

**LOCAL RULES OF THE ASSESSMENT APPEALS BOARD  
OF THE COUNTY OF SOLANO**

(As of October 6, 2010)

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**Rule 1. Purpose of Local Rules.**

These Local Rules serve to supplement the provisions of the Revenue and Taxation Code and the Property Tax Rules. In the event any provision of these Local Rules conflicts with the Revenue and Taxation Code or the Property Tax Rules, the Code and Tax Rules shall control. Nothing in these Local Rules shall be construed to limit the authority of the Solano County Assessment Appeals Board, and, to the extent the Revenue and Taxation Code or the Property Tax Rules grant to the Board powers not expressly included in these Local Rules, the Board reserves the right to exercise those powers as permitted by State law.

**Rule 2. Definitions.**

The following definitions shall govern the construction of these Local Rules.

- (a) “Applicant” is the person filing an application for reduction of assessment and shall include an agent authorized pursuant to these Local Rules.
- (b) “Assessor” is the Assessor of Solano County or the Assessor’s authorized agent.
- (c) “Board” is the Assessment Appeals Board of Solano County.
- (d) “Board’s legal counsel is the County Counsel for the County of Solano
- (e) “Chairperson” is the chairperson of the Board.
- (f) “Clerk” is the Clerk of the Board of Supervisors of Solano County, who shall serve as the Clerk to the Assessment Appeals Board.
- (g) “County” is the County of Solano.
- (h) “Escape Assessment” is a retroactive assessment, levied in a later year, intended to rectify omissions or errors in the original assessment of taxable property.
- (i) “Full cash value” is, except as otherwise provided in Section 110.1 of the Revenue and Taxation Code, the amount of cash or its equivalent that property would bring if exposed for sale in the open market under conditions in which neither the buyer nor seller have knowledge of all of 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 and is used interchangeably with “market value” and “fair market value.”
- (j) “Full value” is either the fair market value, the full cash value, or such other value as is prescribed by the California Constitution or in a statute under the authorization of the Constitution.
- (k) “Local Rules” are these Local Rules of the Assessment Appeals Board of the County of Solano.

- (l) “Person affected” is one who owns an interest in property which is the subject of the proceedings under these Local Rules.
- (m) “Supplemental Assessment” is any assessment placed on the supplemental roll following a change of ownership or the completion of new construction.
- (n) “Tax Rules” are the Property Tax Rules promulgated by the State Board of Equalization and found in Title 18 of the California Code of Regulations.
- (o) “Taxable value” is the base-year full value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less.

**Rule 3. The Board’s Function and Jurisdiction.**

- (a) The Board’s functions are:
  - (1) To equalize assessments on the local tax assessment roll by reducing, sustaining, or increasing individual assessments upon application, or where no application has been filed, increasing individual assessments after notice by the Board.
  - (2) To determine the full value of the property that is the subject of a hearing.
  - (3) To determine the allocation of value to the property that is the subject of a hearing.
  - (4) To review, equalize, and adjust penal and escaped assessments on the local assessment roll, except escaped assessments made pursuant to Section 531.1 of the Revenue and Taxation Code.
  - (5) To hear and decide issues with respect to penalties as provided in Section 1605.5 of the Revenue and Taxation Code.
  - (6) To exercise the powers specified in Sections 1605.5 and 1613 of the Revenue and Taxation Code.
- (b) The Board does not have the power to:
  - (1) Grant or deny an exemption or review the denial of a claim for exemption from property taxation.
  - (2) Raise or lower the entire assessment roll.
  - (3) Change a base year value previously determined by the Board.
  - (4) Change tax rates.

- (5) Remove or waive penalties for delinquent payment of taxes

**Rule 4. Selection of Board Chairperson.**

The Board shall select one of its members to act as Chairperson and preside over all hearings. This function may be rotated among Board members. The Chairperson shall exercise such control over the hearings as is reasonable and necessary. In consultation with the other Board members and the Board's legal counsel, the Chairperson shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence. The Board shall also select one of its members to act as Vice-Chairperson. The Vice-Chairperson shall fulfill the duties of the Chairperson in the Chairperson's absence.

**Rule 5. Quorum and Vote Required.**

- (a) No hearing before the Board shall be held unless a quorum consisting of a majority of the Board is present. For purposes of obtaining a quorum, an alternate who is present shall be counted as a Board member in the event a regular Board member is absent.
- (b) No decision, determination, or order shall be made by the Board by fewer than two (2) members of the Board who have been in attendance throughout the hearing. A hearing must be held before a full Board if either party so demands. If a hearing takes place before a Board consisting of two (2) members and they are unable to reach a decision, the application shall be reheard before the full Board. If the hearing, or any portion of the hearing, takes place before less than a full Board, the parties may stipulate that the absent member may read or become familiar with the record and participate in the vote on the decision.

**Rule 6. Application.**

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

- (a) **WHO MAY FILE.** An application may be made by the property owner, the property owner's spouse, child, or agent, or any other person having an ownership interest in the property and a direct economic interest in the payment of property taxes for the property. If the application is made by an agent other than an authorized attorney licensed to practice in this state, or a relative mentioned in Local Rule 23, written authorization to act as an agent must be filed with the application in a form acceptable to the Board. If the applicant is a corporation, the authorization must be signed by an officer of the corporation.
- (b) **WHERE TO FILE.** Applications must be filed with the Clerk, located at 675 Texas Street, Suite 6500, Fairfield, CA 94533. Applications may not be filed by electronic mail or facsimile.

- (c) **SIGNATURE AND VERIFICATION.** The application shall be in writing and signed by applicant, or the applicant's agent, with a declaration under penalty of perjury that the statements made in the application are true. If the application is executed outside the State of California, it shall be sworn to before a notary public or other person authorized to administer oaths.
  
- (d) **FORMS AND CONTENTS.** The County shall provide, free of charge, forms on which applications are to be made. The application forms shall be in the form prescribed by the State Board of Equalization. A separate application must be filed for each parcel and for each tax roll year being appealed. The application shall include:
  - (1) The name and address of the applicant;
  - (2) The name and address of the applicant's agent, if any (if represented by an agent, both the applicant's name and address and the agent's name and address must appear on the application);
  - (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 opinion of the taxable value of the property on the valuation date of the assessment year in issue;
  - (5) The taxable value on which the assessment of the property was based;
  - (6) The facts relied upon to support the claim that the Board should order a change in the assessed value or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.
  - (7) A notice that a list of property transfers within the county, which have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee of ten dollars (\$10).
  - (8) A notice that written findings of fact will be available upon request upon payment of the fees set forth in Local Rule 12 and an appropriate place for the applicant to make the request.
  
- (e) The Clerk shall review all applications submitted to determine if they are complete and correct.
  - (1) If an application is complete and correct, it shall be deemed valid and the applicant shall not be required to submit any further information for the application.

- (2) If the application is not complete and correct, the Clerk shall notify the applicant in writing within thirty (30) days of receipt of the application, and the Clerk's notice shall specify which section or sections of the application are incomplete or incorrect and shall state that the applicant has thirty (30) days from the date of the notice to submit a corrected application. Corrected applications shall be deemed filed as of the date the original application was submitted. If the applicant fails to correct the application within the thirty (30) day period, or to withdraw the application within that same thirty (30) day period, the application shall be deemed denied by the Board without further action, the appeal shall be closed, and the applicant shall be barred from refileing a new application requesting the same relief.
- (f) **TIME OF FILING.** To be considered valid, an application must be filed with the Clerk during the appropriate filing period as set forth below:
- (1) **Regular Filing Period.** The filing period for a regular assessment (including decline in value appeals, base year value appeals, and personal property appeals) is between July 2 and November 30.
  - (2) **Escape Assessments.** Applications for a reduction in an escape assessment must be filed no later than sixty (60) days after the date of mailing by the Assessor of the notice of the escape assessment.
  - (3) **Supplemental Assessments.** Applications for a reduction in a supplemental assessment must be filed no later than sixty (60) days after the date of mailing by the Assessor of the notice of the supplemental assessment.
  - (4) **Assessments Made Outside the Regular Assessment Period.** Applications for a reduction in an assessment made outside the regular assessment period must be filed no later than sixty (60) days after the date of mailing by the Assessor of the notice of that assessment.
  - (5) **Calamity Assessments.** Applications for a reduction in a reassessment pursuant to Revenue and Taxation Code section 170 due to property damaged by misfortune or calamity must be filed within six (6) months of the date of mailing by the Assessor of the notice of reassessment.

An application will be deemed to have been timely filed if it is sent by regular U.S. mail, properly addressed with postage prepaid and is postmarked on or before the last day of the appropriate filing period. If the application bears both a private business meter postage postmark date and a U.S. Postal Service postmark date, the application shall be deemed filed on the date of the U.S. Postal Service postmark. Applications filed by personal delivery must be received by 5:00 p.m. on the last day of the appropriate filing period. If the last day of the filing period is a Saturday, Sunday, or County holiday, an application postmarked or delivered by 5:00 p.m. on the next business day following the last day of the filing period shall be deemed timely filed.

Except as provided in Revenue and Taxation Code sections 619.2, 620 and 620.5, the Board has no jurisdiction to hear an application unless filed within the time specified. Applications received after the appropriate filing period shall be deemed denied by the Board, and the appeal shall be closed and the applicant shall be barred from refileing a new application requesting the same relief unless the applicant provides credible evidence demonstrating that the application was in fact timely filed.

(g) **AMENDMENTS.**

- (1) An applicant may amend an application until 5:00 p.m. on the last day of the appropriate filing period.
- (2) After the filing period has ended, the applicant may amend an invalid application pursuant to Local Rule 6(e)(2) and may otherwise amend the application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

**Rule 7. Copy of Application to Assessor.**

The clerk shall transmit to the Assessor a copy of each application for a change in assessment received, and a reasonable time shall be allowed before hearing for the Assessor to obtain information relative to the property and the assessment thereof.

**Rule 8. Consolidation of Applications.**

- (a) Either the applicant or the Assessor may make either a written request or a request on the record to consolidate two (2) or more applications for hearing. When one party makes a request to consolidate and the other party indicates, either in writing or on the record, that it does not object to the consolidation, the applications shall be deemed consolidated by the Board without further action; provided, however, that no applications shall be consolidated if the Board expressly determines that they should be heard separately.
- (b) In the absence of a request to consolidate from either the applicant or the Assessor, the Board may, on its own motion, consolidate two (2) or more applications for hearing.

**Rule 9. Exchange of Information.**

- (a) **REQUEST FOR INFORMATION.** The applicant, or the Assessor if the assessed value before deduction of any exemption exceeds one hundred thousand dollars (\$100,000) may file a written request for an exchange of information with the Clerk or the other party. The request may be filed with the Clerk at the time an application is filed or may be submitted to the other party and the Clerk at any time prior to thirty (30) days before the commencement of the hearing. The clerk shall immediately forward a copy of any request filed with the Clerk to the other party. The request shall contain the basis of the requesting party's opinion of value and the following data:

- (1) **COMPARABLE SALES DATA.** If the opinion of the 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 a description of the property including the age and area of the improvement and the land area, the approximate date of sale, the price paid, the terms of sale (if known) and the zoning of the property.
- (2) **INCOME DATA.** If the opinion of value is to be supported with evidence based on an income study, there shall be presented the gross income, the expenses, and the capitalization method 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, installed cost, and any history of extraordinary use.
  - (C) With regard to both improvements and machinery and equipment: Facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.
- (b) **TRANSMITTAL OF DATA TO OTHER PARTY.** If the party requesting an exchange of data pursuant to this Local Rule has submitted the data required within the specified time, the other party shall mail a response at least fifteen (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, the Assessor shall mail the response to the address shown on the application for hearing.
- (c) **PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE.** Whenever information has been exchanged pursuant to this Local Rule, the parties may introduce evidence only on matters so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

**Rule 10. Waiver Agreements.**

- (a) At the request of an applicant, the Board or the Chairperson, or the Clerk in the case of a postponement, may approve a waiver agreement waiving the two (2) year period in which an application must be heard pursuant to Revenue and Taxation Code section 1604

("Waiver Agreement"). All Waiver Agreements shall be signed by the Chairperson or the Clerk on behalf of the Board.

- (b) All Waiver Agreements must be in a form provided by the Clerk and approved by the Board's legal counsel.
- (c) Unless otherwise approved by the Chairperson, and clearly stated in writing in the Waiver Agreement, all Waiver Agreements shall extend the two (2) year period indefinitely.
- (d) The applicant may revoke the Waiver Agreement at any time subject to the following:
  - (1) The applicant must provide 120 days written notice of the revocation ("Notice of Revocation") to the Assessor, the Clerk, and the Board's legal counsel;
  - (2) The Notice of Revocation must include the following: (i) the complete name of the applicant; (ii) the application number or numbers provided by the Clerk; (iii) a list of all consolidated applications and a statement as to whether the Waiver Agreement is being revoked with regard to those applications; (iv) the APN or APNs or the subject parcel or parcels; and (v) the signature of the applicant.
  - (3) Upon receipt of a valid Notice of Revocation, the Clerk shall, within ten (10) days, set a hearing date on the application.
  - (4) Upon receipt of an invalid Notice of Revocation, the Clerk shall, within ten (10) days, provide notice to the applicant in writing of the reasons for the invalidity. The Clerk shall also provide copies of a notice of invalidity to the Assessor and the Board's legal counsel.

**Rule 11. Notice of Hearing.**

- (a) After the filing of an application for reduction of an assessment, the Clerk shall set the matter for hearing and notify the applicant in writing by personal delivery or by mailing the notice by regular U. S. mail directed to the address given in the application.
- (b) 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 taxable value of the property from the evidence presented at the hearing and that the Board can raise 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 installments 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 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.

- (c) The notice shall be given no fewer than forty-five (45) days prior to the hearing, unless the Assessor and the applicant have stipulated in writing or on the record to a shorter notice.
- (d) The Clerk shall notify the Assessor and the Board's legal counsel of the time and place of the hearing.
- (e) When proposing to raise an assessment on its own motion without an application for reduction pending before it, the Board shall give notice of the hearing in the manner provided below not fewer than twenty (20) days prior to the hearing unless notice is waived by the applicant in writing in advance of the hearing or orally at the time of the hearing or a shorter notice is stipulated to in writing or on the record by the Assessor and the applicant. The notice shall be given to the applicant as revealed by the latest assessment roll by sending the notice by regular U. S. mail to the applicant at the latest address of the applicant 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 the assessment shall be raised;
  - (2) The time and place of the hearing;
  - (3) The Assessor's parcel number or numbers of the property or properties 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 the Board proposes to raise the assessment.

**Rule 12. Request for Findings.**

Either the applicant or the Assessor may request written findings of fact by submitting a written request to the Clerk before commencement of the hearing, paying a deposit of one hundred fifty dollars (\$150) toward the cost of preparing findings prior to the commencement of the hearing, and agreeing to pay the actual cost of preparing the findings as set forth in this Local Rule. For applications designated as "Complex Matters" pursuant to Local Rule 16, the deposit shall be two thousand dollars (\$2,000).

The total fee for preparation of findings of fact for cases before the Board shall be the sum of the following: (i) the actual number of hours expended by each Board member on preparation of findings multiplied by the rate of one hundred dollars (\$100) per hour; and (2) the actual number of hours expended by the Board's legal counsel on preparation of findings multiplied by the hourly rate for the Board's legal counsel as set by the Board of Supervisors. The minimum fee for preparation of findings is one hundred fifty dollars (\$150) per application. For single-family residences, the total fee shall not exceed three hundred dollars (\$300) regardless of the actual

number of hours expended by the Board members and the Board's legal counsel in preparing the findings.

The deposit may be returned only in accordance with the provisions of Revenue and Taxation Code section 1611.5. If a request for findings of fact is abandoned by a party prior to the conclusion of the hearing, the other party may, orally or in writing, request findings upon payment of the required deposit within forty-eight (48) hours of the other party's abandonment of its request and its agreement to pay the actual cost of preparing the findings as set forth in this Local Rule.

After preparation of the findings, the Clerk shall provide the party requesting findings with a statement of the final cost of preparation of the findings less the amount of the deposit previously submitted. Fees in excess of the deposit shall be paid by the requesting party prior to delivery of the findings.

**Rule 13. Disqualification of a Board Member.**

- (a) Either the applicant 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 grounds for the disqualification of the member, shall be signed by the party seeking disqualification, and shall be filed with the Clerk within ten (10) days after discovery of the facts constituting the grounds for the member's disqualification and, in any event, before commencement of the hearing of any issue of fact in the proceeding before such member. Copies of the statement shall be served by the party seeking disqualification on each party to the proceeding and on the Board member the party seeks to disqualify. Within ten (10) days after filing of the statement or ten (10) days after service of it on the member, whichever is later, the Board member may file with the Clerk a written answer in which the Board member shall either:
- (1) Consent to the proceeding being heard by an alternate member, in which event the Clerk shall appoint a replacement member, or
  - (2) Deny the member's disqualification, which answer may admit or deny any or all of the facts alleged in the statement and set forth by any additional relevant facts.

The Clerk shall 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) After consideration of the statement from the party seeking disqualification, the answer of the Board member, and any other relevant matters, the Chairperson shall make a ruling as to whether the member shall be disqualified. In the event a party seeks to disqualify the Chairperson, the Vice-Chairperson shall make the ruling.

**Rule 14. Application for Equalization by Member or Alternate.**

An application for equalization filed pursuant to Section 1603 by a member or alternate member of the Board shall be heard before an Alternate Assessment Appeals Board panel consisting of three (3) special Alternate Assessment Appeals Board members appointed by order of the Presiding Judge of the Solano County Superior Court. Any person shall be eligible for appointment as a special Alternate Assessment Appeals Board member who is a resident of Solano county and who is a person the Presiding Judge has reason to believe is possessed of competent knowledge of property appraisal and taxation. Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special Alternate Assessment Appeals Board member. A special Alternate Assessment Appeals Board member may hear only the application or applications for equalization set forth in the Superior Court order appointing such member.

**Rule 15. Subpoenas.**

At the request of the applicant or the Assessor, in advance of the hearing or at the time of the hearing, the Clerk, with the authorization of the Chairperson, shall issue subpoenas for the attendance of witnesses at the hearing in a form to be provided by the Clerk. The Board may issue a subpoena on its own motion or at the direction of the Chairperson without a motion. 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.

A request for a subpoena for the production of books, records, maps, and documents shall be supported by an affidavit in the form required by Section 1985 of the Code of Civil Procedure. No subpoena to take a deposition shall be issued, nor shall depositions be considered for any purpose by the Board.

**Rule 16. Prehearing Procedure for Complex Matters.**

- (a) The Board's legal counsel shall review all applications for equalization which do not relate to owner-occupied single-family residences and shall select certain applications to be reviewed further by the Board's legal counsel and the Chairperson. In making selections, the Board's legal counsel shall consider the factual and legal complexity of the application, the estimated duration of a hearing on the application, and the number of witnesses and the volume of documentation anticipated at the hearing. Upon review, the Chairperson and the Board's legal counsel may designate any application to be a "Complex Matter" subject to the requirements of this Local Rule.
- (b) For all Complex Matters, the Board's counsel shall schedule a meeting at which representatives of the Assessor and the applicant shall attend to discuss the application and the anticipated hearing. Any party may attend the meeting by telephone. Not later than five (5) days prior to the meeting, the Assessor and the applicant shall each submit to the Board's legal counsel a written Statement of Issues, which shall include: (i) the issues raised by the application; (ii) a synopsis of the facts relating to each issue; and (iii) a summary of the law in support of each party's position on each issue. With the assistance of the Board's legal counsel, the Assessor and the applicant shall attempt to

resolve and narrow the issues and disputed facts. The Board's legal counsel may, in his or her discretion, schedule additional such meetings.

- (c) Upon the completion of the meeting(s), and at least thirty (30) days prior to the commencement of the hearing on the application, each party shall submit to the Clerk five (5) copies of its written Complex Matters Final Statement ("CMFS"), in a form to be provided by the Clerk. The CMFS shall include the following: (i) a statement of the nature of the application and the issues raised by the application; (ii) a synopsis of the facts relating to each issue; (iii) a summary of the law in support of each party's position on each issue; (iv) the names of any non-expert witnesses who may be called to testify at the hearing; (v) the names and areas of expertise of any expert witnesses who may be called to testify; (vi) a list, in column form, of all documents or other exhibits the party may seek to introduce at the hearing; (vii) a list of all stipulations reached by the parties; and (viii) any other matters deemed appropriate by the Board in its discretion.

Should either the Assessor or the applicant fail to submit a CMFS, the Board may: (i) accept the statement of issues as presented by the other party; (ii) prohibit the party who fails to submit a CMFS to raise other issues at the hearing; or (iii) prohibit the party who fails to submit the CMFS to call witnesses or introduce documents or other exhibits. For good cause shown, the Board may waive the sanctions of this Subsection.

- (d) A party to a hearing for which a Statement of Issues and a CMFS have been submitted shall neither raise any issues, call witnesses, nor introduce evidence which issue, witness, or evidence has not been expressly included in the Statement of Issues and the CMFS unless good cause is shown.
- (e) At its discretion, the Board may require each party in a Complex Matter to submit a Pre-Hearing Brief in addition to the CMFS. Unless the Board requires otherwise, Pre-Hearing Briefs shall be due no later than thirty (30) days prior to the commencement of the hearing and shall not exceed ten (10) pages in length. Each party shall submit to the Clerk five (5) copies of its Pre-Hearing Brief.
- (f) Each party in a Complex Matter shall submit to the Clerk five (5) copies of each written appraisal upon which that party will rely at the hearing no later than thirty (30) days prior to the commencement of the hearing.
- (g) For all Complex Matters, the Board may schedule one (1) or more pre-hearing conferences to discuss the matters contained in the Pre-Hearing Briefs and the CMFSs and other matters related to the hearing.

**Rule 17. Hearing.**

- (a) All hearings before the Board shall be conducted in the manner provided in these Local Rules. Nothing therein requires the Board to conduct hearings prior to the final day for filing applications.

- (b) The hearing must be held and a final determination made within two (2) years of the timely filing of an application for reduction in assessments submitted pursuant to Section 1603(a) of the Revenue and Taxation Code, unless the taxpayer and the Board mutually agree in writing or on the record to an extension of time. Agreements on the record need not be reduced to writing if they are reflected in the minutes for the meeting.
- (c) If the hearing is not held and a determination is not made within the time specified in Subsection (b) of this Local Rule, 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 Local Rule 9 or Property Tax Rule 305.1, the provisions of Revenue and Taxation Code Section 441, or any other applicable discovery provision; or,
  - (4) Controlling litigation is pending. Controlling litigation is litigation which is: (i) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and (ii) directly relates to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing.
  - (5) The applicant has initiated proceedings to disqualify a board member pursuant to Revenue and Taxation Code section 1624.4 within ninety (90) days of the expiration of the two (2) year period.
- (d) The applicant shall not be denied a timely hearing and determination pursuant to Subsection (b) of this Local Rule, by reason of any of the exceptions enumerated in Subsection (c)(1), (c)(2), (c)(3), or (c)(4) of this Local Rule, unless, within two (2) years of the date of the application, the Board gives the applicant written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of the right to protest the denial at the time of the hearing on the applicant's application. 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 case or docket number, 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 filed within the two (2) year period, excluding the period of time between the notice of pending litigation and the date that the litigation becomes final.

**Rule 18. Hearing Recorded.**

All hearings of the Board shall be recorded or reported. Any person may purchase a recording of that portion of the hearings that is open to the public upon payment of a reasonable fee, provided the request to purchase has been made within sixty (60) days after the final determination of the Board. Either the applicant or the Assessor, at its own expense, may have the hearing recorded by a stenographer. If the hearing is recorded by a stenographer, the Board may, in its discretion, designate the stenographer's transcript as the official record of the proceedings. If the Board designates the stenographer's transcript as the official record, the party who hires the stenographer shall provide to the Board, without charge, an electronic copy and a hardcopy of the transcript.

**Rule 19. Hearing Procedure.**

- (a) The Clerk shall announce the number of the application and the name of the applicant. The Chairperson shall then determine if the applicant is present. If the applicant is not present, the Chairperson shall ascertain whether the Clerk has notified the applicant of the time and place of the hearing. If the notice has been given and the applicant is not present, the application shall be denied for lack of appearance, or, for good cause of which the Board is timely informed, the Board may postpone the hearing. If the notice has not been given, the hearing shall be postponed to a later date and the Clerk directed to give proper notice thereof to the applicant. The Board may reconsider an application denied for lack of appearance by the applicant as provided in Local Rule 28.
- (b) The Chairperson may request that the Clerk announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the taxable value of the property. The Chairperson may also request that the Assessor give a description of the nature and location of the property.
- (c) Except as otherwise provided in this Local Rule, the Chairperson shall direct the applicant to present its case to the Board, except when the hearing involves a penalty portion. If the applicant fails to present evidence of value of the property, the presumption set forth in Tax Rule 321 applies and the Board shall not require the Assessor to present a case.
- (d) When a hearing involves the assessment of an owner-occupied single-family dwelling, and the applicant has supplied all information as required by law to the Assessor, the presumption in Revenue and Taxation Code section 167 shall apply. In such instances, the Chairperson shall require the assessor to present appraisal data that supports the taxable value which the Assessor has determined for the property subject to the hearing.
- (e) When a hearing involves a penalty portion of an assessment, the Assessor shall present evidence notwithstanding the failure of the applicant to present evidence, to appear, or to request postponement of the hearing.
- (f) All testimony shall be taken under oath or affirmation.

- (g) 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 evidence properly admitted into the record. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses, for argument, and for rebuttal.
- (h) When the Assessor requests the Board find a higher assessed value than placed on the roll and offers evidence to support the higher value, the Chairperson shall determine whether or not the Assessor gave notice in writing to the applicant as required by Revenue and Taxation Code section 1609.4 and Tax Rule 313(f). If notice and a copy of the evidence offered has been supplied at least ten (10) days prior to the hearing, the Assessor may introduce such evidence at the hearing. 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.
- (i) Hearings shall be open except that:
  - (1) The Board may deliberate, with or without the Board's legal counsel, in private before ruling on any motion or procedural matter;
  - (2) The Board may seek advice of the Board's legal counsel in private at any time before, during, or after the hearing;
  - (3) Upon conclusion of the hearing, the Board may take the matter under submission and deliberate, with or without the Board's legal counsel, in private in reaching a decision; and
  - (4) The Board may grant a request by the applicant to close to the public a portion of the hearing relating to trade secrets. 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 applicant which relates to trade secrets the disclosure of which 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 applicant.

**Rule 20. Exhibits.**

- (a) Other than as required pursuant to the procedures set forth in these Local Rules, or as otherwise expressly directed by the Board, neither the applicant nor the Assessor shall submit to the Clerk or individual Board members any exhibits prior to the hearing. The Clerk shall return to the party who submitted them any such unauthorized exhibits. In the

event any exhibits improperly submitted are inadvertently not returned, they shall not be considered by the Board, and the party shall be required to resubmit them at the hearing.

- (b) Each party shall be responsible for submitting to the Board five (5) copies of any exhibit it wishes the Board to consider during the hearing. Each party shall also be responsible for providing two (2) copies to the other party. The Chairperson may waive this requirement in his or her discretion. In the absence of such a waiver, the Board may disregard any exhibit if the party submitting it to the Board fails to satisfy the requirements of this Subsection.

**Rule 21. Legal Counsel for Applicant and Assessor.**

The applicant and the Assessor may be represented by legal counsel at any and all times throughout the appeal process.

**Rule 22. Examination of Applicant by Board.**

Except as provided below, no reduction of an assessment can be made unless the applicant attends the hearing scheduled before the Board, offers evidence under oath regarding the value of the property, and answers all questions pertinent to the inquiry.

- (a) If the parties file with the Board a written stipulation, signed by the Assessor or designee and the applicant, as to the taxable value and assessed value of the property, which stipulation sets forth the facts upon which the reduction in value is premised, the Board may, at a public hearing:
  - (1) Accept the stipulation, waive the appearance of the applicant, and change the assessed value in accordance with Section 1610.8 of the Revenue and Taxation Code; or
  - (2) Reject the stipulation and set or reset the matter for hearing.
- (b) The Board, may in its discretion, waive examination of the applicant 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 requests such waiver in the application. The Board shall act promptly on any request for a waiver and give written notice of its decision within ten (10) days of making its decision. If the Board waives examination of the applicant, it shall decide the case on the merits of the application.

**Rule 23. Appearance by Applicant.**

- (a) The applicant must appear personally at the hearing, and not through an agent, except as otherwise provided in the Revenue and Taxation Code, the Tax Rules, or the Local Rules.

- (b) The applicant's presence at the hearing may be excused by the Board and the applicant may be represented by an attorney or other agent if, prior to the hearing, the applicant files with the Clerk written authorization for the attorney or other agent to represent the applicant at the hearing. Persons authorized to represent the applicant pursuant to Subsections (c), (d), or (e) of this Local Rule shall not be required to file written authorization pursuant to this Subsection.
- (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, the corporation shall make an appearance by the presence of any duly authorized officer or employee.
- (e) A husband may appear for his wife, or a wife for her husband, and children may appear for their parents or parents for their children.

**Rule 24. Burden of Proof.**

- (a) The law presumes that the Assessor has properly performed the Assessor's duty and has assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the applicant the burden of proving that the property in question has not been correctly assessed. The law requires that the applicant proceed to present independent evidence relevant to the full value of the property. The Assessor has the burden of establishing the basis for imposition of a penalty assessment. No greater relief may be granted than is justified by the evidence produced.
- (b) An exception to Subsection (a) applies in any hearing involving the assessment of an owner-occupied, single-family dwelling. In such instances, the presumption in Section 167 of the Revenue and Taxation Code affecting the burden of proof in favor of the taxpayer or 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.

**Rule 25. Postponements and Continuances.**

- (a) The applicant and/or the Assessor shall be allowed one postponement as a matter of right, the request for which must be made not later than 21 days before the hearing is scheduled to commence. If the applicant requests a postponement as a matter of right within 120 days of the expiration of the two-year limitation period provided in Section 1604 of the Revenue and Taxation Code, the postponement shall be contingent upon the execution of the waiver agreement provided in Local Rule 10. Any subsequent requests for a postponement must be made in writing, and good cause must be shown for the proposed postponement. 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.

- (b) The Board delegates decisions concerning postponement to the Clerk.
- (c) At the hearing, the Board may continue a hearing to a later date. Each party may request a continuance; provided, however, that no hearing shall be continued beyond the two-year period provided for in Revenue and Taxation Code section 1604 unless the applicant has agreed, either in writing as provided in Local Rule 10 or on the record, to waive the two-year limitation period or the application is otherwise exempt from the two-year limitation period for one of the reasons set forth in Section 1604 or Tax Rule 309. If the hearing is continued, the Clerk shall inform the applicant and the Assessor in writing of the time and place of such further 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 26. Decision.**

- (a) Acting upon the evidence properly before it, the Board shall determine the taxable value of the property which is the subject of the hearing. The determination of the taxable value shall be supported by the weight of the evidence at the hearing.
- (b) When an applicant requests a reduction in the assessed value 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 personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment), whether the reduction is requested on grounds of valuation, on grounds of misclassification or for any other cause, the Board shall make a determination of the full cash value of the whole property and shall order a change in the assessed value of the contested portion of the property only if the assessed value of the whole property requires equalization, or shall adjust the value of the parts so that each is equalized and the value of the whole property is accounted for.
- (c) The Board shall be bound by the same principles of valuation that are legally applicable to the Assessor.
- (d) The Board shall neither raise nor lower the entire local roll.
- (e) When written findings of fact are made, they shall fairly disclose the Board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full cash value of the property and shall be made timely after the hearing.
- (f) When valuing a property by comparison with sales of other properties, the Board shall consider only those sales which in its judgment are: (i) sufficiently near in time to the valuation date yet occurring no more than ninety (90) days after the lien date; (ii) located sufficiently near to the property being valued; and (iii) sufficiently similar to the property being valued with respect to character, size, situation, usability, zoning or other legal

restrictions as to use to make it clear that the properties sold and the property being valued are comparable in value and that the cash equivalent price realized for the properties sold is instructive in determining the value of the property being valued. Pursuant to Revenue and Taxation Code section 402.1, the Board shall presume that zoning or other legal restrictions on the use of either the properties sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds, as set forth in Section 402.1, are presented to the Board to overcome that presumption.

**Rule 27. Notice of Decision.**

The 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. A decision shall be rendered by the Board within thirty (30) days after submission. If the matter is taken under submission the Clerk shall provide the applicant with a copy of the decision of the Board by regular U. S. mail addressed to the applicant at the address given in the application and shall provide the Assessor with a copy of the decision by placing a copy in the County's inter-office mail system.

**Rule 28. Reconsideration and Rehearing.**

The decision of the Board upon an application is final. The Board shall not reconsider or rehear an application after it issues its decision unless:

- (a) The decision reflects a ministerial clerical error; or
- (b) The decision was entered as the result of the applicant's failure to appear for the hearing and within 60 days from the date of mailing of the notification of denial due to lack of appearance, the applicant furnishes evidence establishing, to the satisfaction of the Board, excusable good cause for the failure to appear.