presence of the author. 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 he or she 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 the 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 State Board Rule 321(a) 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.

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(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

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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.

**RULE NO. 28 LEGAL COUNSEL FOR APPLICANT AND ASSESSOR**

The Person Affected and the Assessor may be represented by legal counsel. Individual deputies in the office of County Counsel may represent the Assessor and the Board, as long as the same deputy does not represent both parties.

**RULE NO. 29 EXAMINATION OF APPLICANT BY BOARD**

(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 of ownership or new construction determination is based, and the Applicant or the Applicant's agent attends and answers all questions pertinent to the inquiry.

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(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 and 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.

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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.

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(c) The Board may, in its discretion, waive the examination of the Applicant or the 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.

RULE NO.30      PERSONAL APPEARANCE BY APPLICANT; APPEARANCE  
BY AGENT

(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 State Board 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.

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(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 purposing 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 State Board Rule 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.

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(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

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pertaining to the matter before the Board.

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(e) A husband may appear for his wife, or a wife for her husband, and sons or daughters for parents or vice versa.

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(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 for that application currently on file with the Clerk of the Board.

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### RULE NO. 31 BURDEN OF PROOF

(a) Subject to exceptions set by law, it is presumed that the Assessor has properly performed his or 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 the Applicant proceed to 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.

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(c) The Assessor has the burden of establishing the basis for imposition of a penalty assessment.

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(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.

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(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 the 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.

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#### RULE NO. 32 SUBPOENAS

(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.

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(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.

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(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.

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(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

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(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.

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(f) No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the Board.

### RULE NO. 33 POSTPONEMENTS

The Applicant and/or the Assessor are 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 (2) year limitation period provided in Section 1604, the postponement shall be contingent upon the Applicant's written agreement to extend and toll indefinitely the two (2) 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 (2) year period, but the Board, in its discretion, may grant such a request.

Any subsequent requests for a postponement must be made in writing, show good cause and must be submitted to the Board for consideration. The writing may consist of either a letter or facsimile; an e-mail will not be accepted as a writing. 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 (2) year limitation period subject to termination of the agreement 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 provide in State Board Rule 305.1(d).

Requests for postponement shall be considered as far in advance of the hearing date as is practical.

### RULE NO. 34 CONTINUANCE

At the hearing, the Board may continue a hearing to another date. If the Applicant requests a continuance within 90 days of the expiration of the two (2) year period specified in this Section, the Board may require a written extension by the Applicant extending and tolling the two (2) 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

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Deleted: <#> 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 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 State Board Rule 305.1(d).¶

<#> The Clerk or the Board may grant a postponement or continuance. Requests for postponement shall be considered as far in advance of the hearing date as is practicable.¶

<#> At the hearing, the Board 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 wa ... [4]

prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.

**RULE NO. 35 DENIAL FOR LACK OF APPEARANCE AND REINSTATEMENT**

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(a) The Board may deny an application for lack of appearance in those cases where Notice of the Hearing has been given in compliance with Rule 12 (Notice of Hearing) and neither the Applicant nor his or her agent has appeared at the time and place of the hearing. Before a motion of denial is voted on by the Board, the Clerk shall review the mailing of the notice for compliance with the requirements of Rule 12.

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(b) The Board may order reinstatement of an application that was denied for lack of appearance in those cases where the Applicant furnishes to the Board evidence in writing of good cause for his or her failure to appear. The written request for reinstatement shall be addressed to the Clerk of the Board and must be filed with the Clerk or bear a post mark not later than 60 days from the date of mailing of notification by the Clerk of the Board's action denying the application for lack of appearance.

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**RULE NO. 36 DECISION, DETERMINATION OF FULL VALUE, CLASSIFICATION, CHANGE IN OWNERSHIP, OR OTHER ISSUES**

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RULE NO. 35. RESCHEDULES¶

¶ (a) At the request of the Assessor, the Applicant or the agent, a hearing may be rescheduled. The request must be received by the Clerk prior to the hearing date for which the hearing was initially scheduled. Except under extraordinary circumstances and for good cause shown to the Clerk, each party (Assessor and Applicant/Agent) will be allowed only one reschedule.¶

¶ <#> No reschedule shall be granted that would cause the hearing and decision of the Board to occur more than two years after the date that the Application for Changed Assessment (Application) was timely filed with the Clerk, unless the Applicant/Agent and the Board mutually agree in writing, or on the record at the hearing, to an extension of time (waiver) for the hearing and decision.¶

¶ (c) A reschedule may be granted if the application is consolidated for hearing with another application by the same Applicant/Agent with respect to which an extension of time (waiver) for the hearing has been granted pursuant to Revenue and Taxation Code section 1604 (c) (2).¶

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(a) 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 this 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.

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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.

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**(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.

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**(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.

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The Board shall presume the 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.

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(e) FINDINGS OF FACT. When written findings of fact are made, they shall fairly describe 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.

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**RULE NO. 37 NOTICE AND CLARIFICATION OF DECISION**

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(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. The decision becomes final when:

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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 Board may provide a written notice of the decision.

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2. A written notice of the decision is issued providing 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 Board 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.

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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 Board 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 Board 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.

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(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

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opportunity to review and comment need to 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.

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#### RULE NO. 38 MOTIONS

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All decisions of the Board shall be made by motion carried by a majority of the Board members present and voting. Motions shall not require a second. The Chairperson may make a motion.

#### RULE NO. 39 CONFLICTS WITH STATUTES

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Should any conflicts or discrepancies exist or arise between the provisions set forth in these rules and any constitutional or statutory provisions, including duly adopted rules of the State Board of Equalization, the latter provisions shall control in all matters before the Board.

# **ATTACHMENT “B”**

RULES OF NOTICE AND PROCEDURE OF THE ASSESSMENT APPEALS  
BOARDS

OF THE COUNTY OF RIVERSIDE

1<sup>st</sup>. Floor, County Administrative Center  
4080 Lemon Street, Riverside, California 92501  
(951) 955-1060

(Revised April 17, 2007)

by

Riverside County Board of Supervisors

These Rules of Notice and Procedure of the Assessment appeals Board of the County of Riverside are adopted by the County Board of Supervisors under the authority of article XIII, section 16 of the California Constitution. These, rules, in large part, are a compilation of the statutory law and of rules adopted by the State Board of Equalization relevant to assessment appeal proceedings.

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**RULES OF NOTICE AND PROCEDURE OF THE ASSESSMENT APPEALS  
BOARDS  
OF THE COUNTY OF RIVERSIDE**

**\*DISCLAIMER\***

PLEASE BE ADVISED THAT IN ADDITION TO THE AAB RULES PROVIDED HEREIN, THERE ARE OTHER GOVERNING LAWS AND REGULATIONS WHICH APPLY TO ASSESSMENT APPEALS. THOSE LAWS AND REGULATIONS ARE FOUND IN THE CALIFORNIA REVENUE AND TAXATION CODE AND THE CALIFORNIA CODE OF REGULATIONS. FOR CURRENT FILING DEADLINES, PLEASE REFER TO INSTRUCTIONS THAT ACCOMPANY THE APPLICATION FOR CHANGED ASSESSMENT.

Unless stated otherwise, all future references will be to the California State Constitution designated as "the Constitution," or the California Revenue and Taxation Code designated as "the Code" and referenced by "Section." Any references to the Rules of Notice and Procedure of the Assessment Appeals Boards of the County of Riverside will be designated as "the Rule," and references to provisions under the California State Board of Equalization Rules (California Code of Regulations, Title 18) will be designated as "the State Board Rule."

**RULE NO. 1    DEFINITIONS AND GENERAL PROVISIONS**

The definitions and provisions set forth in this rule govern the construction of the Rules of Notice and Procedure of the Assessment Appeals Boards of the County of Riverside.

(a) "Applicant" is a Person or Party Affected, or his or her duly authorized agent, who files an application for changed assessment.

(b) "Assessor" is the Assessor of the County. During the session of the Board, the Assessor or a deputy shall be present and may make any statement or produce

evidence on matters before the Board.

(c) "Auditor" is the Auditor of the County.

(d) "Authorized agent" is one who is directly authorized by the Applicant to represent the Applicant in an assessment appeals proceeding.

(e) "Base Year" means the assessment year for which a Base Year Value determination is made with respect to any interest in real property, or any portion thereof, which has experienced a change in ownership or the completion of new construction. The assessment year 1975-76 serves as the original Base Year under Article XIII A of the California Constitution. Thereafter, any assessment year in which real property, or a portion thereof, is purchased, is newly constructed, or changes ownership, as defined in Sections 60 et seq., and 70 et seq., of the Revenue and Taxation Code, shall become the Base Year used in determining the Base Year Value for such real property, or a portion thereof.

(f) "Base Year Value" means the Full Cash Value of real property as determined pursuant to Sections 50 and 110.1(a) of the Revenue and Taxation Code.

(g) "Board," depending upon context, refers to each or both of the three-member Assessment Appeals Boards of the County.

(h) "Chairperson" is the Chairperson of the Board.

(i) "City" includes the following within the County: incorporated City, City and County, municipal corporation, municipality, town and incorporated town.

(j) "Continuance" is the postponement of a hearing or other proceeding to a subsequent day or time by the Board.

(k) "Clerk" is the Clerk of the Board.

(l) "County" is the County of Riverside

(m) "County Counsel" is the County legal advisor. The Counsel or his deputy shall be available for all hearings to give legal advice to the Board. A different Deputy County Counsel shall be available to render legal advice to the Assessor.

(n) "Economic unit" is the integrated combination of a parcel of land or contiguous

parcels of land, and existing appurtenances, including structures affixed thereto, reasonably necessary to put the whole property to its highest and best use.

(o) "Fair Market Value" means the amount of cash or its equivalent which the property would bring if exposed for sale in the open market under conditions in which neither the buyer nor seller could take advantage of the exigencies of the other and both with knowledge of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon those uses and purposes.

(p) "Full Cash Value" means the "fair market value" of property as defined in Sections 110 and 110.1 of the Revenue and Taxation Code.

(q) "Full Value" means either the Full Cash Value or the Restricted Value.

(r) "Inflation Factor" means the annually compounded adjustment to the Base Year Value, not to exceed two percent per year, as determined pursuant to paragraphs (1) and (2) of subdivision (a) of Section 51 of the Revenue and Taxation Code.

(s) "Local Roll" means the assessment roll of the County prepared by the Assessor pursuant to Section 601 et seq., of the Revenue and Taxation Code.

(t) "Person" includes any person, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited liability partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind. Person shall also include trustee, trustee in bankruptcy, receiver, executor, administrator, or assignee.

(u) "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 this subchapter, 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.

(v) "Regular Assessment Period" is the period January 1 to and including July 1, or such later date authorized by the State Board of Equalization, during which the Assessor compiles the Local Roll.

(w) "Restricted Value" means a value standard other than Full Cash Value prescribed by the Constitution or by statute authorized by the Constitution.

(x) "Supplemental Assessment" means an assessment placed on the Supplemental Roll pursuant to Section 75.11 of the Revenue and Taxation Code.

(y) "Supplemental Roll" means the roll prepared or amended by the Assessor in accordance with the provisions of Chapter 3.5 of Part 0.5 of Division 1 of the Revenue and Taxation Code, beginning at Section 75 thereof, and containing properties which have changed ownership or had new construction completed.

(z) "Taxable Value" means, for each lien date, the lesser of either the Base Year Value, compounded annually by the Inflation Factor, or the Full Cash Value, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value.

## RULE NO. 2 THE BOARDS FUNCTION AND JURISDICTION.

The Functions of the Board are:

(a) 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.

(b) To determine the full value and where appealed the base year value of the property that is the subject of the hearing.

(c) To hear and decide penalty assessments, and to review, equalize, and adjust escaped assessments on that roll except escaped assessments made pursuant to Section 531.1 or penal assessment levied in respect thereto.

(d) 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.

(e) To determine the allocation of value to property that is the subject of the hearing.

(f) To exercise the powers specified in Sections 1605.5 and 1610.8 of the Revenue and Taxation Code.

(g) The Board can hear matters concerning Assessor's allocation of exempt values. However, except as provided under this Rule, the Board has no jurisdiction to consider, and therefore shall not consider matters pertaining to a Person's eligibility for a property tax exemption, including:

1. Grant or denial of exemptions;
2. Allegations that claims for exemption from property taxes have been improperly denied; or
3. Denials based on issues other than value or allocation of value.

(h) Notwithstanding any other section of this Rule, the Board will hear appeals and make adjustments to value or allocation of value that has led to the qualifying or disqualifying of exclusions. Therefore, if the denial was based on a determination of value, or allocation of value, applicants may appeal a denial of exclusion to the Board.

(i) The Board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.

### RULE NO. 3 PUBLICATION OF NOTICE OF BOARD MEETING

Immediately upon delivery of the Local Roll to the Auditor, the Clerk shall give notice by publication in a newspaper of general circulation in the County of the period during which assessment protests will be accepted, the place where they may be filed, and the time the Board will meet to equalize and correct assessments.

### RULE NO. 4 TIME AND PLACE OF BOARD MEETINGS

Except, as the Board of Supervisors shall, by order, otherwise provide, the Board shall sit for the purpose of hearing applications for correction and equalization of assessments on the Local Roll, as hereinafter provided.

(a) Board No. 1 shall sit during each alternate week, beginning on and after the fourth Monday in July, annually. Board No. 2 shall sit during each alternate week beginning on and after the third Monday in July, annually. This schedule may be modified to accommodate the nature and duration of scheduled hearings. The Board shall continue to sit from time to time until the business of assessment appeals is completed. All hearings before the Board shall be conducted in the manner provided in these rules subject to the condition expressed in Rule 39.

Nothing herein requires the Board to conduct hearings prior to the final day for filing applications.

(b) The time and place of meetings shall be Wednesday, Thursday or Friday, beginning at 9:00 a.m., in one of the meeting rooms at the County Administrative Center, 1st Floor, 4080 Lemon Street, Riverside, California, or at alternate locations as determined by the Board and posted by the Clerk.

(c) Neither the Clerk of the Board nor the Board shall provide bilingual interpreters for the hearings. The Applicant or agent to the Applicant must make arrangements to obtain their own interpreter if one is needed.

#### RULE NO. 5 LOCATION OF LOCAL ROLL AND INSPECTION

The Local Roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours at the offices of the Assessor, Treasurer-Tax Collector, and Auditor-Controller. Copies of the Local Roll are also available at the district offices of the Assessor.

#### RULE NO. 6 APPLICATION FOR CHANGED ASSESSMENT

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

##### (a) WHO MAY FILE

The application shall be made by the person affected or the person's agent. If the application is made by an agent other than an attorney licensed to practice in this state who has been authorized by the person affected to file the application, or a relative mentioned in Rule 30 and/or State Board Rule 317, written authorization to so act must be properly indicated on the application. If the applicant is a corporation, the application must be signed by an officer. No application shall be accepted for filing nor heard by the Board unless the applicant has an ownership or direct economic interest in the property subject to the application, or has a direct interest in the payment of taxes on such property.

##### (b) SIGNATURE AND VERIFICATION

The application shall be in writing and signed by the applicant, or the applicant's agent, with the declaration under penalty of perjury that the statements made in the application are true.

1. 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 was 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 administration, 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.
  - 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.

### (c) FORMS AND CONTENT

The County shall provide, free of charge, forms on which applications are to be made. The application forms shall be in a form prescribed by the State Board of Equalization. The application shall show:

1. The name and address of the applicant;
2. The name and address of the applicant's agent, if any;
3. A description of the property which is the subject of the application sufficient to identify it on the assessment roll;
4. The applicant's reasonable opinion of the full cash value; and
5. The facts relied upon in support of the claim or a reduction in assessed value or classification. The amount of tax, the amount of a tax increase, or the amount of an assessed value increase shall not constitute facts sufficient to warrant a reduction in assessed values.

Separate applications must be submitted for separate parcels. An Application

which does not show the foregoing items is invalid and shall not be acted upon by the Board. Prompt notice that an application is invalid shall be given.

(d) TIME OF FILING

1. The application shall be filed with the Clerk of the Board. An application for a reduction of an assessment made during the regular assessment period must be filed with the clerk between July 2 through September 15 at 5:00 p.m. provided that the filing period shall be July 2 through November 30 for all property located in the county if the county assessor did not send assessed value notice by August 1. The regular assessment period is from January 1 to and including July 1, or to such later date for completion of the roll as may be authorized by the State Board of Equalization. An application for a reduction of an assessment made outside the regular assessment period must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment. For purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.
2. If the notice of assessment is not received at least 15 calendar days prior to the deadline to file the application described in Section 1603, an application may be filed within 60 days of receipt of the notice of assessment or the mailing of the tax bill, whichever is earlier, along with an affidavit declaring under penalty of perjury that the notice was not timely received. The Board has no jurisdiction to hear an application unless filed within the time specified, except as provided in Sections 1603, 619.2 and 620.
3. An Application appealing an escape assessment must be filed with the Clerk no later than 60 days after the date on which the assessee was notified of the assessment.
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.
  - 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.
  - c. Under no circumstances will an application be accepted by a

facsimile or other electronic means.

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 Services 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 day shall be deemed timely filed. If the county's offices are closed for business 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.**

No application may be amended after 5:00 p.m. on the last day upon which it might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested.

**(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 on 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 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.

RULE NO. 7      BASE YEAR VALUE PRESUMPTION

(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 for 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 for 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.
3. at any time after the time period specified 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.

## RULE NO. 8 EXCHANGE OF INFORMATION

### (a) REQUEST FOR EXCHANGE OF 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 full 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 30 days before the commencement of the hearing. The Clerk shall at the earliest opportunity forward a copy of any request filed with the application to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date 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 allowable expenses, 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; acts 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 this rule has submitted the data required within the specified time, the other party shall submit a response to the initiating party and to the Clerk at least 15 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) The parties shall use adequate methods of submission to ensure to the best of their ability that the exchange of information process is completed at least 10 days prior to the hearing.

(d) PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE. Whenever information has been exchanged pursuant to this rule, 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 new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

(e) NON-RESPONSE TO REQUEST FOR INFORMATION. If one party initiates 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 non-complying 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.

## RULE NO. 9      PRODUCTION AND INSPECTION DEMANDS

(a) To the end that proceedings before the Board move forward in a timely and efficient manner, the Applicant and the Assessor are expected to cooperate and communicate with each other prior to any hearing before the Board. The Applicant shall comply with any written request by the Assessor, pursuant to Revenue and Taxation Code Section 441, for information, books and records, or inspections of the subject property that disclose acquisition or construction costs, income and

expense data, construction details, or physical condition. When requested to do so in writing by the Assessor, the Applicant also shall disclose the basis or bases, whether due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value, such as a changed physical environment, changed income and expense experiences and capitalization or yield rate expectations, or new market comparables events, which form or support the Applicant's opinion(s) of value set out in the application filed with the Clerk. On written request of the Applicant, the Assessor shall make available for inspection or copying any data or information that is kept or maintained by the Assessor about the subject property, as provided in Revenue and Taxation Code Section 408, subdivisions (d), (e), and (f). The information requested by the Assessor or the Applicant shall be provided no later than thirty (30) calendar days from the date of the request unless another date is mutually agreed upon.

(b) Should the Applicant or the Assessor not comply with the requirements of the preceding subparagraph (a) in a timely manner and introduces any requested materials or information at the Board hearing, then in accordance with Revenue and Taxation Code section 408, subdivision (f)(3), or section 441, subdivision (h), the party affected by the non-compliance may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in Revenue and Taxation Code section 1604, subdivision (c), for a period of time equal to the period of the continuance. The period of time granted for the continuance shall be established at the discretion of the Board, taking into account the nature and amount of the information introduced, the Board's calendar assignments, the Assessor's caseload demands, and the schedules of the parties.

#### RULE NO. 10    PREHEARING CONFERENCE

(a) A pre-hearing 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 issues, determining the status of "exchange of information" request, 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 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.

#### RULE NO. 11 COPY OF APPLICATION AND AMENDMENT TO ASSESSOR

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

#### RULE NO. 12 NOTICE OF HEARING

(a) HEARING. After the filing of an application for reduction of an assessment, the Clerk shall set the matter for hearing and notify the Applicant or 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 unprotected 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) NOTICE TO APPLICANT. The notice of the time and place of hearing shall be given not less than 45 days prior to the hearing unless notice has been waived or a shorter notice is stipulated to by the Assessor and the Person Affected or his or her agent.

(c) NOTICE TO ASSESSOR AND COUNTY COUNSEL. The Clerk shall notify the Assessor and County Counsel of the time and place of the hearing at the time of, or prior to, the giving of notice of hearing to the Person Affected or his or her agent.

(d) **REPLY NOTICE.** Included with the Notice of Hearing shall be a reply notice addressed to the Clerk of the Board for confirmation of the Applicant's attendance at the hearing, request for a one-time postponement, or withdrawal of the application scheduled for hearing. This reply notice must be returned to the Clerk of the Board so that it is received at least twenty-one (21) days prior to the hearing date. If no reply notice has been received by the Clerk of the Board at least twenty-one (21) days prior to the hearing date, the Assessor shall have, on the date of the hearing, the option of requesting that the hearing be continued to a later date. A return of the reply notice that is received less than twenty-one (21) days prior to the hearing date is deemed to be a failure to provide full and complete information to the Clerk of the Board pursuant to this rule such that if a hearing and decision of the Board may not occur within two years of the filing of the application, the provisions of Section 1604(c) of the Revenue and Taxation Code shall not apply and the Board shall advise the Applicant that a timely hearing and determination is being denied as provided by Section 1604(c) of the Revenue and Taxation Code and Property Tax Rule 309 (18 Cal. Code of Regulations § 309).

(e) **NOTICE OF RAISED ASSESSMENT.** 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 his or her 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 the assessee or his or her agent. The notice shall be given to the assessee as shown on the latest Local 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 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; and
5. The amount by which it is proposed that the assessment be raised.

(f) **NOTICE WHEN HEARING VACATED.** If the hearing on a particular application is vacated for any reason, the Clerk shall notify the Applicant or his or her agent of the new time, date and place of the hearing not less than 10 days prior to the new

hearing date, unless the Assessor and the Applicant or his or her agent stipulate orally or in writing to a shorter notice period.

### RULE NO. 13    REQUEST FOR FINDINGS

If an Applicant or the Assessor desires written findings of fact, his or her request must be in writing and submitted 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 his or her request at this time, the other party may orally or in writing renew the request. The fee for preparation and delivery of written findings of fact shall be \$256.00 per parcel up to a maximum of \$768.00 for findings covering applications on contiguous parcels or assessments involving the same issues and the same owners. The fee is payable at the time of the request. Written findings are only necessary if the Applicant intends to seek judicial review of an adverse decision. If such review is sought, a transcript of the proceedings before the Board may be necessary and can be obtained as prescribed in Rule No. 26.

### RULE NO. 14    DISQUALIFICATION OF A BOARD MEMBER: CHALLENGE FOR CAUSE

(a) The Person Affected or his or her 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. The statement shall set forth the facts constituting the ground of the disqualification of the member and shall be signed by the Person Affected or his or her 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 disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the Board member alleged to be disqualified. Within 10 days after filing of the statement or 10 days after service of it on him or her, whichever is later, the Board member may file with the Clerk a written answer:

1. Consenting to the proceeding being heard by another member, in which event the Clerk shall appoint a replacement member; or
2. Denying 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 his or her denial of disqualification.

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 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 subparagraph (b) above, that member shall determine the qualification of the challenged member.

#### RULE NO. 15 CONFLICT OF INTEREST

(a) It shall be a conflict of interest for a Board member to hear or decide any matter in which he or she has a financial interest as defined in Government Code Section 87103 and a Board member shall disqualify himself or herself forthwith upon becoming aware of such conflict.

(b) A Board member may also disqualify himself or herself from any matter pending before the Board for good cause, which shall be stated on the record.

(c) The Clerk may appoint an alternate member to substitute for the disqualified member.

#### RULE NO. 16 RECEIPT OF EVIDENCE OUTSIDE OF HEARING

(a) Except as provided herein, no member of the Board shall, after an application for equalization has been filed with the county, solicit or receive evidence outside of the public hearing relating to said application.

(b) Receipt of unsolicited letters or other documents shall not constitute a violation of this rule but shall be disclosed as provided in Rule No. 18.

#### RULE NO. 17 VIEW OF PROPERTY

(a) After an application for equalization has been filed with the County, no member of the Board shall knowingly view the subject property except as provided in subdivision (b) of this rule.

(b) Where, during the course of a hearing it appears that one or more Board members desire to view the subject property, the hearing may be continued for that purpose. When the hearing is continued, and if the members of the Board so desire, they may individually view the site and shall thereafter report their observations at the continued hearing or, as a body, may view the site and may be accompanied by proponents, opponents, and other interested parties.

#### RULE NO. 18 DISCLOSURE

A member of the Board who has received evidence outside of a hearing, or has viewed the subject property, or is familiar with the subject property, shall fully disclose at the hearing such evidence and such observations of and familiarity with the property so that the Applicant, the Assessor, other interested parties, and other members of the Board may be aware of the facts or evidence upon which he or she is relying and have an opportunity to controvert it. All written evidence received outside of the hearing shall be filed with the Clerk.

#### RULE NO. 19 DISCUSSION OF PENDING MATTERS

No member of the Board shall, after an application for equalization has been filed with the County, discuss said matter with proponents, opponents, or other interested parties, except in the course of and during said public hearing and authorized private deliberations thereon. Nothing herein shall prohibit the members of the Board from discussing a pending matter with County Counsel as their legal advisor.

#### RULE NO. 20 CONTACT WITH STAFF ON MATTERS FOR WHICH HEARINGS ARE REQUIRED

(a) No member of the Board shall, after an application for equalization has been filed with the County, solicit or receive any substantive information from County staff outside of the public hearing on said matters.

(b) The provisions of this rule do not apply to the following:

1. To those matters which have broad application in the county as distinguished from specific application to individual parcels of property that are or will be the subject of a hearing; or
2. To those matters which relate to only procedural aspects of the hearing process, such as anticipated dates of hearings or reasons for delays in

setting hearings.

(c) Nothing herein shall prohibit the members of the Board from discussing a pending matter with the Clerk or with County Counsel as their legal advisor.

#### RULE NO. 21 HEARINGS; ORGANIZATION

The Board shall meet on the third Monday in July, as specified in Section 1604 (b) of the Revenue and Taxation Code, for purposes of equalization, organization, orientation, election of Board Chairpersons, and to set a date for the beginning of hearings if different than the date established in Rule No. 4. (Written notice of the organizational meeting shall be given to the Board members, County Counsel, the Assessor, and other interested parties at least fourteen days prior to the meeting).

#### RULE NO. 22 TIME FOR HEARING AND DECISION

(a) 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 assessment 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.

(b) If the hearing is not held and a determination is not made within the time specified in subsection (a) 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 fully with a request for the exchange of information under regulation 305.1 of this subchapter 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 which the application was filed in; 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; or,

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 by Revenue and Taxation Code section 1604; or,

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 (a) or (b) 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.

(c) If the Applicant has initiated proceedings pursuant to subsection (b)(5), of this rule, the two-year time period described in subsection (b) shall be extended 90 days.

(d) The Applicant shall not be denied a timely hearing and determination pursuant to subsection (a) of this regulation, by reason of any of the exceptions enumerated in subsection (b) 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.

#### RULE NO. 23 CONSOLIDATION OF HEARINGS

In addition to consideration for grounds of consolidating applications for hearing as specified in Rule 6(h) supra, hearings on separate applications concerning properties in the same ownership and/or used as an economic unit may be grouped for a consolidated hearing by the Board. Applications involving properties that make up several economic units may be severed by the Board for separate hearings. Applications concerning properties held in different ownership but involving common questions of fact may be consolidated for hearing, but only with unanimous consent of the members of the Board who will hear the matter, and with the concurrence of the Assessor and the Applicants or their authorized agents.

#### RULE NO. 24 SELECTION OF BOARD CHAIRPERSON

The members of the Board shall select one of their members to act as Chairperson and to preside over all hearings. This function may be rotated among Board members at any time. The Chairperson shall exercise such control over the hearings as is reasonable and necessary. He or she shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence subject to being overruled by action of the Board.

#### RULE NO. 25 QUORUM AND VOTE REQUIRED

No hearing before the Board shall be held unless two members of the Board are present. Except as otherwise provided in Rule No. 24, no decision, determination, or order shall be made by the Board by an affirmative vote of less than two members of the Board. Except as otherwise provided herein, only those members who have been in attendance throughout the hearing may rule on the decision. A hearing must be held before the full Board if either the Applicant or the Assessor so demands. In any case wherein the hearing takes place before less than the full Board, the parties may stipulate that the absent member may read or otherwise

familiarize himself or herself with the record and participate in the vote on the decision.

#### RULE NO. 26 PROCEEDINGS RECORDED

(a) All proceedings of the Board shall be recorded. If a party makes a request for a transcript at the time of or after the hearing, he or she shall make arrangements to copy the official tape recording so that the transcript may be made. A copy of the transcript shall be given to the Clerk. All expenses incurred for the transcript shall be borne by the party requesting the transcript.

(b) Any Applicant who desires that the proceedings be reported stenographically must make arrangements with the Clerk at least ten days before the hearing. The expense of the reporter shall be borne by the party making the request. Any transcript prepared by the reporter at the party's request shall be at his or her expense, and a copy of the transcript shall be filed with the Clerk.

#### RULE NO. 27 HEARING PROCEDURE

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 the 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 hearing. If the notice has been given and neither the Applicant nor the 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.

A denial 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 State Board Rule 326. Reconsideration of the denial may occur where the Applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement and files a written request for reconsideration bearing a postmark within 60 days from the date of mailing of the notification of denial due to lack of appearance. Applicants who fail to timely request reconsideration, or whose requests for reconsideration are denied, may file an appeal of the base year value during the next regular filing period provided the requirements of Revenue and

Taxation Code section 80 have been met.

(b) If the Applicant or the Applicant's agent is present, the chair or the Clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the Applicant's opinion of the 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 property 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 State Board 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 State Board Rule 321(d) 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 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 cross-examination of all witnesses and materials proffered as evidence, for argument, and for rebuttal. If any party intends to offer in evidence at the hearing a written opinion of value, including, but not limited to an appraisal report, that party shall cause the author of the written opinion of value or appraisal report, to be present at the hearing and to be available for cross examination by the other party and by members of the Assessment Appeals Board. Notwithstanding the foregoing, the parties may stipulate to the admissibility of the written opinion of value or appraisal report or portion thereof without the presence of the author. 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 he or she 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 the 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 have 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 State Board Rule 321(a) 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.

#### RULE NO. 28      LEGAL COUNSEL FOR APPLICANT AND ASSESSOR

The Person Affected and the Assessor may be represented by legal counsel. Individual deputies in the office of County Counsel may represent the Assessor and the Board, as long as the same deputy does not represent both parties.

#### RULE NO. 29      EXAMINATION OF APPLICANT BY BOARD

(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 of ownership or new construction determination is based, and the Applicant or the Applicant's 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 and 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 the 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.

RULE NO.30      PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AGENT

- (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 State Board 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 purposing 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 State Board Rule 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 for that application currently on file with the Clerk of the Board.

### RULE NO. 31 BURDEN OF PROOF

(a) Subject to exceptions set by law, it is presumed that the Assessor has properly performed his or 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 the Applicant proceed to 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 the 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.

#### RULE NO. 32 SUBPOENAS

(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.

(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.

(f) No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the Board.

### RULE NO. 33    POSTPONEMENTS

The Applicant and/or the Assessor are 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 (2) year limitation period provided in Section 1604, the postponement shall be contingent upon the Applicant's written agreement to extend and toll indefinitely the two (2) 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 (2) year period, but the Board, in its discretion, may grant such a request.

Any subsequent requests for a postponement must be made in writing, show good cause and must be submitted to the Board for consideration. The writing may consist of either a letter or facsimile; an e-mail will not be accepted as a writing. 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 (2) year limitation period subject to termination of the agreement 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 provide in State Board Rule 305.1(d).

Requests for postponement shall be considered as far in advance of the hearing date as is practical.

### RULE NO. 34    CONTINUANCE

At the hearing, the Board may continue a hearing to another date. If the Applicant requests a continuance within 90 days of the expiration of the two (2) year period specified in this Section, the Board may require a written extension by the Applicant extending and tolling the two (2) 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.

**RULE NO. 35 DENIAL FOR LACK OF APPEARANCE AND REINSTATEMENT**

(a) The Board may deny an application for lack of appearance in those cases where Notice of the Hearing has been given in compliance with Rule 12 (Notice of Hearing) and neither the Applicant nor his or her agent has appeared at the time and place of the hearing. Before a motion of denial is voted on by the Board, the Clerk shall review the mailing of the notice for compliance with the requirements of Rule 12.

(b) The Board may order reinstatement of an application that was denied for lack of appearance in those cases where the Applicant furnishes to the Board evidence in writing of good cause for his or her failure to appear. The written request for reinstatement shall be addressed to the Clerk of the Board and must be filed with the Clerk or bear a post mark not later than 60 days from the date of mailing of notification by the Clerk of the Board's action denying the application for lack of appearance.

**RULE NO. 36 DECISION, DETERMINATION OF FULL VALUE, CLASSIFICATION, CHANGE IN OWNERSHIP, OR OTHER ISSUES**

(a) 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 this 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 the 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 describe 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.

#### RULE NO. 37 NOTICE AND CLARIFICATION OF DECISION

(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. 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 Board may provide a written notice of the decision.
2. A written notice of the decision is issued providing 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 Board 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 Board 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 Board 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 to 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.

#### RULE NO. 38    MOTIONS

All decisions of the Board shall be made by motion carried by a majority of the Board members present and voting. Motions shall not require a second. The Chairperson may make a motion.

#### RULE NO. 39    CONFLICTS WITH STATUTES

Should any conflicts or discrepancies exist or arise between the provisions set forth in these rules and any constitutional or statutory provisions, including duly adopted rules of the State Board of Equalization, the latter provisions shall control in all matters before the Board.