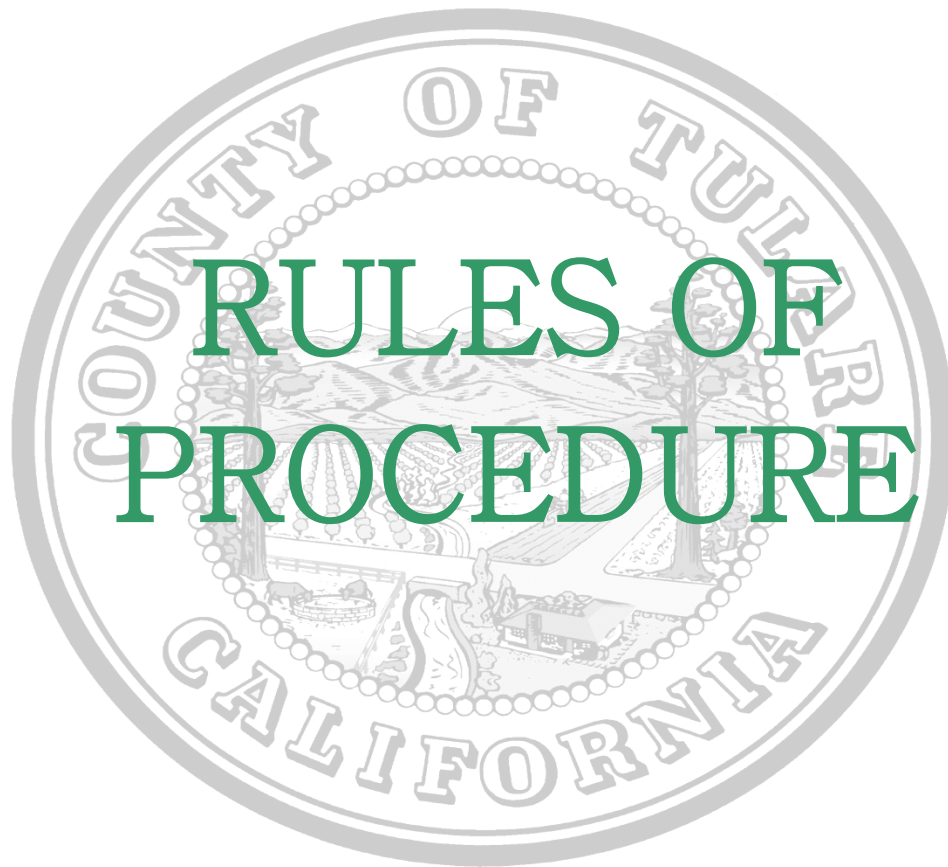


# ASSESSMENT APPEALS BOARD



REVISED

Adopted by  
Tulare County Board of Supervisors  
Resolution No. 2021-0204

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

# TABLE OF CONTENTS

<b>RULE</b>	<b>PAGE</b>
RULE 1 – DEFINITIONS.....	1
RULE 2A - STATE LAW.....	2
RULE 4A - AUTHORIZATION AND DIRECTION TO CLERK .....	2
RULE 5 – ASSESSMENT APPEAL APPLICATIONS.....	3
RULE 5.2 - PREHEARING CONFERENCE .....	5
RULE 5.2A – INFORMAL CONFERENCE .....	6
RULE 6 - ASSESSOR’S CHALLENGE BEFORE HEARING.....	7
RULE 7 - HEARING CONFIRMATION NOTICE .....	7
RULE 8 - FINDINGS OF FACT .....	9
RULE 8.5 – NONPARTICIPATION BY INDIVIDUAL BOARD MEMBER .....	9
RULE 8.6 – APPLICATION FOR EQUALIZATION BY PERSON INVOLVED IN AAB PROCESS.....	10
RULE 10 – SELECTION OF BOARD CHAIR.....	10
RULE 12 – PROCEEDINGS RECORDED .....	11
RULE 12.5 – PREPARATIONS OF EXHIBITS FOR HEARING .....	11
RULE 13 - HEARING PROCEDURE .....	11
RULE 22 – SUBPOENAS .....	13
RULE 23 – POSTPONEMENTS AND CONTINUANCES.....	14
RULE 31A – WITHDRAWAL.....	16
RULE 32A – NOTICE OF TERMINATION OF WAIVER AGREEMENT .....	16
RULE 33A – CLERK’S TRANSCRIPT FOR APPEAL TO COURT .....	17

**TULARE COUNTY ASSESSMENT APPEALS BOARD  
RULES OF PROCEDURE**

**RULE 1<sup>1</sup> - DEFINITIONS**

*Reference: Sections 110, 110.1, 110.5, 1601, 1603 et seq., Revenue and Taxation Code*

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

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

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

**“Applicant”** means a taxpayer who has filed an “Application for Changed Assessment” form. “Applicant” includes the applicant’s agent, unless it is obvious from the context that only the applicant personally is meant.

**“Application/Property Previously Adjudicated”** means that all or a portion of an assessment was heard and considered previously by another Assessment Appeals Board.

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

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

**“Continuation”** means the continuation of a hearing after one or more of the parties have presented formal evidence and/or testimony to the Assessment Appeals Board. The same Assessment Appeals Board panel must hear the continued matter.

**“Escape assessment”** means an assessment on property that belonged on the local roll, but that escaped proper assessment.

**“Lien date”** means January 1.

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

---

<sup>1</sup> Rule numbers are intended to correspond to the Property Tax Rules set forth in the California Code of Regulations, Title 18, Sections 301, *et seq.* (i.e., Rule 1 corresponds to Property Tax Rule 301). The use of letters, such as in Rule 2A, indicates that there is no corresponding Property Tax Rule.

**“Mailed by a party”** means deposited in the U.S. Postal Service; special courier service; facsimile; or other means that can be proved or identified as sent by that party.

**“Party”** means the applicant or the Assessor.

**“Postponement”** or “rescheduling” means delaying a hearing upon request by either or both of the parties, or by the Board on its own motion, prior to the submission of formal evidence or testimony relating to the issues of the assessment appeals application.

**“Supplemental assessment”** means an assessment to establish changes in value, due to changes in ownership or new construction, occurring after completion of the local roll.

## **RULE 2A - STATE LAW**

*Reference: Sections 1601 et seq., Revenue and Taxation Code  
Article XIII, Section 16, California Constitution*

- A.** All applicable provisions of the California Constitution, the California Revenue and Taxation Code, and the Property Tax Rules set forth in the California Code of Regulations (Title 18, Sections 301, *et seq.*) are adopted and incorporated into these Rules. Statements in these rules describe procedures and requirements of the Tulare County Assessment Appeals Board and do not reflect all legal requirements that govern assessment appeals.
- B.** These rules shall apply to the Assessment Appeals Board and any special alternate assessment appeals board panel appointed pursuant to section 1622.6 of the Revenue and Taxation Code. If there is any conflict between these rules and any California constitutional or statutory provision, then the constitutional or statutory provision will supersede and invalidate any conflicting rule provision.

## **RULE 4A - AUTHORIZATION AND DIRECTION TO CLERK**

*Reference: Section 1628, Revenue and Taxation Code*

The Clerk of the Assessment Appeals Board, hereafter referred to as “Clerk,” or “the Clerk,” is authorized and directed to take all actions and to do all things necessary to comply with and carry into effect each and every provision of these Rules as well as all other provisions of law that relate to assessment appeals. The Clerk is further directed to review all assessment appeals-related information annually and to make such modifications as may be necessary to ensure all information is current and accurate and approved by the State Board of Equalization when required.

## **RULE 5 – ASSESSMENT APPEAL APPLICATIONS**

*Reference: Sections 51, 166, 170, 408.1, 1603, 1605, Revenue and Taxation Code  
Section 25105.5, Government Code*

- A. FORM AND CONTENTS** - Applications must be filed using the form prescribed by the State Board of Equalization. A **separate** application must be filed for each parcel and for each assessment being appealed. Any required attachments (such as assessment notices or tax bills) must be included with the application. The application and all related forms are available to applicants at no charge upon request to the Clerk or through the County's AAB website. All applicants must use these forms to file their applications.
1. All applications filed by corporations, LLCs, LPs and non-attorney agents of affected individual applicants must include the Agent's Authorization Form or they will be returned as incomplete.
  2. Applications filed by the following are not required to include the Agent's Authorization Form:
    - a. Affected individuals (non-entities),
    - b. Licensed California attorneys retained by affected individuals, or
    - c. The child, parent, spouse or registered domestic partner of affected individuals.
  3. All applications filed by corporations, LLCs and LPs must also include the Declaration Form for Appeal Filed by Business Entity or they will be returned as incomplete.
- B. WHERE FILED** - The application must be filed with the Clerk. **The application may *not* be filed by facsimile transmission or other electronic means.**
- C. INCOMPLETE OR INCORRECT STATUS** - The Clerk shall promptly notify the applicant if required information is missing or incorrect. The Clerk's notice shall contain an explanation of the deficiency, a request for the missing or correct information, and a warning that unless the applicant provides the missing or correct information within thirty (30) days after the date of the notice, or the last date the application may be filed, whichever is later, the application will be denied.
- D. TIME FOR FILING** - To be considered valid, an application must be filed with the Clerk during the appropriate filling period. Applicants mailing their applications near the filling deadline are advised to obtain a certificate of mailing and maintain it in their records.
- E. ASSESSMENTS MADE OUTSIDE THE REGULAR ASSESSMENT PERIOD** - Pursuant to Revenue and Taxation Code section 1605, subdivision (d), the time

for equalization of assessments made outside the regular assessment period, including assessments made pursuant to Sections 501, 503, 504, 531, and 531.5 of the Revenue and Taxation Code, shall be as follows:

1. Supplemental Assessment or Roll Correction

The application must be filed with the Clerk no later than sixty (60) days after the mailing date on the notice of assessment that the assessor mails to the owner of record.

2. Escape Assessment

The application must be filed no later than sixty (60) days after the mailing date on the final notice of enrolled escape assessment that the assessor mails to owner of record. "Final notice" consists of one of the following:

- a. Notice of enrollment of escape assessment. (Note: a notice of "proposed" escape assessment does *not* constitute final notice.)
- b. Notice of audit results, in the event the audit adjustments will not create a tax bill or will result in a refund to the assessee.

3. Penalty Assessment

The application must be filed no later than 60 days after the date of the Assessor's notice of the penalty, or the postmark date, whichever is later.

4. Reassessment After Misfortune, Calamity, or Disaster

Where one of the Tulare County ordinances applies,<sup>2</sup> the application must be filed no later than six (6) months after the date on which the Assessor mailed notice of reassessment to the assessee, or the postmark therefor, whichever is later.

5. Extension If Certain Notice of Assessment Not Received

- a. The 60-day deadline specified in paragraph (1), (2), or (3) above may be extended if the taxpayer does not receive the applicable notice at least 15 calendar days prior to the deadline. In this event, the application may be filed within 60 days after the date of mailing printed on the tax bill or the postmark therefor, whichever is later, along with an affidavit declaring under penalty of perjury that the notice of assessment was not timely received.

---

<sup>2</sup> As of the time these rules were amended, these ordinances were found in Article 13 of Chapter 5 of Part 1 of the Ordinance Code (Tulare Co. Ord. Code, § 1-05-1500 et seq.) [individual misfortunes or calamities], and Article 15 of the same Chapter (Tulare Co. Ord. Code, § 1-05-1555 et seq.) [area disasters as declared by the Governor].

b. The six-month deadline under paragraph (4) may not be extended.

**F. NOTICE OF UNTIMELY FILING** - When an application is filed after the applicable deadline, the Clerk shall promptly mail a notice of untimely filing to the applicant or the applicant's agent who filed the application. The notice shall contain an explanation of the untimely filing and a copy of the form used to petition the Board under penalty of perjury to find the application timely. The notice shall also contain a warning that the application will be deemed denied if the petition is not filed within 30 days of the date the notice was mailed.

If the petition is filed within the 30-day period, then the Clerk shall schedule a hearing to consider only the issue of timeliness of filing. The Clerk shall notify the applicant of the hearing date and time, and shall advise the applicant that he or she will have the opportunity to present evidence only on the issue of timeliness of filing.

The notice shall also state that the applicant or agent is required to appear in person at the hearing on the petition to consider the application timely.

If the evidence demonstrates that the application was filed within the appropriate time, then the Board shall declare the application filed timely, and the Clerk shall accept the application for filing. (The application will be scheduled for a hearing on the merits of the appeal at a future date.) If the evidence does not demonstrate that the application was filed within the appropriate time, then the Board shall deny the application for lack of jurisdiction.

**G. REQUEST TO WAIVE APPLICATION FEE**

An applicant who is indigent may request that the fee imposed by the Board of Supervisors for processing an application be waived. The Clerk shall provide a form on which the applicant may request the waiver, showing his or her financial condition under penalty of perjury.

If the applicant properly completes and signs the waiver form, then the Clerk shall accept the status of the applicant as indigent, and shall accept the application for filing without payment of the fee.

## **RULE 5.2 - PREHEARING CONFERENCE**

*Reference: Sections 1601 et seq., Revenue and Taxation Code  
Article XIII, Section 16, California Constitution*

**A.** If a prehearing conference is set by the Board pursuant to Property Tax Rule 305.2, then a special meeting of the Board shall be held to confer with the parties or their agents or counsel, as designated by the respective parties.

1. The Board may direct the parties to prepare pre-conference briefs or statements. All initial briefs or statements shall be filed with the Clerk, with proof of service on the other party, no later than fifteen (15) days prior to the date of the scheduled conference. All response briefs or statements shall be filed with the Clerk, with proof of service on the other party, no later than seven (7) days prior to the date of the scheduled conference. The filing party shall include an original and six copies when filing with the Clerk. The Clerk shall keep the original for the record and shall provide one copy to each member of the Board and one copy to the Board's counsel. No reply briefs or statements shall be filed.
  2. If a party is unable to appear at the scheduled date and/or time for the conference, or wishes to waive attendance at the conference and submit only documents, then that party shall notify the Clerk and the other party not less than seven (7) days before the conference.
- B.** As a result of the prehearing conference, the Board may direct the parties regarding the issues listed in Property Tax Rule 305.2 or other issues as appropriate. For example, the Board may direct the parties to file briefs or statements before the hearing to identify and/or clarify issues material to the appeal.
- C.** If the Board does direct the parties to file briefs or statements before the hearing, then each party shall file its brief with the Clerk, with a proof of service on the other party, no later than 15 days before the scheduled date of the hearing. The filing party shall include an original and six copies when filing with the Clerk. The Clerk shall keep the original for the record and shall provide one copy to each member of the Board and one copy to the Board's counsel.

#### **RULE 5.2A - INFORMAL CONFERENCE**

- A.** All parties are required to participate in an informal conference prior to their appeal hearing. The purpose of the informal conference is for the parties to negotiate a resolution to the appeal in good faith prior to the hearing date. The informal conference will be attended only by the parties or designated representatives with settlement authority. Board members and other outside parties, such as mediators, are prohibited from attending unless their attendance is approved, in writing, by all parties.
- B.** All hearing date notices will include a scheduled date and time for an informal conference to be held at the office of the Tulare County Assessor. The date, time and location of the informal conference can be changed by agreement of the parties. Informal conferences may be conducted remotely, however, the parties are strongly encouraged to attend in-person. The parties shall not unreasonably withhold consent for changing the date, time or location of the informal conference.



- C. Parties are required to attend the informal conference and attempt to settle the appeal in good faith during the conference. The Board can draw negative inferences from any party's refusal to attend or to negotiate in good faith at an informal conference.

## **RULE 6 - ASSESSOR'S CHALLENGE BEFORE HEARING**

*Reference: Sections 1603, 1606, Revenue and Taxation Code*

- A. After receiving an application from the Clerk pursuant to Property Tax Rule 306, the Assessor may file with the Clerk a written statement (e-mail is acceptable) alleging that an application is incomplete or invalid and should not have been accepted by the Clerk. Such a statement may not be filed after the Clerk has sent the notice of hearing for the appeal, or with less than 120 days remaining in the two-year period (unless the applicant and Board have agreed to waive this deadline). The statement shall set forth the factual basis for the challenge.
- B. The Clerk shall set the matter for hearing before the Board solely to review the Assessor's challenge. Notice to the applicant is not required.
- C. If the Board determines that the application is incomplete or invalid as presented, then the Clerk shall promptly notify the applicant that the Board has made this determination. The Clerk's notice shall contain an explanation of the deficiency, and, as appropriate, either a request for additional information or a description of the rules for a petition to determine timeliness. In either case, the 30-day deadline for a response shall apply.

## **RULE 7 - HEARING CONFIRMATION NOTICE**

*Reference: Sections 50, 51, 1601, 1603, 1606, 1610.8, 1620, Revenue and Taxation Code*

- A. In addition to the matters specified in Property Tax Rule 307, the Clerk shall include with the notice of hearing sent to the applicant a hearing confirmation notice requiring the applicant to advise the Board of the applicant's intention to do one of the following:
  - 1. Appear on the scheduled hearing date, ready to proceed with the hearing;
  - 2. Request that the hearing be postponed to another hearing date, to which the Clerk shall respond as provided in Rule 23; or
  - 3. Withdraw the application.
- B. The applicant must return the completed confirmation notice in such a manner that the Clerk receives it no later than the close of business 21 days before the

scheduled hearing date. The notice may be returned by mail, facsimile, or personal delivery.

- C.** If the applicant returns the completed notice in a timely manner:
1. Indicating that the applicant will appear, then the Assessor shall be ready to proceed at the hearing as scheduled, unless the Assessor wishes to request a postponement for good cause under Rule 23.
  2. Indicating that the applicant is requesting a postponement, then the Clerk shall respond to the postponement request as provided in Rule 23.
  3. Indicating that the applicant is withdrawing the application, then the Clerk shall record the withdrawal.

The Clerk shall advise the Assessor promptly after the 21-day deadline expires regarding receipt of timely confirmation notices.

- D.** If the applicant fails to return the completed notice in a timely manner, then the Clerk shall list the application separately on the agenda for the hearing date, and the Assessor may, but is not required to, be ready to proceed with the hearing on that date. If the applicant fails to appear, then the Board may deny the application for lack of appearance. If the applicant appears, then the Board either may proceed on the merits, or may postpone the hearing at the request of a party.
1. If the applicant requests that the hearing be postponed, then the Board shall consider the request under Rule 23.
  2. If the Assessor requests that the hearing be postponed, then the Board shall grant the request, and the postponement shall not be counted against the Assessor under Rule 23.

- E.** If a meeting is canceled for any reason, then any applications listed separately on the agenda pursuant to subdivision (d) shall be included on the agenda of the next meeting. The Clerk shall notify the applicant of the new time, date, and place of the meeting as promptly as possible, but in no event less than 10 days prior to the new date, pursuant to Revenue and Taxation Code section 1605.6. A copy of the notice shall be provided to the Assessor. If requested in writing in advance by the applicant and/or Assessor, then the Clerk may send the notice by e-mail.

The agenda shall have separate items for each group of applications in this category, sorted by the original date of the hearing for which the notice was not returned in a timely manner.

## **RULE 8 - FINDINGS OF FACT**

*Reference: Sections 1603, 1611.5, 1611.6, Revenue and Taxation Code*

- A.** Either party may request written findings of fact as provided in Property Tax Rule 308. When an applicant requests findings, the applicable fee, as set by the Board of Supervisors, must be paid before the commencement of the hearing.<sup>3</sup> The Assessor is exempt from paying the fee.
  
- B.** In some instances the Board may direct staff to prepare draft findings of fact. In such instances, the matter is not finally decided by the Board, but will be set for further deliberations to consider the draft findings of fact. The Board may ask the parties to provide additional evidence. Copies of the draft Findings of Fact will be provided to both parties, who will be given the opportunity to raise objections.

The deadlines under applicable law shall begin to run only after the Board has adopted the Findings of Fact as final. The Clerk shall include a formal proof of service when the final Findings of Fact are mailed or delivered to the parties.

## **Rule 8.5 - NONPARTICIPATION BY INDIVIDUAL BOARD MEMBER**

*Reference: Sections 1624.4, 1641.2, Revenue and Taxation Code*

Individual members of the Board may be disqualified from hearing a particular application pursuant to Property Tax Rule 308.5.

In addition, individual members of the Board may recuse themselves from considering a particular application when they believe they should not participate in order to avoid even the appearance of impropriety.

Members of the Board need not recuse themselves when the Board is asked to approve an applicant's request to withdraw the application. In any other situation, a member of the Board may recuse himself or herself whenever:

- A.** The Board member believes his or her recusal would further the interests of impartiality.
  
- B.** The Board member believes there is substantial doubt as his or her capacity to be impartial.
  
- C.** A person aware of the facts might reasonably entertain a doubt that the Board member would be able to be impartial.

---

<sup>3</sup> As of the date these Rules of Procedure were last amended, the fee for residential appeals was \$100 per parcel, and for commercial appeals was \$250 per parcel.

If the Board member does not realize that there are grounds for recusal until the Board is considering an application, then the Board member shall announce on the record the reason for the recusal, and shall leave the dais, but may remain in the audience during the hearing if he or she wishes to do so.

### **RULE 8.6 - APPLICATION FOR EQUALIZATION BY PERSON INVOLVED IN AAB PROCESS**

*Reference: Sections 1612.7, 1622.6, 1636.5, Revenue and Taxation Code*

- A.** Each of the following persons shall notify the Clerk immediately upon filing an application for equalization on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal:
1. A current member of the Board, or any alternate member.
  2. A current assessment hearing officer.
  3. A current employee of the office of the Clerk, regardless of whether that employee's regular assignment includes any duties associated with assessment appeals.
  4. A current employee of the County Counsel who advises the Board or represents the assessor before the Board.
- B.** The Clerk shall perform any ministerial duties regarding an application for equalization filed by a person specified in subdivision A, or an application in which a person specified in subdivision A represents his or her spouse, parent, or child, in the same manner as any other application. However, any duties regarding the exercise of discretion, whether by the Clerk or the Board, including the actual hearing on the merits, if any, shall be performed by a special alternate Board or its clerk as provided in Revenue and Taxation Code section 1622.6 and these Rules.

### **RULE 10 - SELECTION OF BOARD CHAIR**

*Reference: Section 1609, Revenue and Taxation Code*

The Board shall elect a Chair and Vice Chair at the September meeting, or at the next meeting if the September meeting is canceled. If the Chair is unable to attend a meeting or is not a member of the panel for the day, then the Vice Chair shall preside. If the Vice Chair is also unable to attend or is not a member of the panel for the day, then the members present shall select a chair pro tem for that meeting.

## **RULE 12 - PROCEEDINGS RECORDED**

*Reference: Section 1611, Revenue and Taxation Code*

- A.** The Clerk shall make an audio recording of all Board proceedings. The audio recording shall constitute the official record except as provided below. The Clerk shall retain the audio recording of each hearing for a minimum of sixty (60) days after the final determination of the Board. Any person may purchase a copy of an audio recording upon payment of the appropriate fee.
- B.** A party that wishes to have the hearing reported by a stenographer must pay for the stenographer. The party may make its own arrangements to have the stenographer present, or may ask the Clerk to do so. If the requesting party asks the Clerk to arrange for the stenographer to be present, then the request must be accompanied by a check in the amount of the fee set by the Board of Supervisors for a full day's services by a stenographer. The request must be made prior to the deadline set in Property Tax Rule 312.
- C.** Any transcript, whether made by a party from the audio recording or by a stenographer, will be designated as the official reporter's transcript only after being corrected and certified by the Clerk.

## **RULE 12.5 - PREPARATION OF EXHIBITS FOR HEARING**

The Clerk shall provide guidelines to the parties regarding preparation of exhibits for hearing.

## **RULE 13 - HEARING PROCEDURE**

*Reference: Article XIII A, California Constitution*

*Sections 110, 167, 1605.4, 1607, 1609, 1609.4, 1637, Revenue and Taxation Code  
Section 664, Evidence Code*

### **A. INITIAL ANNOUNCEMENT**

An application shall be announced for hearing in accordance with Property Tax Rule 313.

### **B. SUBSEQUENT STEPS IF APPLICANT OR AGENT NOT PRESENT**

If the applicant or agent is not present, then the Chair shall proceed as provided in Property Tax Rule 313(a).

1. Denial for Lack of Appearance

If the application has been denied for lack of appearance, then the Clerk shall promptly notify the applicant or agent of this action.

2. Request for Reconsideration

The applicant or agent may request reconsideration after denial for lack of appearance. The applicant or agent shall use the form available from the Clerk to make the request.

The request shall be filed no later than thirty (30) days after the date of mailing of the notification of denial due to lack of appearance.

3. Hearing on Request

If the request is filed within the 30-day period, then the Clerk shall schedule a hearing to consider only the issue of good cause for the failure to appear. The Clerk shall notify the applicant of the hearing date and time, and shall advise the applicant that the applicant or agent is required to appear in person at the hearing on the request for reconsideration.

If the applicant or agent does not appear in person at the hearing on the request for reconsideration, then the Board shall deny the application on the merits, and no second petition for reconsideration shall be accepted by the Clerk or considered by the Board.

If the Board finds that the evidence demonstrates good cause for the failure to appear, then the Board shall grant the request, and the Clerk shall reinstate the application for hearing. (The application will be scheduled for a hearing on the merits of the appeal at a future date.)

4. Failure to Appear at Subsequent Hearing on Merits

Where reconsideration has been granted after a failure to appear, if the applicant or agent fails to appear at the subsequent hearing on the merits, then the Board shall deny the application on the merits, and no second petition for reconsideration shall be accepted by the Clerk or considered by the Board.

**C. SUBSEQUENT STEPS IF APPLICANT OR AGENT IS PRESENT**

If the applicant or agent is present, then the hearing shall proceed as described in Property Tax Rule 313(b).

**D. EXHIBITS** - A party that wishes to have exhibits, maps, etc. marked for identification and received into evidence during the hearing shall submit eight (8) copies of each written exhibit to the Clerk, in addition to any copy the party wishes

to retain. The Board prefers to have a party give all exhibits to the Clerk at once. The Clerk shall keep one copy as the original for the record, and shall distribute the remainder as follows: one copy to each member of the Board, one copy to the Board's counsel, and one copy to the opposing party.

- E. TRADE SECRETS** - If a portion of the hearing is closed under subdivision (g) of Property Tax Rule 313 in order to present evidence relating to trade secrets, then the Board shall take appropriate steps to ensure the confidentiality of the evidence, and shall also ensure that the record of the hearing clearly indicates that a trade secrets presentation is included. If a certified shorthand reporter is reporting the hearing, then the Board shall instruct the reporter not to provide the trade secrets portion of the transcript to a third party without the permission of the party to whom it relates.

## **RULE 22 - SUBPOENAS**

*Reference: Sections 1609, 1609.4, 1609.5, Revenue and Taxation Code*

- A.** The Clerk is authorized to issue subpoenas in accordance with Property Tax Rule 322.
- B.** All subpoenas shall be prepared by the Clerk. A party desiring a subpoena shall first contact the Clerk. If it appears to the Clerk that a subpoena may properly be issued, then the Clerk shall advise the party of the information needed, and the party shall then submit a written request for the subpoena that includes all information needed by the Clerk. The Clerk shall deliver the subpoena to the party for service as provided below.
- C.** The party at whose request a subpoena is issued is responsible for serving it and for the payment of witness fees and mileage.

The Board does not have the funding to reimburse an applicant for any witness fees paid for attendance of a State Board of Equalization employee subpoenaed pursuant to Revenue and Taxation Code section 1609.5. Any administrative remedy in this regard shall be deemed to have been exhausted without the need to file a request for reimbursement.

- D.** Upon request by the Clerk, the requesting party shall provide proof of service for any subpoena issued to that party.
- E.** If a person who has received a subpoena fails to comply with its requirements, then the Board may refer the matter to its counsel, who will initiate enforcement proceedings in Superior Court.

## **RULE 23 - POSTPONEMENTS AND CONTINUANCES**

*Amended with Resolution No. 2012-0815 on October 23, 2012*

*Reference: Sections 1605.6, 1606, Revenue and Taxation Code*

- A. **POSTPONEMENTS** – A postponement request made outside a meeting of the Board shall be in writing, but may be faxed or e-mailed. The requesting party shall use the form available from the Clerk to make the request.

A postponement request may be granted if it complies with Property Tax Rule 323 and the following requirements:

1. **First Request**

a. **Request received no later than 21 days before hearing**

The Clerk is authorized to grant one (1) postponement as a matter of right to each party. The postponement request must be made no later than 21 days before the hearing is scheduled to commence.

b. **Request received less than 21 days before hearing**

(1) **Request to which other party does not object**

The Clerk may grant a request for postponement, provided the requesting party shows that the other party does not object to the request. The form used by the Clerk shall have a section for this purpose.

In addition, if the applicant is the requesting party, then the applicant must sign a two-year waiver, as provided in Property Tax Rule 323.

If the Clerk receives the request after the calendar is prepared, then the Clerk shall advise the Board on the hearing date that the Clerk has granted a request to which the other party does not object, and the matter shall be pulled from the calendar.

The request as granted by the Clerk shall constitute the requesting party's one request as of right. The other party shall retain the right to request its postponement as of right until not later than 21 days before the rescheduled hearing date.



(2) Request by one party

If the request is by one party, then the Clerk shall advise the requesting party that the Board will determine whether to grant the postponement request when the hearing is scheduled to commence. The Clerk shall advise the requesting party that the party is required to appear in person when the Board considers the postponement request, and must be prepared to proceed on the merits immediately if the request is denied.

If the request is granted, then it shall constitute the requesting party's one request as of right. The other party shall retain the right to request its postponement as of right until not later than 21 days before the rescheduled hearing date.

2. Subsequent Requests

All requests for postponement by one party, after the one postponement as of right has been granted to that party, shall be presented to the Board for action in accordance with Property Tax Rule 323. The Clerk shall advise the requesting party that the party is required to appear in person when the Board considers the postponement request, and must be prepared to proceed on the merits immediately if the request is denied. The other party shall retain the right to request its postponement as of right until not later than 21 days before the rescheduled hearing date. This right shall continue through multiple postponements granted to one party.

After both parties have exercised their right to a postponement, requests for postponement by both parties pursuant to a stipulation by the parties may be granted by the Clerk, provided the applicant has signed a two-year waiver, as provided in Property Tax Rule 323.

3. Notice of New Hearing Date

If a postponement request is granted, then the rules for the notice of hearing, including Rule 7, may or may not apply. If the hearing is postponed to a date certain that is 45 days or less after the date the request is granted, then the Clerk shall provide written notice to the parties at least 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice. If the hearing is postponed to a date certain that is more than 45 days after the date the request is granted, or is postponed without a set date and is rescheduled by the Clerk in the normal course of business, then all rules for the notice of hearing shall apply, including Rule 7.

### **C. CONTINUANCES**

The Board shall determine all requests for a continuance by one party. The Clerk shall advise the requesting party that the party is required to appear in person when the Board considers the request, and must be prepared to resume the hearing on the merits immediately if the request is denied. The granting of a continuance may be made contingent upon the execution of a 1604(c) Waiver Agreement form to extend the two-year deadline, as provided in Property Tax Rule 323.

One request for a continuance from the scheduled date of resumption of the hearing to the immediately following meeting of the Board may be granted by the Clerk, provided the request is made by both parties pursuant to a stipulation by the parties, and provided the applicant has signed a two-year waiver, as provided in Property Tax Rule 323. The Clerk may not grant a second request.

Notice of the continued date shall be provided pursuant to Property Tax Rule 323.

### **RULE 31A - WITHDRAWAL**

*Reference: Sections 1601 et seq., Revenue and Taxation Code  
Article XIII, Section 16, California Constitution*

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 agent, unless the Assessor has given the applicant a written notice of an intention to recommend an increase in the assessed value of the property. Withdrawal forms shall be in writing and shall be filed with the Clerk. Withdrawals may be filed by facsimile transmission. Withdrawals are final and no conditional withdrawal may be accepted.

### **RULE 32A - NOTICE OF TERMINATION OF WAIVER AGREEMENT**

*Reference: Section 1604(c), Revenue and Taxation Code*

When an applicant and the Board have entered into an agreement waiving the two-year limit for hearing the application, either the applicant or the Board may terminate the agreement. The Assessor may request that the Board terminate an agreement.

- A.** A notice of termination by the applicant or agent shall be filed with the Clerk, and must include:
1. The complete name of the Applicant.
  2. The application number assigned by the Clerk.
  3. The Assessor's Parcel Number and/or Assessment Number.

4. The original signature of the applicant or agent, the date the notice is signed, and the applicant or agent's mailing address and phone number.
- B.** If a notice filed by an applicant or agent is incomplete or incorrect, then the Clerk shall promptly notify the applicant or agent. The Clerk's notice shall contain an explanation of the deficiency, a request for the missing or correct information, and a warning that unless the missing or correct information is provided within thirty (30) days after the date of the notice, the waiver agreement will be deemed to still be in effect. The 120-day period shall not be deemed to commence until the notice is complete.

### **RULE 33A - CLERK'S TRANSCRIPT FOR APPEAL TO COURT**

*Reference: Sections 1601 et seq., Revenue and Taxation Code  
Article XIII, Section 16, California Constitution*

If a decision of the Board is appealed to court, then the parties may stipulate to an agreed statement in lieu of a certified clerk's transcript, in the manner allowed by the California Rules of Court in regard to an agreed statement in lieu of a clerk's transcript in appealing a trial court decision. If no stipulation is reached, then the following procedures for preparation of a clerk's transcript shall apply.

- A.** The petitioner shall file a request with the Clerk designating the documents to be included in the clerk's transcript. The documents shall be described in as much detail as necessary to allow the Clerk to find them in the record. The petitioner shall serve a copy of the request on the respondent.
- B.** Within 10 days after the petitioner serves the notice, the respondent may file a request designating additional documents the respondent wants to have included in the transcript.
- C.** The designations shall include, insofar as applicable, the documents and information required by the California Rules of Court for a clerk's transcript in appealing a trial court decision.
- D.** The Clerk shall provide one copy of the requested documents, unassembled, to the petitioner. If the petitioner is the applicant, then the petitioner must pay the County's standard fee for the copies, including postage, if applicable, before the copies are made. If the petitioner is the Assessor, then no fee for copies shall be charged.
- E.** The petitioner shall assemble the documents in as close a manner as possible to the form and format required by the California Rules of Court for a clerk's transcript in appealing a trial court decision, including indexes, pagination, and other requirements.

- F.** The petitioner shall submit the assembled documents to the Clerk for certification as the original clerk's transcript. The Clerk may direct the petitioner to correct any assembly or other errors in the proposed original. When the Clerk is satisfied that the proposed original meets the above requirements, the Clerk shall direct the petitioner to make two copies and to deliver all three sets to the Clerk. The Clerk may grant a request by the petitioner to combine these steps and submit an original and two copies of the proposed transcript at the same time. When the two copies are submitted, the petitioner may include a copy of a reasonable bill, not to exceed the standard County fee for copies, that has been sent to the respondent for the respondent's copy of the transcript.
- G.** When the Clerk is satisfied that the original and copies are identical, the Clerk shall certify them. The Clerk shall deliver the original and one copy to the petitioner. The petitioner shall be responsible for filing the original with the court. The Clerk shall deliver the other copy to the respondent, upon proof that the respondent has paid the bill, if any, sent by the petitioner. The Clerk is not required to mail a set unless postage has been paid in advance. The parties may stipulate that the Clerk may deliver all three sets to the petitioner, who will deliver a copy to the respondent.

#### **History**

1. Rules adopted by Board of Supervisors Resolution No. 2006-0175.
2. Amendments adopted by Board of Supervisors on Aug. 11, 2009 (BOS Resol. No. 2009-0631).
3. Amendments approved by Board of Supervisors on April 17, 2012 (BOS Resol. No. 2012-0266).
4. Amendments approved by Board of Supervisors on Oct. 23, 2012 (BOS Resol. No. 2012-0815)
5. Amendments approved by Board of Supervisors on April 6, 2021 (BOS Resol. No. 2021-0204)

MCP3/5/2021/2019244/1596165