PLACER COUNTY ASSESSMENT APPEALS BOARD

LOCAL RULES OF PROCEDURE

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PLACER COUNTY ASSESSMENT APPEALS BOARD

LOCAL RULES OF PROCEDURE

(Effective February 8, 2011)

1. DEFINITIONS

These Local Rules of Procedure are adopted pursuant to Section 16 of Article XIII of the California Constitution. To the extent these rules are in legal conflict with any requirements or additions or amendments to the statues adopted by the California State Legislature or rules or regulations promulgated by the California State Board Equalization, those statues and rules or regulations shall supersede these local rules in operation and effect. The definitions set forth in this section shall govern the construction of the terms as used in these Local Rules.

A. "Applicant" is a person who files an Application for Changed Assessment pursuant to Local Rule 4.

B. "Assessor" is the Assessor of the County.

C. "Auditor" is the Auditor of the County.

D. "Base Year" is the 1975-1976 assessment year, or thereafter any assessment year in which real property or a portion thereof, is purchased, newly constructed or changes ownership.

E. "Board" is the Assessment Appeals Board of the County as established by the Board of Supervisors pursuant to Ordinance No. 4529-B, adopted on August 17, 1993, as amended from time-to-time.

F. "Board Counsel" is the legal advisor to the Board.

G. "Chair" is the Chair of the Board.

H. "Clerk" is the Clerk of the Board. The Clerk is responsible for maintaining the records of the Board and hearings.

I. "County" is the County of Placer.

J. "County Legal Advisor" is the County Counsel.

K. "Decline in Value" concept means the current Full Cash Value of real property (as of the lien date) is less than the base year value trended.

L. "Full Cash Value" of real property is the full cash value as of: (a) the lien date March 1, 1975, for properties with a 1975-76 base year, or (b) after the 1975 lien date, the date real property is purchased, is newly constructed or changes ownership, or (c) the current year lien date, or (d) as otherwise provided by a valuation standard prescribed by the Constitution or statute.

M. “Full Market Value” or “Full Value” is synonymous with “Full Cash Value”.

N. “Inflation Factor” is the rate determined by the State Board of Equalization and is based upon the cost of living index, but not to exceed 2%, added annually at the lien date of real property, beginning the first year after the appropriate base year is established.

O. “Party” is an Applicant or the Assessor, as the case may be.

P. “Person Affected” is one who has a direct economic interest in the payment of property taxes on the property that is the subject of the County equalization proceedings.

Q. “Taxable Value” of real property on the assessment roll is the lesser of (a) the base year “full cash value” modified by the inflation factor; or (b) the “full cash value” as of the current year lien date.

R. “State Board Regulation(s)” are the regulations promulgated by the California State Board of Equalization found in Title 18 of the California Code of Administrative Regulations. When these local rules address state board regulations, use of the terms “State Board Rule” or “State Board Regulation” have the same meaning and reference.

2. FUNCTIONS AND JURISDICTION

The functions of the Board are:

A. To determine the taxable value of each property for which an application for equalization is made and by reducing or increasing the individual assessment on the local assessment role;

B. To determine whether or not property has been subject to change of ownership and to hear and decide issues with respect to penalties, pursuant to Section 1605.5 of the Revenue and Taxation Code;

C. To review, equalize, and adjust penal escaped assessments on the assessment roll except escaped assessments made pursuant to Revenue and Taxation Code Section 531.1 where an exemption was improperly granted;

D. To exercise the powers specified in Section 1613 of the Revenue and Taxation Code;

E. To determine its own jurisdiction in accordance with applicable law.

The Board acts in a quasi-judicial capacity and may act only on the basis of relevant evidence presented at a hearing. 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. The Board has no legislative power.

3. LOCATION OF LOCAL ROLL FOR INSPECTION

The local roll or copy thereof shall be made available for inspection by all interested parties during regular office hours of the Assessor.

4. APPLICATION

This section reflects the exact wording of Rule 305 of Title 18 of the California Administrative Code, as of September 30, 2008. If any of the provisions of Rule 305 of Title 18 of the California Administrative Code are amended, changed, or added, then such amendments, changes or additions shall be deemed applicable to and supersede any of the provisions of this rule.

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

(a) ELIGIBLE PERSONS

(1) An application is filed by a person affected or the person's agent, or a relative mentioned in regulation 317 of this division. If the application is made by an agent, other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, written authorization to so act must be filed with the application. For purposes of signing an application on behalf of an applicant, an agent shall be deemed to have been duly authorized if the applicant's written agent authorization is on the application or attached to each application at the time it is filed with the board. The attached authorization shall include the following:

(A) The date the authorization statement is executed;
(B) A statement to the effect that the agent is authorized to sign and file applications in the specific calendar year in which the application is filed;
(C) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the applicant on all parcels and assessments located in the specific county;
(D) The name, address, and telephone number of the specific agent who is authorized to represent the applicant;
(E) The applicant's signature and title; and
(F) A statement that the agent will provide the applicant with a copy of the application.

(2) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.

(3) If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

(4) No application shall be rejected as a duplicate application by the clerk unless it qualifies as a duplicate application within the meaning specified in Section 1603.5 of the Revenue and Taxation Code.

(b) SIGNATURE AND VERIFICATION.
The application shall be in writing and signed by the applicant or the applicant's agent with declaration under penalty of perjury that the statements made in the application are true and that the person signing the application is one of the following:
(1) The person affected, a relative mentioned in regulation 317 of this division, an officer of a corporation, or an employee of a corporation who has been designated in writing by the board of directors or corporate officer to represent the corporation on property tax matters;

(2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application; or

(3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.

(c) FORM AND CONTENTS.
The county shall provide, free of charge, forms on which applications are to be made.
(1) The application form shall be prescribed by the State Board of Equalization and shall require that the applicant provide the following information:
(A) The name and address of the applicant.
(B) The name and address of the applicant's agent, if any. If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.
(C) The applicant's written authorization for an agent, if any, to act on the applicant's behalf.
(D) A description of the property that is the subject of the application sufficient to identify it on the assessment roll.
(E) The applicant's opinion of the value of the property on the valuation date of the assessment year in issue.
(F) The roll value on which the assessment of the property was based.
(G) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.

(2) The form shall also include:
(A) A notice that a list of property transfers within the county, that 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 not to exceed ten dollars ($10). This requirement shall not apply to counties with a population under 50,000 as determined by the 1970 decennial census.
(B) A notice that written findings of fact will be prepared by the board upon request if the applicable fee is paid. An appropriate place for the applicant to make the request shall be provided.
(3) An application may include one or more reasons for filing the application. Unless permitted by local rules, an application shall not include both property on the secured roll and property on the unsecured roll.

(4) An application that does not include the information required by Subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given a reasonable opportunity to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board.

(5) An application that includes the correct information required by subdivision (1) is valid and no additional information shall be required of the applicant on the application form.

(6) If the county has appointed hearing officers as provided for in Revenue and Taxation Code Section 1636, the application form shall advise the applicant of the circumstances under which the applicant may request that the application be heard by such an officer.

(7) If an application appeals property subject to an escape assessment resulting from an audit conducted by the county assessor, then all property, both real and personal, of the assessee at the same profession, trade, or business location shall be subject to review, equalization, and adjustment by the appeals board, except when the property has previously been equalized for the year in question.

(d) TIME OF FILING.

(1) An application appealing a regular assessment shall be filed with the clerk during the regular filing period. A regular assessment is one placed on the assessment roll for the most recent lien date, prior to the closing of that assessment roll. The regular filing period for all real and personal property located in a county is:

(A) July 2 through September 15 when the county assessor elects to mail assessment notices, as defined in Section 619 of the Revenue and Taxation Code, by August 1 to all owners of real property on the secured roll; or

(B) July 2 through November 30 when the county assessor does not elect to mail assessment notices by August 1 to all owners of real property on the secured roll.

Additionally, an application appealing a base year value for the most recent lien date, where that value is not the value currently on the assessment roll, shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15 or November 30, as applicable.

(2) An application appealing an escape assessment or a supplemental assessment must be filed with the clerk no later than 60 days after the date of mailing printed on the notice of assessment or the postmark date, whichever is later, or no later than 60 days after the date of mailing printed on the tax bill or the postmark date, whichever is later, in the county of Los Angeles and in those counties where the board of supervisors has adopted a resolution to that effect, pursuant to Section 1605 of the Revenue and Taxation Code.

(3) An application appealing a proposed reassessment made for property damaged by misfortune or calamity pursuant to Section 170 of the Revenue and Taxation Code must be filed with the clerk no later than six months after the date of mailing of the notice of proposed reassessment by the assessor. The decision of the board regarding the damaged value of property shall be final, however, the decision regarding the reassessment made pursuant to Section 170 shall create no presumption regarding the value of the property subsequent to the date of the damage.

(4) An application may be filed within 60 days of receipt of a notice of assessment or within 60 days of the mailing of a tax bill, whichever is earlier, when the taxpayer does not receive the notice of assessment described in Section 619 of the Revenue and Taxation Code at least 15 calendar days prior to the close of the regular filing period. The application must be filed with an affidavit from the applicant declaring under penalty of perjury that the notice was not timely received.

(5) An application will be deemed to have been timely filed:

(A) If it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on the last day of the filing period or earlier within such period; or

(B) If proof satisfactory to the board establishes that the mailing occurred on the last day of the filing period or within such period. Any statement or affidavit made by an applicant asserting such a timely filing must be made within one year of the last day of the filing period.

(6) An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmarked date, even if the private business postage meter date is the earlier of the two postmarked 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.

(7) Except as provided in Sections 1603 and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.

(e) AMENDMENTS AND CORRECTIONS.

(1) An applicant or an applicant's agent may amend an application until 5:00 p.m. on the last day upon which the application might have been timely filed.

(2) After the filing period has expired:

(A) An invalid application may be corrected in accordance with Subsection (c)(4) of this regulation.

(B) The applicant or the applicant's agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

(C)(i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

(ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request.

(iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in Section 1604 of the Revenue and Taxation Code.

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

(3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application.

(f) CLAIM FOR REFUND.
If a valid application is designated as a claim for refund pursuant to Section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of Section 5097.02 of the Revenue and Taxation Code.

(g) RETENTION OF RECORDS.
The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action 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 applicants or the assessor, may consolidate applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation.

4A. TIME LIMITATION FOR CORRECTION OF INVALID APPLICATIONS

When an application is determined by the clerk to be invalid under the Rules of this Board and the State Board of Equalization, the applicant shall be given a reasonable opportunity to amend the application. A reasonable opportunity to amend shall be governed by the procedures provided in this section. The clerk shall notify the applicant in writing of the reasons for the invalidity of the application and shall inform the applicant that it has 30 days from the date of the notice to file the amended application.

An applicant may request an additional 30 days to amend or provide reasons in writing to the clerk why the application should not be amended provided applicant notifies the clerk in writing prior to the expiration of the 30 day notice period. Failure of the applicant to amend, dispute or respond within the foregoing time constraints shall result in the application being deemed invalid by the Board. The applicant however, may upon a showing of good cause for determination by the Board, request a hearing for reinstatement before the Board as to its reasons for failure to meet the time constraints under this section. The clerk shall require as a condition of amending or disputing the reasons for amendment or requesting reinstatement that an applicant execute and file with the clerk a waiver of the time limitations set forth in section Revenue and Taxation Code 1603(C) and State Board Rule 309(C), Title 18 of the California Code of Administrative Regulations.

All disputes as to the validity of the application shall be determined by the Board, if they are timely raised under this section. The Board's decision shall be final.

4B. AUTHORIZATION TO SIGN AND FILE APPLICATIONS ELECTRONICALLY

Applicants may file application(s) electronically and provide a digital signature provided they comply with the requirements of California Government Code Section 16.5 and Sections 22000 ET seq of Title 2 of the California Code of Administrative Regulations. Copies of the above Government Code and State Board Regulations are posted on the website of the Placer County Assessment Appeals Board and are available in hard copy from the Clerk of the Assessment Appeals Board. Except for permission to file electronically, all other requirements pertaining to applications as set forth in this Rule 4 remain the same. If an applicant fails to comply with the requirements in electronically filing as set forth in this subsection, then the filing shall not be accepted by the clerk and the applicant will be required to either correctly file by electronic file or by filing in person or by mail, in order to comply with the requirements of this section. Any untimely or incorrect filing through the use of electronic submission shall not excuse an applicant from otherwise meeting the entire filing requirement set forth in section 4 of these Rules.

5. BASE YEAR VALUE PRESUMPTION

A. The Full Value determined for real property which is purchased, newly constructed, or changed ownership after the 1975 lien date, shall be conclusively presumed to be the Base Year value, unless an application for equalization is filed during the equalization period for the year in which the assessment is placed on the assessment roll, or is filed during the equalization period in any of the three succeeding years.

B. Once an application is filed, the Base Year value determined by the Board shall be conclusively presumed to be the Base Year value. Any change in assessment made as the result of an appeal under this section shall apply for the assessment year in which the appeal is taken and prospectively thereafter.

C. A Board decision based on a decline in value that the current fair market value is less than the trended base year value on the roll, will not establish a conclusive presumption.

6. APPLICATION INFORMATION TO THE ASSESSOR

The Clerk shall transmit to the Assessor all pertinent data included in each Application for Changed Assessment. A reasonable time shall be allowed before a hearing is scheduled to allow the Assessor to obtain information relative to the property and the assessment thereof.

7. NOTICE OF HEARING

A. After the filing of an Application for Changed Assessment, the Clerk shall set the matter for hearing and notify the applicant or the agent in writing by personal delivery or by depositing the notice in the United States Mail directed to the address given in the application. The notice shall designate the time and place of the hearing. The clerk is authorized to notify the applicant via e-mail if requested by the applicant.

   The notice shall 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 this finding may exceed the taxable value on which the assessment was based, with the result that the assessment will be raised rather than lowered. The notice will include a statement that an application for a change in the assessment of a portion of an improved real property (e.g., land only or improvement 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 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. The notice shall be given no less than forty-five (45) days prior to the hearing unless the Assessor and the Applicant or the Applicant's agent stipulates to a shorter notice. The notice shall include a statement informing the Applicant that the Applicant or the Applicant's agent must respond in writing prior to twenty one

(21) days of the date of the hearing as to whether the Applicant and/or the Applicant's agent will or will not be attending the hearing. The clerk is authorized to accept the confirmation electronically. If the Applicant and/or the Applicant's agent appears at the scheduled hearing and has not confirmed attendance, the Board shall continue the matter to a future hearing date. The notice shall also include a statement informing the Applicant that a failure to appear at the hearing shall be grounds for summary denial of the application. The denial of an application for failure to appear may be reconsidered in accordance with Local Rule 29 (C). The Clerk of the Board shall compile a list of those Applicants that have not responded in writing or that will not be appearing and transmit that list to the Assessor. The Assessor shall review that list and respond to the Clerk with a list of tentative stipulations to assist the Clerk in organizing the Hearing Calendar. If the hearing is vacated for any reason, at least ten (10) days notice will be given for the rescheduled hearing.

C. The Clerk shall notify the Assessor of the time and place of the hearing.

D. It is the policy of the Board that hearings shall be held in a timely fashion and that, generally, a notice of hearing should be issued within twelve (12) months of receipt of an application.

8. PRE-HEARING CONFERENCE

A. At the discretion of the Chair, or upon the written request of any Party to the Chair, the Chair may order a pre-hearing conference. The pre-hearing conference is not in lieu of, but is, in addition to, all other procedures. The Chair may decline to order if, in the Chair's opinion, a pre-hearing conference is not necessary or is unlikely to assist the Board with resolution of the application.

B. All Parties will be given at least thirty (30) days written notice of the pre-hearing conference (unless such notice is waived by all of the Parties). No pre-hearing conference shall be held less than thirty (30) days prior to the date that the application is scheduled to be heard unless the parties agree in writing that the pre-hearing conference may be heard less than thirty days prior to the date of the scheduled hearing.

C. Each Party, in person or represented by an agent, shall attend the pre-hearing conference and shall be prepared to discuss the issues and make appropriate stipulations. The Parties are expected to communicate with each other in advance of the pre-hearing conference in order to facilitate this process.

D. At least ten (10) days prior to the pre-hearing conference, the parties shall exchange and shall provide to the Board Counsel a brief joint statement or brief separate written statements setting forth:

1. The nature of the appeal;

2. Contentions of each Party as to the factual and legal matters to be presented to the Board for resolution;

3. Factual and legal matters to which the Parties have stipulated and which may be admitted without proof, including evidence that may be received without objection.

E. The pre-hearing conference shall be conducted by the Board Counsel. A Chair of the Board may also attend the pre-hearing conference; however, that Chair of the Board shall not participate in the hearing of the application. To insure accuracy of the proceedings the pre hearing conference will be recorded by the clerk.

F. At the pre-hearing conference, the Board Counsel will discuss with the Parties, without adjudicating controverted facts, those issues set forth in Subsection (D) above, and the following:

1. Desirability of a formal exchange of information as provided in Revenue and Taxation Code Section 1606.

2. Time estimates for the hearing, the order of the hearing and the date and time thereof.

3. Such other matters as may aid in the disposition of the case.

G. If any Party wishes to have any matter decided by the Board prior to the admission of valuation evidence at the hearing, the Party shall identify any such non-valuation matters at the pre-hearing conference.

H. At the conclusion of the pre-hearing conference, the Board Counsel shall summarize the positions taken by the parties, and shall provide the summary to the Board at the hearing. The Parties shall present their cases in accordance with the positions presented at the pre-hearing conference and any agreements arising there from.

I. The Board may permit the introduction of evidence at the Board hearing not discussed at the pre-hearing conference; provided, however, if new evidence is permitted, the other parties shall be entitled, upon their request, to a continuance.

9. EXCHANGE OF INFORMATION

A. At the time of filing the application or at any time prior to thirty (30) days before the hearing on the application, the Applicant or the Assessor may initiate an exchange of information with the other Party. The request shall be submitted to the other Party, with a copy to the Clerk. 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 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 the sale, not to exceed ninety (90) days after the date of valuation; the price paid; the term 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.

   The Assessor may only file a request for an exchange of information under the requirements of this subdivision A in those cases where the assessed value of the property involved exceeds one hundred thousand dollars ($100,000).

B. If a Party has submitted the data required by Subdivision A within the time specified, at least fifteen (15) days prior to the hearing, the other Party shall mail to the Party who caused the exchange of information, and to the Clerk, a writing which shall set forth the basis of the opinion of value and shall contain the same type of data as provided in subdivision A in support of that opinion.

C. Whenever information has been exchanged pursuant to this section, 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.

10. REQUEST FOR FINDINGS

In the form provided for making application pursuant to these Local Rules, there shall be a notice that written findings of fact of the hearing will be available upon written request at the requester's expense, and upon submission of a deposit by requester. If written findings are not requested prior to the hearing, or if the required deposit is not timely submitted, the right to such written findings shall be deemed to have been waived. The requesting Party may abandon the request and waive findings at the conclusion of the hearing. If the requesting Party abandons the request at this time, the other Party or Parties may orally or in writing renew the request. The Board of Supervisors shall establish the fee for preparation of findings of fact.

11. HEARINGS

The Board shall meet as necessary to equalize assessments on the local tax assessment roll, and shall continue in session for that purpose from time to time until the business of equalization is disposed of. All hearings before the Board shall be open, except as otherwise provided in these Local Rules, and conducted in the manner provided in these Local Rules.

12. SELECTION OF BOARD CHAIR

The Board shall select one or more of its members to act as Chair. The selection shall occur annually at a meeting in July for the next calendar year. The chair shall preside over meetings and hearings. This function may be rotated among Board members. The Chair shall exercise such control over the hearings as is reasonable and necessary and shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence. Except where not legally applicable to the Board in determining and exercising its Functions and Jurisdiction under Rule 2, motions shall be conducted in accordance with the Roberts Rules of Order, Ninth Edition. The Chair may consult with the Board Counsel at any time.

13. QUORUMS; VOTE REQUIRED

No hearing before the Board shall be held unless a quorum consisting of a majority of the Board is present. Except as is provided in Local Rule 12 for rulings by the Chair, no determination or order shall be made by the Board by less than a majority vote of the members of the Board present at the hearing. In any vote, the Chair shall vote last.

14. PROCEEDINGS RECORDED

All proceedings of the Board shall be recorded or reported.

15. HEARING BRIEFS; EXHIBITS

In its notice of hearing, the Chair may require both Parties to submit a written summary of issues ten (10) days prior to the hearing. Exhibits, maps, letters, papers, documents, charts, etc., to be submitted by any Party at the hearing shall not be delivered to individual members of the Board prior to their being received into evidence at the hearing.

16. EVIDENCE; ORDER OF PRESENTATION

Hearings on applications shall proceed as follows:

A. The hearings shall be open and public except that, upon conclusion of the taking of evidence, the Board may deliberate in private in reaching a decision. An Applicant may request the Board to close to the public a portion of the hearing by filing a declaration under penalty of perjury that evidence is to be presented which relates to trade secrets the disclosure of which will be detrimental to the business interests of the owner of the trade secrets. If the Board grants the request, only evidence relating to the trade secrets may be presented during the time the hearing is closed.

B. The Clerk shall announce 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 notice required by Local Rule 7 was given to the Applicant or the Applicant's agent. If the notice has been given and neither the Applicant nor the agent is present, the application shall be denied, except for those matters before the Board pursuant to Local Rule 20(A).

If 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.

C. The Clerk shall then announce the nature of the application and shall swear in any witnesses.

D. The Chair shall then ascertain the Assessor's recommendations, if any, with regard to the application.

E. The Chair shall require the Applicant to present his or her case to the Board first, with the following exceptions, wherein the Assessor has the burden of proof and is required to go first:
   1. Owner-occupied single-family residence, unless the owner has not supplied the Assessor with all information required by law;
   2. Escape assessments except where a taxpayer has failed to file a change in ownership statement, business property statement or a permit for new construction or has not supplied the Assessor with all other information required by law;
   3. The penalty portion of the assessment;
   4. Change of ownership where the Assessor is challenging the transfer price, unless the owner has not supplied the Assessor with all information required by law.

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 at the hearing. Guidelines for the admissibility of evidence are attached hereto as Exhibit A. A full and fair hearing shall be accorded to the Parties. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses and for argument.

H. If the Assessor requests that the Board increase the assessed value and proposes to introduce evidence to support a higher assessed value than was placed on the roll, the Assessor shall, at least ten (10) days prior to the hearing, give notice in writing to the Applicant or the Applicant's agent of the higher assessed value and the evidence proposed to be introduced. The Assessor may thereafter introduce such evidence at the hearing. The notice may be given to the Applicant or the Applicant's agent by personal delivery or by depositing the notice in the United States mail directed to the address given in the application. The Assessor shall send a copy of this notice to the Clerk.

I. Withdrawals of applications are only allowed as set forth under this subsection and under Rule 18. Subject to Rule 18, an application may be withdrawn at any time prior to or at the time of the hearing upon written request signed by the Applicant or the Applicant's agent, unless a written notice from the Assessor of the intention to recommend an increase in the appraised or assessed value of the property has been given to the applicant at least ten (10) days prior to the hearing and a copy of such notice has been filed by the Assessor with the Clerk of the Board. Thereafter, the Applicant and the Assessor may only affect a withdrawal of the application upon written stipulation submitted to the board for consideration.

17. LEGAL COUNSEL

Any Party may be represented by legal counsel at any point in the proceedings.

18. REVIEW AND PROCESSING OF WITHDRAWALS

A. Review and Processing of Withdrawals made after Agreement under Revenue and Taxation Code Section 4831:

The provisions of Revenue and Taxation Code Section 4831(b) permit the Applicant and the Assessor to agree to a reduction in value, due to a decline in value and authorize a reduction to the roll and withdrawal of an application even after an application for changed assessment has been filed with the Assessment Appeals Board. The Board, however, retains jurisdiction over an application before and after the withdrawal is complete under either of the following conditions:

1. The applicant's withdrawal may be reinstated by the Board if the taxpayer or applicant receive notice from the County reflecting a new value different from the value agreed upon, or the Assessor fails to take action as to the agreement. Reinstatement of Applicant's withdrawal, however, may only be if the request for reinstatement of the withdrawn application is filed within sixty (60) days of the date the applicant receives notice from the County reflecting a new value different from the value agreed upon or within one year of the date the Assessor fails to take action as to the agreement, and the applicant agrees in writing to a waiver of the two year hearing limitation requirements of Revenue and Taxation Code, Section 1604(c). The clerk is authorized to accept the Two Year Waiver electronically.

2. Notwithstanding the time limitation provisions in filing an application for reinstatement under this Rule, the time for requesting a reinstatement of the withdrawn application may be extended upon a showing of good cause to the Board.

3. Notwithstanding the agreement between the Assessor and the Applicant, the Board is not required to accept withdrawal of an Application for Changed Assessment and may order the matter set for hearing in accordance with Title 18 of the California Code of Administrative Regulations.

B. Processing of Withdrawals Arising from Resolution of Non-Valuation Disputes and Correction of Clerical Errors:
A withdrawal shall be permitted without review in cases where the Assessor and the applicant have agreed and resolved any dispute over questions concerning (1) a legal change of ownership not involving a change in assessable value, or (2) a clerical error requiring correction, as defined in Revenue and Tax Sections 51.5, 4831, and 4831.5 and other associated statutes.

C. Authorization of the Clerk to Accept Withdrawals:
Unless otherwise instructed by the Board, the Clerk is authorized to accept all withdrawals filed under this Rule without setting the requested withdrawal for hearing. The clerk is authorized to accept the withdrawal electronically. The Clerk shall provide the Board at its next meeting a listing of those appeals withdrawn.

D. Written Instructions to Applicants:
The Board shall approve and authorize written instructions to the Clerk to advise applicants of the provisions under this section.

19. PRODUCTION AND INSPECTION DEMANDS

Notwithstanding the provisions of Rule 8 governing prehearing conferences the Board requires the following:

A. To the end that proceedings before the Board move forward in 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 required to do so in writing by the Assessor, the applicant shall also 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 outcome and expense experiences and capitalization or yield rate expectations or new market comparable events which form or support the Applicant's opinion 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. Subject to the provisions of (C) 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 noncompliance 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 (2) 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.

C The parties at the hearing before the Board, unless they agree to an earlier exchange, shall be expected at the beginning of the hearing to provide each other any appraisal reports or other matters or information to be submitted to the Board. If the exchanged reports or information provides material information not previously provided under (B) then the other party shall be entitled to a reasonable continuance to respond to such information under (B).

20. EXAMINATION OF APPLICANT BY BOARD

No change of an assessment shall be made unless the Board examines, on oath, the Applicant or the Applicant's agent as to the value of the property, and the Applicant or Agent attends (as provided in Local Rules 21 through 24) and answers all questions pertinent to the inquiry; provided that:

A. 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 Person Affected or the Agent making the application, as to the Full Cash Value and assessed value of the property, which stipulation sets forth the facts upon which the change in value is premised, the Board may, at a public hearing:
   1. Accept the stipulation, and waive the appearance of the Person Affected or Agent, or

   2. Reject the stipulation and set or reset the application for hearing.

B. 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 request 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. If the Board waives the examination of the Applicant or Applicant's agent, the Board shall decide the case on the merits of the application.

21. PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AGENT

The Applicant must appear personally at the hearing, except as otherwise provided in these Local Rules, or be represented by an authorized Agent, attorney, corporate officer or employee, co-owner, or family member mentioned in Local Rule 24, who shall be thoroughly familiar with the facts pertaining to the matter before the Board.

If the Applicant filed the application, any person (other than an attorney, corporate officer or employee, co-owner, or family member mentioned in Local Rule 24) who appears at the hearing shall first file with the Clerk the Applicant's written authorization for that person to represent the Applicant at the hearing. If a person other than the Applicant filed the application, the written authorization signed by the Applicant shall also indicate the Applicant's consent to the change in representation.

The Applicant may have an agent appear with him or her and participate at the hearing.

22. PROPERTY IN COMMON OWNERSHIP

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.

23. APPEARANCE BY CORPORATION

The corporation shall make an appearance by the presence of an attorney or of any duly authorized officer, or of any employee who is knowledgeable on the matters before the Board.

24. APPEARANCE BY A MEMBER OF FAMILY

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

25. BURDEN OF PROOF

A. The law presumes that the Assessor has properly performed his duty and has assessed all properties fairly and upon an equal basis. The effect of this presumption, except as otherwise provided by law, 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 present independent evidence relevant to the Full Cash Value of the property. The Assessor has the burden of establishing the basis for imposition of a penalty assessment.

B. In any hearing involving the assessment of an owner-occupied single-family dwelling, there is a rebuttable presumption affecting the burden of proof in favor of the taxpayer or the assessee who has supplied all information to the Assessor as required by law and the Assessor has the duty of rebutting the presumption by the submission of evidence supporting the assessment.

C. In the appeal of an escape assessment the burden of proof falls on the Assessor, except where a taxpayer has failed to file a change in ownership statement, business property statement or permit for new construction or has not supplied the assessor with all other information required by law.

D. In the case of a change in ownership, it shall be rebuttably presumed that the purchase price is the Full Cash Value of the property. The party challenging the presumption assumes the burden of proof.

26. SUBPOENAS

At the request of a Party, the Board shall issue subpoenas for the attendance of witnesses at the hearing. The Board may issue a subpoena on its own motion. If a subpoena is issued at the request of a Party, that Party is responsible for serving it and the payment of witness fees and mileage. 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 Code of Civil Procedure Section 1985. No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the board. The Board may delegate to the Clerk the authority to issue subpoenas.

27. POSTPONEMENTS AND CONTINUANCES

A. The Applicant and/or the Assessor shall be entitled to one postponement as provided in State Board Rule 323. Provided the request for postponement is made in accordance with the provisions of State Board Rule 323, the Clerk shall grant the postponement and shall notice the hearing for a later date. 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 Board authorizes the Chair or the Clerk to accept the waiver on behalf of the Board. The clerk is authorized to accept the Two Year Waiver electronically.

B. In addition to any postponement to which the Applicant or the Assessor may be entitled to as a matter of right under Subsection (a) of State Board Rule 323, the Clerk may, with the approval of the Chair, continue a hearing to a later date upon a showing of good cause by the party requesting the continuance. Requests by the Assessor or by the Applicant for a continuance shall be filed in writing with the Clerk no less than twenty one (21) calendar days prior to the scheduled hearing and shall be served upon the other Party. Any continuance shall be subject to the execution of a written waiver of the two year hearing period specified in Revenue and Taxation Code Section 1604(c) and State Board Rule 305. If the hearing is continued, the Clerk shall inform the Parties of the time and place of such further hearing and shall require a waiver of the two-year period specified in Revenue and Taxation Code Section 1604.

C. In addition to any postponement to which the Assessor may be entitled to as a matter of right under Subsection (h) of Revenue and Taxation Code Section 441, at the hearing the Board may, for good cause and upon request of either party or upon its own motion, grant a continuance to a later date.

28. DECISION

A. Acting upon the evidence properly before it, the Board shall determine the Full Cash Value of the property, including both real and personal property, which is the subject of the hearing, and apply the inflation factor if applicable. The determination of the Full Cash Value shall be supported by a preponderance of the evidence presented during the hearing. No greater relief may be granted than is justified by the evidence produced. A motion and order to deny an application or any portion thereof shall be deemed to be a determination or finding that:

1. The Full Cash Value of the property, the subject of the application or part thereof, is as determined by the Assessor, the ratio of assessed value to fair market value or full cash value of property in Placer County is 100% and further that the assessed value of said property shall remain as set forth on the assessment roll; or in the alternative and when so specified that:

2. The Applicant has not met the burden of proof by establishing prima facie case for the change in assessed value.

B. The Board's authority to determine the Full Cash Value of property, while limited by the laws of the State and the laws of the United States and usually exercised in response to an application for equalization, is not predicated on the filing of an application nor limited by the Applicant's request for relief.

When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the Board may nevertheless determine the taxable value of other portions that have undergone a change in ownership, new construction or a decline in value. Additionally, the Board shall, on its own motion or at the Assessor's request, determine the market value of the entire appraisal unit whenever that is necessary to the determination of the market value of any portion thereof.

C. The Board shall be bound by the same principles of valuation that are legally applicable to the Assessor.

D. When valuing a property by a comparison with sales of other properties, the Board may consider those sales which, 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 ninety (90) days after the date for which value is being estimated. The Board shall presume that zoning or other legal restrictions, of the types described in Revenue and Taxation Code Section 402.1, on the use of either the property sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds, as set forth in that section, are presented to the Board to overcome that presumption.

E. 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. At the conclusion of the hearing, the Board may request within the time it specifies, one of the parties to submit proposed findings of fact, and provide the other party within the time the Board specifies to review and comment on the proposed finding submitted.

29. NOTICE OF DECISION – RECONSIDERATION

A. The Board may announce its decision to the parties at the conclusion of the hearing, or it may take the matter under submission. If the matter is taken under submission, the Clerk shall notify the Applicant in writing of the decision of the Board by United States Mail addressed to the Applicant or to the Applicant's agent at the address given in the application.

B. Where written findings of fact are requested, the Board may prepare the findings of fact as specified in Rule 10, or it may direct preparation of findings as specified in Rule 28E. The preparation of findings by the parties, and the timing and conditions when the Board shall issue its decision and findings of fact shall be governed by State Board Regulations 324 and 325. The Board acting on behalf of the County and in accordance with State Board Rule 325, Title 18 of the California Code of Regulations shall issue a written notice of the decision in accordance with the provisions of Rule 325.

C. The decision of the Board is final and may not be appealed to the Board of Supervisors.

D. The denial of an application for failure to respond to the notice of hearing or for lack of appearance pursuant to Local Rule 7(B) is not a decision on the merits and may be reconsidered pursuant to this Subsection (C). Pursuant to State Board Rule 313, this Local Rule has been adopted as a procedure that authorizes reconsideration of the denial of an application for lack of appearance where the Applicant furnishes evidence of good cause for their failure to respond, appear or to make a timely request for continuance. In order to obtain a hearing for reconsideration, the Applicant must file a written request with the Clerk no later than sixty (60) days from the date of mailing of the notification of denial setting forth the specific facts showing good cause. The Clerk shall set the request for hearing at the next available date. If the Board determines to reinstate the appeal(s), the applicant will be required to sign a 2-Year Waiver of Time as a condition of being reinstated. The clerk is authorized to accept the Two Year Waiver electronically.

30. EFFECTIVE DATE

These Local Rules of Procedure are made effective and shall apply to all hearings of the Board commencing on or after February 8, 2011 – Resolution 2011-033.

History:

Original Local Rules approved by the Board of Supervisors November 29, 2005 resolution 2005-283 effective January 1, 2006.
First revision approved August 18, 2009 – Resolution 2009-223 effective August 18, 2009.

EXHIBIT A

GUIDELINES FOR ADMISSIBILITY OF EVIDENCE

1. REAL PROPERTY.

Evidence with respect to the following is generally admissible as to real property:

1.1 Condition of the subject property including:

1.1.1 Physical condition of the land including (i) size and shape, (ii) nature of the terrain (hilly, flat, etc.), (iii) soil condition, and (iv) view.

1.1.2 Improvements on the property including (i) size, (ii) utility for intended purpose, and (iii) condition (well maintained or obsolete or run down).

1.1.3 Zoning restrictions including the probability or improbability of changing the zoning classification of the property, e.g., the probability or improbability of changing property from residential zone to commercial zone.

1.1.4 Easements that are a burden on and affect the value of the property.

1.1.5 Deed restrictions, which restrict the use of the property.

1.1.6 Utilities and facilities available to the property including (i) water, (ii) sewer, (iii) gas, (iv) telephone, (v) schools, (vi) road access, and (vii) public transportation, etc.

1.1.7 Maps and photographs of subject property and vicinity and of comparable sales.

1.2 Sales (purchase) price of subject property if it was sold (purchased) within a reasonable time prior to or within 90-days after date of valuation.

1.3 Improvements on subject property including:

1.3.1 Original cost if constructed or installed within a reasonable time prior to date of valuation.

1.3.2 Replacement cost.

1.3.3 Reproduction cost.

1.4 Offers to sell or purchase subject property made within a reasonable time prior to or within 90-days after date of valuation.

1.5 Fire insurance. The amount of insurance on improvements on subject property.

1.6 Deeds of trust, mortgages, etc., on subject property.

1.7 Income from subject property:

1.7.1 Gross income.

1.7.2 Expenses of operation.

1.7.3 Net income.

1.7.4 Capitalization rate to be applied in computing value based on income.

1.7.5 Leasehold information

1.8 Conditions in general vicinity of the subject property.

1.9 Sales of comparable property. To be comparable:

1.9.1 The sale or contract of sale must be made sufficiently near in time to the valuation date but must not have been made more than 90 days after the lien date.

1.9.2 The property must be located sufficiently near the subject property.

1.9.3 The property must be sufficiently comparable to the subject property in respect to character, size, situation, usability, and improvements.

1.10 Verification of sales—business records. A memorandum or other written record of a sale is not made inadmissible by the hearsay rule when offered to prove the sale if:

1.10.1 The writing was made in the regular course of a business (including a real estate business or any governmental activity);

1.10.2 The person making the writing made it at or near the time he obtained the information concerning the sale;

1.10.3 The custodian of the writing or other qualified witness testifies to its identity and the mode of its preparation; and

1.10.4 The sources of information and method and time of preparation of the writing were such as to indicate its trustworthiness.

2. POSSESSORY INTERESTS.

In general, evidence admissible with respect to real property as outlined above is admissible with respect to possessory interests, which are likewise real property. In addition, the following evidence is generally admissible:

2.1 Terms of the lease or agreement creating the possessory interest.

2.2 Length of lease or right of possession.

2.3 Restrictions imposed on the use of the property and other terms of the lease.

2.4 In valuing a possessory interest, the amount of rent paid or to be paid is not deducted in determining the value of the possessory interest. One method of valuation is to capitalize the rent paid to compute the value of the possessory interest.

3. PERSONAL PROPERTY.

The following types of evidence are generally admissible in valuing personal property such as machinery and equipment, inventories, household furnishings, etc.:

3.1 Condition of goods or equipment.

3.2 Cost (including transportation).

3.3 Improvements to goods or equipment.

3.4 Replacement or reproduction cost.

3.5 Obsolescence.

3.6 Sales price of similar goods.

3.7 Retail selling price of goods and cost or expense of selling.

3.8 Depreciation schedules

4. INADMISSIBLE EVIDENCE.
Evidence with respect to the following is generally not admissible in valuing property:

4.1 Assessed value of other property.

4.2 Increase in assessed value.

4.3 Taxes.

4.4 Opinion of value of other property.

4.5 Assessment Appeals Board decisions (1) with respect to the subject property in prior years, or (2) with respect to other property.

5. LIMITED ADMISSIBILITY.
The following types of evidence may be admitted under limited circumstances:

5.1 Sales to public agencies having power of eminent domain.

5.2 Offers to sell or purchase comparable properties including offers, listings, and options.