

*Assessment Appeals Board
and
Assessment Hearing Officer*



**Local Rules
Of
Procedure**

SAN JOAQUIN COUNTY
Assessment Appeals Board
And
Assessment Hearing Officer

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Of
Procedure

Adopted by
San Joaquin County Assessment Appeals Board #1
and Board of Supervisors
September 28, 2010

In accordance with Article XIII, Section 16 of the California Constitution, these Rules are adopted by the San Joaquin County Board of Supervisors to govern Assessment Appeals Boards and Assessment Hearing Officers of San Joaquin County, State of California, and any Assessment Appeals Board panel appointed pursuant to Revenue and Taxation Code Section 1620 *et seq.*

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FUNCTION AND JURISDICTION OF BOARD AND HEARING OFFICERS

To accomplish equalization, Assessment Appeals Boards and Hearing Officers¹ conduct hearings on property assessment disputes between taxpayers and the Office of the Assessor. Boards and Hearing Officers adjust property assessments, and direct the Assessor to make changes, additions and cancellations to the local roll as necessary.

Hearing Officers' and Boards' basic functions and jurisdiction are:

- After giving notice, to increase or to lower after receiving an application, individual assessments in order to equalize assessments and to determine the allocation of value on the local tax assessment roll; and
- To review and adjust penal and escaped assessments on the local tax assessment roll except escaped assessments made pursuant to Revenue and Taxation Code Section 531.
- To determine the classification of property, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property being exempt from taxation.

Hearing Officers and Assessment Appeals Boards have no power to assess, or re-assess property, but can only hear and determine whether the assessor and staff have impartially performed their duties, and equalize the valuations made by them. Boards and Hearing Officers hear and decide issues relating to property valuation, and some legal issues relating to property assessment. Boards and Hearing Officers act in a quasi-judicial capacity and may only act on the basis of evidence presented to them.

Boards and Hearing Officers cannot:

- Grant or deny exemptions or consider whether exemptions were improperly denied;
 - Raise or lower the entire assessment roll;
 - Extend the time for filing applications for equalization;
 - Remove or waive penalties for delinquent payment of taxes;
- Reduce an assessment because the property was destroyed, damaged or depreciated after the lien date of the year in question;
 - Change tax rates;
 - Consider a taxpayer's ability to pay in making its determination.

¹ The use of Hearing Officer's to conduct hearings has been temporarily suspended.

RULE NUMBER 1 – STATE LAW

Each and every provision of the California Constitution, the California Revenue and Taxation Code and Property Tax Rules of the California State Board of Equalization are adopted and incorporated into these Rules. Statements in these Rules describe procedures and requirements of the San Joaquin Assessment Appeals Board and Assessment Hearing Officers and may not reflect all legal requirements that govern assessment appeals. If there is any conflict between these Rules and any California constitutional or statutory provision the constitutional or statutory provision will supersede and invalidate any conflicting Rule provision.

RULE NUMBER 2 - DEFINITIONS

For the purpose of these Rules, the following words 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 that particular property parcel.

“Applicant” means a taxpayer who has filed an “Application For Changed Assessment” form.

“Application/Property Previously Adjudicated” means that all or a portion of an assessment was heard and considered previously by another Assessment Appeals Board or Hearing Officer. See Rule 5 – Application, Section I for Assessment Appeals Board’s assumptions and requirements.

"Assessee" is 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.

"Assessor" is the Assessor of the County of San Joaquin.

“Authorized Agent” is one who is directly authorized in writing by the applicant to represent the applicant in an assessment appeals proceeding using a San Joaquin County prescribed Agent’s Authorization Form.

"Board" is one of the Assessment Appeals Boards of the County, including any special alternate Assessment Appeals Board appointed according to California law.

“Continuation” is the continuance of a hearing after formal evidence and/or testimony has been received from one or more of the parties. The same Assessment Appeals Board Panel must hear the continued matter.

"County" is the County of San Joaquin.

"Code" is the California Revenue and Taxation Code.

"Chair" is the Chair of the Assessment Appeals Board.

"Clerk" is the Clerk of the Assessment Appeals Board.

"County legal advisor" is an attorney from the Office of the County Counsel for the County of San Joaquin.

"Equalization" is the determination by the Assessment Appeals Board of the correct full value for the property.

"Escape assessment" is an assessment on property which belonged on the local roll, but which was not included in a proper assessment.

"Full cash value" or **"fair market value"** is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code.

"Full value" is the value provided in Section 110.5 of the Revenue and Taxation Code.

"Hearing Officer" or hearing officers are individuals appointed by the County Board of Supervisors pursuant to Section 1636 of the Revenue and Taxation Code to conduct hearings on assessment protests.

"Lien date" refers to the fact that all taxable property is assessed annually for property tax purposes as of 12:01 a.m. on January 1, which is called the lien date. It is referred to as the lien date because on this date the taxes become a lien against all real property assessed on the secured roll.

"Local Roll" is the list of all property within the County that is assessed by the Assessor.

"Mail(ed)" is a term which can be defined as delivered by U.S. postal service; special courier service; facsimile; or other means. Pursuant to California Evidence Code Section 641, a letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.

"Party" is the applicant, applicant's properly authorized agent and the Assessor.

"Person affected" or **"Party affected"** is any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of the proceedings under this subchapter, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the application.

"Postponement" or **"Rescheduled"** is the resetting of a hearing date by either or both of the parties prior to the submission of formal evidence or testimony relating to the issues of the assessment appeals application.

"Restricted value" is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

"Rules" are San Joaquin County Assessment Appeals Board and Assessment Hearing Officer Rules.

"Supplemental assessment" is an assessment to establish changes in value due to changes in ownership or new construction, which occurred after the local roll was compiled.

RULE NUMBER 3 – AUTHORIZATION AND DIRECTION TO CLERK

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 which relate to assessment appeals. The clerk is also directed to make all required or beneficial forms, brochures, pamphlets and other information available including the Internet for the convenience of San Joaquin County taxpayers. 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 NUMBER 4 – LIMITED JURISDICTION OF HEARING OFFICER

- A.** Statutes governing the authority of Hearing Officers are found in California Revenue and Taxation Code Sections 1636 *et seq.*
- B.** While Assessment Appeals Boards can conduct hearings on Applications of all types and amounts, Hearing Officers may conduct hearings only on Applications where:
- The applicant is the assessee and has filed an application under Section 1603 of the Revenue and Taxation Code;
 - The applicant has requested that the hearing be conducted by a Hearing Officer;
 - The property which is the subject of the Application is a single family dwelling, condominium or cooperative, or a multiple family dwelling of four units or less regardless of value; or
 - The property has an assessed value of less than \$500,000.
- C.** The Rules apply to Hearing Officers, except where specifically noted otherwise.
- D.** The decision of the Hearing Officer is final and may not be appealed to the full Board. The Board has no authority to amend, deny, return, or reconsider the decision of the Hearing Officer. Findings of fact are NOT available at hearings before a Hearing Officer.

RULE NUMBER 5 - APPLICATION

No change in assessment can be made unless an "APPLICATION FOR CHANGED ASSESSMENT" form is filed with the clerk, according to the procedures described in this Rule. An "Application for Changed Assessment" is also known as an "assessment appeal."

- A. WHO MAY FILE.** An Application may be filed by a property owner or by the owner's spouse, parent, child, registered domestic partner, or authorized agent, or by any person having a direct economic interest in the payment of the property taxes. If the Application is made by an authorized agent other than an attorney licensed to practice in this State, or by a relative mentioned in Rule No. 23, paragraph A, the "Authorization" portion of the Application form must be fully completed and signed by the person affected. If the applicant is a corporation, the "Authorization" must be signed by an officer or individual authorized by the corporation. Said corporate authorization may be requested at the time of the hearing by the Board.
- B. SIGNATURE AND VERIFICATION.** The Application must be in writing, made on the Application form currently prescribed for San Joaquin County and available from the clerk. The Application must be signed by the applicant or his authorized agent with declaration under penalty of perjury that the statements made in the Application are true.
- C. WHERE FILED.** The Application must be filed with the Clerk of the Assessment Appeals Board. **Application for Changed Assessment forms may be filed by facsimile transmission. (Clerk of the Board Fax #209-468-3694)**
- D. FORMS AND CONTENTS.** The Application forms used to file assessment appeals are prescribed by the State Board of Equalization. A *separate* San Joaquin County Application form must be filed for each property assigned an individual Assessor's Parcel Number, for each tax roll year being appealed. Any required attachments (such as assessment notices or tax bills) must be included with the Application form.
- E. FEE.** A \$30.00 filing fee is due payable for each application with an assessed value on roll that is greater than \$150,000 and not a single family residential property that is owner occupied.

To be valid, completed Applications *must* include all the following applicant-provided information:

- Name and actual mailing address of the applicant; and
- Name and mailing address of the applicant's agent, if any; and

- A description of the assessed property sufficient to identify it on the local roll. The 8-digit "A.P.N." (Assessor's Parcel Number) for secured property which appears on all correspondence mailed by the Assessor and/or the assessment number for unsecured property; and
- The Applicant's opinion of the full value of the property on the valuation or lien date of the year in issue. If filing an application with multiple facts/issues of value, separate opinions of value must be provided as part of the application; and
- The taxable value on which the assessment of the property was based (shown on the notice of assessment or tax bill); and
- The facts relied upon to support the claim that the Board should order a change in the assessed value of the property; and
- The original signature of the applicant or his or her authorized agent.

Applications that do not include all the above information are invalid due to incompleteness and cannot be acted upon by the Board or Hearing Officer.

F. INCOMPLETE STATUS. The clerk is directed to promptly notify each applicant, and/or his/her authorized agent if applicable, of the missing information that results in an application's incomplete status and invalidity. The clerk's notice shall contain an explanation of the deficiency, a request for the missing information to correct the deficiency, and a warning that unless the missing information is provided within thirty (30) days from the date of the notice, the application will be denied as incomplete and the appeal will be closed.

If the missing information is provided to correct the deficiency within the thirty-day period, the application will be deemed valid upon condition that the applicant or authorized agent executes a 1604(c) Waiver Agreement form waiving the two-year statutory deadline for hearing appeals under Revenue and Taxation Code Section 1604.

G. TIME FOR FILING. To be considered valid, an application must be filed with the clerk during the appropriate filing period prescribed by Revenue and Taxation Code Section 1603.

1. Regular Filing Period. The filing period for a regular assessment is from July 2 to November 30, inclusive. During the July 2 through November 30 filing period, applicants may file:

- Decline in value appeals
- Base year value appeals
- Personal property appeals

- Appeals of exempt value allocations
- Annual Property Statement penalties assessed under R & T Code Sections 463, 503 and 504.

2. *The filling period for 2013 is extended to December 2.*

- An application filed by personal delivery must be received at the clerk's office no later than 5:00 p.m. of the last day of the filing period.
- An application filed by mail that has the postage prepaid, is properly addressed and bears a U.S. postmark date no later than the last day of the filing period shall be deemed to have been filed timely. If the postmark date is later than the last day of the filing period, the clerk may nevertheless find that the application was filed timely if satisfactory proof, such as a Post Office certificate of mailing, is presented to show that the application was mailed within the filing period. If an application is being mailed near the filing deadline, it is highly recommended that a certificate of mailing be obtained and kept for the sender's records.
- An application filed by mail that bears both a private business postage meter postmark date and a U.S. postmark date will be deemed to have been filed as of the date that is the same as the U.S. postmark date, even if the private business postage meter date is the earlier of the two postmark dates.
- If November 30 falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed to have been filed within "the time period beginning July 2 and continuing through and including November 30." If on the dates specified in this paragraph the County's offices are closed for business prior to 5 p.m. or for that entire day, that day shall be considered a legal holiday for purposes of this paragraph.

3. ***Assessments Made Outside the Regular Assessment Period.*** Appeals of supplemental assessments, and roll corrections made outside the regular assessment period must be filed with the clerk no later than sixty (60) days after the date on which the assessee was notified of the assessment by the Assessor's office.

(a) ***Other Appeals Outside Regular Assessment Period.*** Applications for other changes of assessment made outside the regular assessment period must be filed as follows:

- ***Calamity or Misfortune Appeals.*** An application for change of an assessment made because the property was damaged by misfortune or calamity must be filed no later than six (6) months after the date on which the Assessor mailed notice of reassessment to the assessee.

- **Escaped Assessment Appeals.** When the assessor discovers property that was not assessed or was under assessed as a result of a business audit or other form of discovery, such that the property is subject to an escape assessment, the taxpayer has sixty (60) days from the date of the **final** Notice of Enrollment of Escaped Assessment to file an application appealing the assessment. Final Notice constitutes one of the following:
 - Notice of Enrollment of Escaped Assessment. A notice of “proposed” assessment does *not* constitute final notice; or
 - 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.
- **Penalty Assessment Appeals.** When a penalty is assessed by the assessor for failure to file or for the fraudulent filing of Change of Ownership Statements (COS) under Revenue and Taxation Code Section 482, the taxpayer has sixty (60) days from the date of notification of the penalty to file an application appealing the assessment.

H. FILED UNTIMELY STATUS. When any application is received by mail or personal delivery on a date which is *after* that application’s applicable filing deadline, the clerk is directed to promptly notify the applicant and/or his/her authorized agent of the untimely filing status that results in a clerk’s inability to accept. The clerk’s notice shall contain an explanation of the untimely filing, a request for evidence of timely filing if any is available, and a warning that unless evidence is presented to demonstrate the timely filing of the application within thirty (30) days from the date of the notice, the application will be rejected by the clerk for as untimely filed and the appeal will be closed.

If evidence (such as a certificate of mailing, signed delivery receipt or the like) is provided within the thirty (30) day period which, in the clerk’s judgment, adequately demonstrates the timely filing of the application, the application will be deemed valid upon condition that the applicant or agent executes a 1604(c) Waiver Agreement form waiving the two-year statutory deadline for hearing appeals under Code Section 1604.

If evidence is provided within the thirty (30) day period which, in the clerk’s judgment *does not* adequately demonstrate the timely filing of the application, or the applicant refuses to execute any required declarations and/or 1604(c) Waiver Agreement, the clerk shall consider the application as untimely filed. The appeal will then be closed without any further action. The applicant may appeal the action of the clerk in writing within thirty (30) days of the notice of rejection and have the matter calendared before the Board for a hearing on the merits of the timeliness of the appeal.

Upon appeal, a final determination of timeliness will be made by the Board. The applicant will be given notice of the hearing date and time where he or she will have the opportunity to present evidence. If the Board determines that the evidence demonstrates that the application was filed within the appropriate time requirements, the Board will declare the application filed timely and the application will be scheduled for a hearing on the merits of the appeal at a future date. If the Board determines that the application was *not* filed within the appropriate time requirements, the Board will deny the application for lack of jurisdiction to hear any application that was untimely filed and the appeal will be closed.

I. ESCAPE – AUDIT FILINGS. If the result of an audit discloses property subject to an escape assessment and the applicant not only wishes to contest the assessment of the personal property but the original assessment of the real property pursuant to Revenue and Taxation Code 469(b)(3), providing it has not been previously adjudicated by an Assessment Appeals Board, the following filing procedures are required:

1. If unsecured and secured properties are valued separately then separate applications must be filed for the secured and unsecured properties.
2. If unsecured and secured properties are jointly assessed on the secured roll then only one application is required.

J. PERSONAL PROPERTY ASSESSMENTS AND PREVIOUSLY ADJUDICATED PROPERTY/APPLICATIONS. In order to insure that property/applications are thoroughly and completely considered during the hearing process and that previously adjudicated property can be properly identified, it shall be the determination of the Board that all appeals on assessments brought before the Board are completely and totally considered and deliberated upon, including every item, category, or class of property, or portion of thereafter, during the hearing are provided for in the determination of value. This shall include all stipulations agreed upon by both the assessor and the applicant or the applicant's authorized agent. In the event it is the desire of the applicant or applicant's authorized agent or assessor to exclude consideration by the Board of any item, category, or class of property or any portion of thereafter under consideration by the Board, it shall be the sole responsibility of the applicant or applicant's authorized agent or assessor to **clearly identify** in writing and on the hearing audio record exactly what "is or is not" being considered by the Board and what "is or is not" excluded in the assessment being considered before the Board's final determination of value. Any item, category, class of property or portion of thereafter, not specifically identified by the applicant or applicant's authorized agent or assessor in writing and on the audio record and not specifically identified as NOT under consideration shall be considered accepted and not challenged by the applicant or applicant's authorized agent or assessor and shall be accepted as enrolled.

RULE NUMBER 6 – AMENDMENTS AND CORRECTIONS

The intent of this rule is to allow taxpayers who are unfamiliar with the property equalization process an opportunity to correct or amend an application as long as they fall within the guidelines set forth in this Rule. It is not the intent to allow the taxpayer or their agents to request additional relief or relief different in nature from that originally requested. For example, an applicant appealing an escape assessment cannot amend an application at a hearing to include an appeal of a base year value. Further, it is the Board's discretion to allow or disallow any amendments. The guidelines are as follows:

A. BEFORE EXPIRATION OF THE FILING PERIOD:

- 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.

B. AFTER THE FILING PERIOD HAS EXPIRED:

- An invalid application may be corrected in accordance with Rule 5(e).
- 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.
- Upon request of the applicant or the applicant's authorized agent, the Board in its discretion may allow the applicant to make amendments to the application such as allowing applicant or the applicant's authorized agent to state additional or alternate facts claimed to seek a reduction in assessment of the property shown on the application.
- The applicant or the applicant's authorized agent shall state the reasons for the request, which shall be made in writing and filed with the clerk 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.
- As a condition to granting a request to amend an application, the Board shall require the applicant to sign a written 1604(c) Waiver Agreement extending the two-year period provided in Revenue and Taxation Code Section 1604.
- If a request to amend is granted, and upon the request of the Assessor, the hearing on the matter shall be continued or postponed by the Board for no less than forty-five (45) days, unless the parties mutually agree to a different period of time.

C. AT THE HEARING,

- An applicant or an applicant's authorized 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.

- An applicant may, however, revise the opinion of value stated in his or her application because the opinion of value relates only to the quantum or amount, and not the type of relief requested. Additionally, the clerk shall allow a reasonable period of time in which to correct inaccuracies and to provide missing information.

RULE NUMBER 7 - EXCHANGE OF INFORMATION

- A. REQUEST BY APPLICANT OR ASSESSOR.** An exchange of information may assist both parties in understanding the bases for their differing opinions of value. When the assessed value of the property in question, before any exemption deduction (such as a homeowner's or veteran's exemption) is applied, is One Hundred Thousand Dollars (\$100,000) or less, the applicant may request an exchange of information with the assessor. When the assessed value of the property in question, before deduction of any applicable exemption, is more than One Hundred Thousand Dollars (\$100,000), either the applicant or the assessor may request an exchange of information.

The request must be made in writing to the clerk at the time an application is filed or to the other party at any time prior to thirty (30) days before the hearing on the application. The party initiating the exchange must provide his or her valuation information to the other party at the time the request for an exchange of information is initiated. When the exchange request is made to the other party, the clerk should be notified that an exchange has been requested, but does not require a copy of the valuation information but should be advised of documents exchanged. The request must contain the basis of the requesting party's opinion of value as well as the following:

- Comparable Sales Data. (If the opinion of value is to be supported with evidence of comparable sales. See Rule No. 21, paragraph B (1) for additional information about admissible comparable sales data.)
- Income Data. (If the opinion of value is to be supported with evidence based on an income study. See Rule No. 21, paragraph B (2) for additional information about admissible income data.)
- Cost Data. (If the opinion of value is to be supported with evidence of replacement cost. See Rule No. 21, paragraph B (3) for additional information about admissible cost data.)

- B. DATA TO THE OTHER PARTY.** If the party requesting an exchange of information has submitted the data required above within the specified time period, the other party must mail a response at least fifteen (15) days prior to the hearing. The response must set forth the basis of the other party's opinion of value, and must comply with Rule No. 21, paragraph B. The

responding party is required to mail the response to the address shown on the application or to the Assessor directly, whichever is appropriate, with notification to the clerk that they have responded to the exchange, along with a listing of documents exchanged in their response.

- C. **PROHIBITED EVIDENCE; NEW MATERIAL CONTINUANCE.** Whenever information has been exchanged as described in this Rule, the parties subsequently may introduce evidence only on matters that were exchanged unless both parties consent to the introduction of the new evidence. However, at the hearing, each party may introduce new material relating to the information previously exchanged. 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 so that he or she may gather and present a response to the new material at a future hearing.

RULE NUMBER 8 - NOTICES

All notices required or permitted by these Rules shall be in writing.

- A. **CLERK'S NOTICE OF HEARING.** Once a complete application is timely filed, the clerk will schedule the appeal for hearing as soon as possible and will send a notice to the applicant or his authorized agent by mail directed to the address shown in the application. The notice will give the time and place of the hearing. The notice will be given at least forty-five (45) days before the scheduled hearing date unless a shorter notice has been stipulated to by the assessor and the applicant or his authorized agent. The clerk will also notify the assessor of the time and place of the hearing. If the hearing is rescheduled for any reason, whether at the request of the applicant, assessor, Board or Hearing Officer, ten (10) days' notice shall be given for the rescheduled hearing unless waived by the parties or rescheduled/postponed or continued to a specific date and time at a hearing where both parties are present.

The clerk may request that the assessor and the applicant or his authorized agent provide written time estimates and statements of readiness to enable the clerk to schedule major appeals when the parties are ready for hearing, and to set aside enough time in the schedule for each case to be heard in one block of time. If the parties have not responded with time estimates and statements of readiness not later than ninety (90) days before the scheduled hearing date, the clerk will schedule the appeal for hearing. The clerk will make every effort to accommodate requests for specific hearing dates and time requirements if requests are submitted by stipulation signed by all parties and accompanied by a 1604(c) Waiver Agreement form to extend the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604.

B. NOTICE OF INCREASE OF ASSESSMENT ON BOARD'S OWN MOTION. If proposing to raise an assessment on its own motion without an application for reduction pending before it, the Board will give notice of the hearing to the assessee and Assessor not less than twenty (20) days prior to the hearing unless notice is waived by the assessee or his authorized agent in writing in advance of the hearing or orally at the time of the hearing. A shorter notice may also be stipulated to by the Assessor and assessee or his authorized agent. The notice shall be mailed to the assessee at his latest address on file in the Assessor's records.

C. ASSESSOR'S NOTICE OF INTENT TO REQUEST A HIGHER VALUE. When the assessor intends to request at the hearing that the Board or Hearing Officer find a higher assessed value than was placed on the roll and intends to offer evidence to support the higher value, the assessor must notify the applicant or his authorized agent in writing by personal delivery or by mail directed to the address given in the application, with a copy forwarded to the clerk, at least ten (10) days before the hearing.

To facilitate hearings of this nature, the Assessor must initially establish that the appropriate notice was given to the applicant not less than ten (10) days before the hearing. The Assessor shall also be requested by the Board or Hearing Officer to make the first presentation of evidence.

The applicant may not abandon or withdraw their appeal upon receipt of assessor's notice of intent to request a higher value without the consent of the assessor.

NOTICE OF BOARD'S DECISION. The Board or Hearing Officer may announce the decision to the applicant and the assessor at the conclusion of the hearing or may take the matter under submission. In either event, the clerk will notify the applicant and the assessor of all Board and Hearing Officer decisions. The notice to the applicant or his authorized agent will be mailed to the address given in the application within forty-five (45) days after the decision or in any event, no longer than one hundred and twenty (120) days following the conclusion of the hearing.

RULE NUMBER 9 – PUBLIC HEARINGS

Board and Hearing Officer hearings are open to the public. If, however, evidence to be presented will include trade secrets (e.g., formulas, manufacturing processes, etc.) that the applicant wishes to remain confidential, the trade secrets portion of the hearing may be closed to the public upon the applicant's request. Transcripts and/or exhibits that disclose any trade secrets will be maintained by the clerk in a confidential manner both during and after the hearing and decision. Upon conclusion of the evidentiary portion of the hearing, the Board or Hearing Officer may take the matter under submission and deliberate

in private in reaching a decision. The decision of the Board or Hearing Officer, however, shall be announced “on the public record.” Neither party shall be allowed to communicate on an ex parte basis with the Board. Acting upon proper evidence before it, the Board shall determine the full value of the property, including land, improvements, and personal property, that is the subject of the hearing. The determination of the full value shall be supported by a preponderance of the evidence presented during the hearing.

RULE NUMBER 10 – PREHEARING CONFERENCE

- A.** This Rule establishes the Boards’ ability to conduct prehearing conferences. The purpose of a prehearing conference is to resolve issues such as, but not limited to, clarifying and defining the issues, determining the status of exchange of information requests, stipulating to matters on which agreement has been reached, combining applications into a single hearing, bifurcating the hearing issues and scheduling a date for the Board to consider evidence on the merits of the application. A prehearing conference may be set by the clerk at the request of the applicant or applicant’s authorized agent, the assessor, or at the direction of the Board.
- If the request is by the applicant or the applicant’s authorized agent, the applicant shall be required to execute a 1604(c) Waiver Agreement, indefinitely extending the 2-year statutory deadline.
 - The assessor or the Board shall NOT request a prehearing conference if the application is within one hundred and twenty (120) days of expiration of the statutory 1604(c) deadline, unless the applicant has on file with the clerk an executed 1604(c) Waiver Agreement.
 - Any such request for a prehearing conference shall be in writing and shall clearly outline the issues, purpose and intent of the hearing and the estimated length of the hearing so that each party may adequately prepare.
 - No other issue(s) may be raised at the hearing unless all parties agree orally or in writing to additional specific issues of discussion.
- B.** The clerk shall set the matter for a prehearing conference and notify the applicant or the applicant’s authorized agent, the assessor and Board counsel of the time and date of the conference. Notice of the time, date, and place of the conference shall be given not less than thirty (30) days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period. The notice shall include a copy of the requesting party’s written request.

- C. All initial briefs or other written material to be presented at the prehearing conference shall be submitted to the clerk and other parties (e.g. assessor, applicant/authorized agent, Board counsel) no later than fifteen (15) days prior to the scheduled conference.
- D. All response briefs are to be submitted to the clerk and other parties (e.g. assessor, applicant/authorized agent, Board counsel) no later than seven (7) days prior to the commencement of the scheduled conference.
- E. In its discretion, the Board may require the requesting party to submit prehearing or post-hearing briefs or statements to identify and/or clarify issues material to the appeal.
- F. The Board may direct a party to prepare an order(s) resulting from the prehearing conference. Said order(s) shall be submitted to the clerk and other parties (e.g. assessor, applicant/authorized agent, Board counsel) no later than fifteen (15) days prior to the commencement of the hearing to determine value or as determined and directed by the Board.

RULE NUMBER 11 – POSTPONEMENTS/RESCHEDULES, CONTINUANCES

Postponing/Rescheduling a hearing means that the Board or Hearing Officer adjourns a hearing (before the presentation of *any* evidence) and designates a future date and time for the initial presentation of evidence on the same appeal. Rescheduling of hearings is discussed in paragraph A below. ***Continuing*** a hearing means that the Board or Hearing Officer adjourns a hearing, following the submission of evidence, and designates a future date and time to continue hearing evidence previously begun on the same appeal. Continuance requirements are discussed in paragraph B below. In other words, a hearing may be **postponed/rescheduled** before any evidence has been presented. Once any portion of evidence has been presented to the Board or Hearing Officer, if the hearing of the appeal is not completed during that hearing session, it must be continued, not postponed/rescheduled and heard by the same Assessment Appeals Board Panel or Hearing Officer.

A. **POSTPONING/RESCHEDULING OF HEARING (BEFORE EVIDENCE IS PRESENTED).**

The clerk is authorized to grant one (1) written request by either the applicant or the assessor to postpone/reschedule a hearing date provided the written request is received by the clerk no later than **21** days prior to the scheduled date of the hearing, **and** the following requirements are met:

1. **POSTPONEMENTS/RESCHEDULES REQUESTED BY APPLICANT.** No request to reschedule can be granted by the clerk to the applicant in advance of the hearing **UNLESS:**

- An executed 1604(c) Waiver Agreement form to extend the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604 is on file or is filed with the clerk; and
- No previous request to reschedule by the applicant has been granted; or
- The applicant and assessor mutually agree to the need for additional time. The clerk shall attempt to reschedule all second requests to a date certain.

2. POSTPONEMENTS/RESCHEDULES REQUESTED BY ASSESSOR. No request to postpone/reschedule can be granted by the clerk to the assessor in advance of the hearing **UNLESS:**

- An executed 1604(c) Waiver Agreement form to extend the two-year statutory deadline for hearing appeals pursuant to Code Section 1604 is on file or is filed with the clerk; or
- The request is not made within the last one hundred and twenty (120) days of the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604.

3. POSTPONEMENT/REQUESTED BY BOTH ASSESSOR AND APPLICANT PROVIDING:

- The hearing is rescheduled to a specific designated date which is within the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604; or
- Both parties indicate that rescheduling of the hearing date will afford the opportunity for additional negotiation between the parties that could result in a valuation agreement and a 1604(c) Waiver Agreement executed by the applicant is on file with the clerk.

B. CONTINUANCE OF HEARING (ONCE EVIDENCE HAS BEEN PRESENTED).

1. CONTINUANCE REQUESTED BY APPLICANT. At the Board's or Hearing Officer's discretion, on the date of the hearing a matter may be continued if so requested by the applicant provided:

- A 1604(c) Waiver Agreement form is on file or is filed by the applicant; and
- The applicant provides *good and reasonable cause* why a continuance should be granted.

2. CONTINUANCE REQUESTED BY ASSESSOR. At the Board's or Hearing Officer's discretion, on the date of the hearing a matter may be continued if so requested by the assessor provided:

- The request is not made within the last one hundred and twenty (120) days of the two-year statutory deadline for hearing appeals pursuant to Code Section 1604; and

- The hearing is continued to a specific designated date which is within the two-year statutory deadline for hearing appeals pursuant to Code Section 1604; and
 - The assessor demonstrates *good and reasonable cause* that a continuance should be granted.
3. **CONTINUANCE ON BOARD'S OWN MOTION.** The Board or Hearing Officer may continue a hearing to allow additional time for the presentation of evidence, or to obtain additional evidence, or whenever, in their discretion, a continuance is beneficial or required, provided:
- The continuance is not within the last one hundred and twenty (120) days of the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604; and
 - The hearing is continued to a specific designated date which is within the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604; or
 - An executed 1604(c) Waiver Agreement form to extend the two-year statutory deadline for hearing appeals pursuant to Revenue and Taxation Code Section 1604 is on file or is filed with the clerk.

RULE NUMBER 12 - REQUEST FOR FINDINGS

- A. Findings of fact are summaries of the appeal decision and may be requested by an applicant or the assessor.
- B. Findings are available only for hearings held before a three-person Board, not hearings held with Hearing Officers. A request before a Hearing Officer will be deemed a waiver of findings. Unless made in writing and submitted to the clerk or requested orally on the record prior to the commencement of the Board hearing, the right to findings will be deemed waived. The following fees per property parcel/economic unit must be paid at the time findings are requested:
1. For owner-occupied, single-family residences of \$500,000, or less in assessed value, a \$100.00 flat fee.
 2. For commercial, industrial, and all other, an initial deposit equal to two hours of the County Counsel rate of \$160.00 per hour due upon a request for findings. The time expended by the assigned County Counsel will be billed at the hourly rate of \$160.00 and any balance due shall be required before the findings are released. Any unused deposit will be returned.

3. It should be noted that the total cost for the findings occasionally exceed the initial deposit and the party requesting findings will be required to pay this additional amount before the findings will be released.
- C. Findings shall disclose the Board's determinations on all material points raised in the application and at the hearing. Findings shall be provided within forty-five (45) days after the decision, or in any event, no longer than one hundred and eighty (180) days following the conclusion of the hearing unless an extension is granted by the parties.
- D. If the party requesting findings withdraws his or her request before the conclusion of the hearing (*before the Board renders a decision*), any fee paid will be refunded. Once the requesting party withdraws its request for findings, the other party may renew the request orally or in writing, provided he or she does so before the conclusion of the hearing. Once this occurs, the now requesting party will be obligated to pay for the findings prior to the conclusion of the hearing.
- E. If the required fee is not paid to the clerk at or prior to the conclusion of the hearing, findings will be deemed waived by both parties. In every hearing, whether or not findings have been requested, the clerk will provide the parties with a written notice of decision.
- F. A video transcript of the proceedings may be requested within sixty (60) days of the conclusion of the hearing. Such request must be in writing to the clerk and shall include the appropriate fee. The requesting party shall bear the full cost of preparing the transcript.

RULE NUMBER 13 - CHALLENGE FOR CAUSE OF A BOARD MEMBER

- A. The applicant, applicant's authorized agent, or the Assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the Board or a Hearing Officer. Copies of the objection must be served upon the parties and upon the member or Hearing Officer being challenged. The statement must give the reason(s) for disqualification of the member or Hearing Officer. The statement shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts relating to the request for disqualification, and in any event before presenting any issue of fact by either party in the appeal hearing before such member or Hearing Officer.
- B. The clerk will provide copies of the procedure used to challenge a Board Member or Hearing Officer upon request. The procedures shall comply with Revenue and Taxation Code Section 1624.4.

**RULE NUMBER 14 - APPLICATION FOR EQUALIZATION BY MEMBER, ALTERNATE
MEMBER, HEARING OFFICER OR CLERK OF THE BOARD STAFF**

An application for equalization filed pursuant to Revenue and Taxation Code Section 1603, by a member or alternate member of an Assessment Appeals Board, Hearing Officer or Clerk of the Board staff or an application in which that member/individual represents his or her spouse, parent, or child shall be heard before an assessment appeals panel consisting of three special alternate Assessment Appeals Board members appointed by an order of the *Presiding Judge of the County of San Joaquin*. A special alternate assessment appeals member may hear only the application or applications for equalization set forth in the superior court order appointing the members.

Any person shall be eligible for appointment as a special alternate Assessment Appeals Board member who meets the requirements of Section 1624 of the Revenue and Taxation Code.

RULE NUMBER 15 - SELECTION OF BOARD CHAIR

Each Board shall select one of its members to act as Chair and to preside over the hearing, beginning on the first hearing in January and shall continue to make such selections as necessary to hear and determine all assessment issues before them. No member may be selected as Chair unless he or she has served as a Board member for at least two six (6) months and completed the mandatory State Board of Equalization training and the San Joaquin County New Board Member training.

RULE NUMBER 16 – QUORUM AND VOTE REQUIRED

No hearing before the Board shall be held unless a quorum is present. No decision, determination, or order shall be made by the Board by less than a majority vote of all the members of the Board who have been in attendance throughout the hearing. If a hearing takes place before a Board consisting of an even number of members and they are unable to reach a majority decision, the application shall be reheard before the full Board. In matters where a case has been held before less than a full Board, the parties may stipulate that the absent members may read or otherwise become familiar with the record and participate in the vote.

If either party so demands, a hearing must be held before a full 3-member Board. In the event that only a quorum is present and the applicant demands a hearing, the Board shall request that the applicant execute a 1604(c) Waiver Agreement, extending the 2-year expiration date if the demand precludes the matter

from being heard within the statutory 2-year period. If the applicant does not agree to execute the waiver agreement, the Board may deny the applicant's demand for a hearing before a full 3-member Board.

**RULE NUMBER 17 – ASSESSMENT APPEALS BOARD AND
HEARING OFFICER TRAINING**

To ensure that members of the Board and Hearing Officers are knowledgeable on the statutes, rules, policies and administrative procedures within their jurisdiction, all members are required to attend the following training:

- Every person newly appointed as a Board member shall successfully complete training conducted by the State Board of Equalization prior to the commencement of his or her term on the Board or as soon as is reasonably possible within one (1) year of appointment. A member who does not complete this mandated training as stated above shall complete the training within sixty (60) days of the date of the notice by the clerk advising the member that his/her failure to complete the training constitutes resignation by operation of law. If the member fails to comply within the sixty (60) day period, the member shall be deemed to have resigned his/her position on the Board.
- Every new Board member and Hearing Officer must file an assuming office Conflict of Interest Form 700 and take a mandatory Ethics Training every other year.

RULE NUMBER 18 - PROCEEDINGS RECORDED

All Board and Hearing Officer proceedings will be tape-recorded unless the Board rules that all or a portion of the hearing involves trade secrets. Any party may purchase a copy of the tape recording upon payment of a fee to the clerk sufficient to cover its cost. A copy of the recording must be requested within sixty (60) days of the Board or Hearing Officer's final decision in the appeal, or the right to a copy of the recording will be deemed waived. In addition to the tape-recorded record, an applicant or authorized agent may choose to have the hearing recorded by a stenographic transcriber, and must provide the clerk with a copy of the transcript free of charge as soon as it becomes available. Upon request, the clerk will make arrangements for the stenographic transcriber services provided the request is made not less than ten (10) days before the hearing date, and that the requesting party pays, in advance, all associated fees.

RULE NUMBER 19 - EXHIBITS

Exhibits, maps, letters, papers, documents, charts, etc. to be submitted by an applicant or the applicant's agent as evidence in an appeal shall **not** be accepted prior to the hearing and should **not** be attached to an application. If such attachments are filed with an application by the applicant and inadvertently accepted

by the clerk, the clerk *cannot* be responsible for maintaining them in the appeal file or for forwarding them to the assessor, Board or Hearing Officer. Neither party shall deliver any such exhibits, maps, etc. to members of the Board or to a Hearing Officer prior to being marked for identification and received into evidence *at the time of the noticed hearing*. Both the applicant and the assessor must submit six (6) copies of each written exhibit to be offered into evidence during Board hearings. Three (3) copies of each written exhibit must be submitted into evidence during hearings before a Hearing Officer.

RULE NUMBER 20 – DOCUMENTS ACCEPTED BY FACSIMILE OR ELECTRONIC FILING

- A.** Boards and Hearing Officers shall accept written documents transmitted by facsimile machines or computer file e-documents and shall treat signatures so produced by facsimile transmission as original signatures providing all the following requirements are met:
- The document and all material information within the document is legible and readable;
 - The document is furnished to the clerk within the time constraints detailed below; and
 - The assessor or applicant is available to answer the Board's questions, if any, concerning the document.
- B.** To be accepted, e-documents transmitted by facsimile must be received no later than 5:00 p.m. of the business day which is at least three (3) business days before the scheduled hearing date for the application, or the final date upon which the document may otherwise be provided to the clerk. For example, if the application is scheduled for hearing at 9:00 a.m. on Wednesday, March 16th, or if Wednesday, March 16th is the last date upon which a letter requesting reconsideration of the application may be provided to the clerk, the signed e-document must be provided to the clerk not later than 5:00 p.m. on Friday, March 11th. If March 16th were a Monday, the signed document must be provided to the clerk by 5:00 p.m. on Wednesday, March 11th. Examples of documents which may be transmitted by e-document include: Stipulation forms, 1604(c) Waiver Agreement forms, letters requesting the reopening of an appeal previously denied for failure of the applicant to appear at the scheduled hearing, Withdrawals or Agent Authorization. Under no circumstance will the “Application For Changed Assessment” form be accepted by facsimile transmission, and any such form received by facsimile transmission will not constitute a valid filing.

By choosing to deliver an e-document, the applicant or agent represents that the original signed document is in his or her possession or control, and that he or she has made no material alteration to the document form or its data **as furnished to the applicant** or agent by the clerk or the Assessor's Office. The applicant or their authorized agent shall produce the original document upon request.

In the event a dispute arises regarding the timeliness of filing any e-document, it is the applicant's or authorized agent's responsibility to provide the Board with all relevant evidence which must include a) the transmission record and the originally-signed copy of the e-document which the applicant or authorized agent transmitted or caused to be transmitted.

RULE NUMBER 21 – EVIDENCE/BURDEN OF PROOF

A. BURDEN OF PROOF

The burden of proof is subject to exceptions set by law; it is presumed that the assessor has properly performed his or her duties. The effect of this presumption is to impose upon the applicant the burden of proving that the value on the assessment roll is not correct, or, where applicable, the property in question has not been otherwise correctly assessed. The law requires that the applicant proceed to present independent evidence relevant to the full value of the property or other issue(s) presented by the application.

The assessor has the burden of proof in the following instances:

- The imposition of a penalty assessment.
- Owner-occupied single-family dwelling or an escape assessment, providing the applicant supplied all information to the assessor as is required by statute.
- Values which exceed the purchase price at the time of a change in ownership

If the applicant has presented evidence, and the assessor has also presented evidence, then the Board must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the assessor's determination is incorrect. The presumption that the assessor has properly performed his/her duties is not evidence and shall not be considered by the Board in its deliberations.

B. ADMISSIBLE EVIDENCE

1. **COMPARABLE SALES DATA.** If the opinion of value is to be supported with evidence of comparable sales, the properties sold should be described by the Assessor's Parcel Number (APN), street address, or legal description sufficient to identify them. For every comparable property presented as evidence the approximate date of sale, the price paid, the terms of sale (if known), and the zoning of the property should be presented.

Comparable sales *cannot* include any sales that occur more than ninety (90) days *after* the date for which value is being estimated (“the 90-day rule”). In many cases, the date for which valuation is being estimated is the lien date, January 1. If the January 1 lien date is the date in question, the 90-day rule means that comparable sales *after* April 2nd

(April 1st in leap years) will be inadmissible evidence, and may *not* be used to support an appeal. Comparable sales that occurred more than ninety (90) days *before* the lien date may be admitted into evidence, with sales closest in time to the lien date being given the most weight, all other things being equal.

2. **INCOME DATA.** If the opinion of value is to be supported with evidence based on an income study, the gross income, expenses, and capitalization method and the rate or rates employed should be presented.

3. **COST DATA.** If the opinion of value is to be supported with evidence of replacement cost, the following should be presented:
 - With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.
 - With regard to machinery and equipment: the date of installation, installed cost, and any history of extraordinary use.
 - With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

RULE NUMBER 22 - EXAMINATION OF APPLICANT BY BOARD; STIPULATION

No reduction of an assessment can be made unless the applicant or his authorized agent attends a hearing scheduled before a Board or Hearing Officer, offers evidence, under oath, regarding the value of the property, and answers all questions pertinent to the inquiry. An exception to this requirement is if a written stipulation is filed with the Board, signed by the Assessor and the County legal advisor on behalf of the County and the applicant or the authorized agent making the application, which includes the full value and assessed value of the property and the facts upon which the reduction in value is premised, the Board may, at a public hearing:

- Accept the stipulation, and by doing so, waive the appearance of the applicant or the authorized agent and change the assessed value in accordance, or
- Reject the stipulation and schedule or reschedule the application for hearing.

An applicant who chooses to transmit a signed stipulation form by facsimile transmission should return the signed stipulation to the Assessor with adequate time for the Assessor to forward the stipulation to the clerk. If a stipulation is *not* received by the clerk within the time limitations set forth in Rule 20 above, the applicant or agent ***must appear at the scheduled hearing*** or the application shall be denied by the Board for nonappearance.

RULE NUMBER 23 - APPEARANCE AT HEARING

A. PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY REPRESENTATIVE

The applicant must appear personally at the hearing except as otherwise provided in these Rules, or be represented by an authorized agent, attorney, corporate officer or employee, co-owner, family member, or registered domestic partner mentioned in paragraph B below who shall be thoroughly familiar with the facts pertaining to the matter before the Board or Hearing Officer. Any person, other than an attorney at law, purporting to act as agent for the applicant must have been authorized in writing by the applicant's completion of the "Agent's Authorization" section of the Application form or use of the clerk's Agent's Authorization form No. 305-A. No other authorization form will be accepted at the time an application is filed.

If the application was initially filed by the applicant, any person (other than an attorney, corporate officer, co-owner, registered domestic partner, or family member mentioned in paragraph B below) who appears on behalf of the applicant at the hearing must first file with the clerk the applicant's written authorization for representation of the applicant at the hearing. If the application when filed initially authorized a person other than the person who purports to represent the applicant at the hearing, a written authorization signed by the applicant must be provided to evidence the applicant's consent to the change in representation. The clerk shall provide forms for this purpose.

If an assessment appeals application is filed by a licensed California attorney representing the applicant without the applicant's authorization signature, the attorney signing the application or an attorney from his/her law firm are the only individuals authorized to take action on, receive information, or represent the applicant at an assessment appeals hearing.

Attorneys NOT licensed in California cannot execute an assessment appeal on behalf of their applicant. The applicant must authorize any non-California attorney to represent them as their agent by signing the Agent Authorization section on the form.

If an assessment appeals application is filed electronically, the applicant or the authorized agent may be required to produce that original document at the scheduled noticed hearing.

B. APPEARANCE BY MEMBERS OF FAMILY. A husband may appear for his wife, or a wife for her husband, and sons and daughters for parents or vice versa or registered domestic partners

who have their State certification on file with the clerk may appear for one another. No written authorization is required provided adequate evidence exists to prove the relationship.

- C. **PROPERTY IN COMMON OWNERSHIP.** If the property is held in joint or common ownership or in a co-ownership, the presence of the applicant or any one of the owners constitutes a sufficient appearance. No written authorization is required provided adequate evidence exists to prove joint ownership or co-ownership.
- D. **APPEARANCE BY CORPORATION.** Where the applicant is a corporation, the corporation shall make an appearance by the presence of an attorney or of any duly authorized officer or employee who is knowledgeable on the matters before the Board.
- E. **STIPULATIONS.** Properly executed stipulations for reductions in assessments will be accepted by the Board or Hearing Officer for consideration and shall be deemed as full and complete consideration of the entire assessment.

RULE NUMBER 24 – AGENT AUTHORIZATION, REVOCATION, SUBSTITUTION

A. **INITIAL AGENT AUTHORIZATION.**

An applicant who wishes to authorize a firm or individual who is not a licensed California attorney, registered domestic partner, parent, child, or spouse, must:

- Complete and sign Section 2 of the Application for Changed Assessment Appeal form.
- If filing electronically, applicant's authorized agent may certify that they have in their possession a current, signed authorization form, which will be produced upon request.

B. **APPLICATIONS FILED BY AN ATTORNEY ON BEHALF OF AN APPLICANT.**

- If an assessment appeal application is filed by a licensed California attorney representing the applicant without the applicant's authorization signature, the attorney signing the application or an attorney from his/her firm are the only individuals authorized to take action on, receive information, or represent the applicant at an assessment appeals hearing.

C. **REVOCATION, SUBSTITUTION OF AN AGENT.**

An applicant who wishes to cancel or revoke the previous authorization of an agent, or who wishes to substitute a new agent for a former agent previously authorized, must complete an "Authorization/Revocation/Substitution of Attorney/Agent" and file it with the clerk. Unless a "Authorization/Revocation/Substitution of Attorney/Agent" form has been appropriately

executed and filed, all correspondence regarding the appeal will be sent to the agent first authorized to act on the applicant's behalf who will remain the authorized agent for the application, and may settle by stipulation, withdraw or otherwise control the appeal.

Authorization/Revocation/Substitution of Attorney/Agent forms shall be provided free of charge by the clerk upon request and shall be available on the Clerk of the Board's website at www.sjgov.org .

RULE NUMBER 25 - SUBPOENAS

- A.** The clerk is authorized and empowered to issue subpoenas for the attendance of witnesses or the presentation of documentary evidence at a hearing upon the request of an applicant or the Assessor in advance of, or at the time of the hearing. Boards and Hearing Officers can also issue subpoenas on their own motions. Forms and instructions for issuance of the requested subpoenas will be provided to the requesting party by the clerk.

- B.** The party requesting the subpoena is responsible for serving it and for paying any witness fees, service fees and mileage. An application for a subpoena for the production of books, records, maps and documents must be supported by an affidavit as described by Section 1985 of the Code of Civil Procedure. No subpoena can be issued for the purpose of taking a deposition. The requesting party shall be responsible for providing proof of service for all subpoenas issued at the request of the Clerk or Board.

- C.** If a party who has received a subpoena fails to comply with its requirements, the Board will refer the matter to the County legal advisor who will initiate enforcement procedures in Superior Court.

RULE NUMBER 26 - WITHDRAWAL

- A.** 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 authorized 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. The notice must be given at least ten (10) days prior to the hearing, and a copy of the notice must be filed with the clerk. If the notice has been timely given and filed, withdrawal of the Application may be affected only with the consent of the assessor.

- B. Withdrawal forms will be accepted by facsimile transmission and are effective as of the date of execution.
- C. Withdrawals are final and will conclude any further action on the appeal. No conditional withdrawals will be accepted.

RULE NUMBER 27 – RECONSIDERATION AND REHEARING

- A. **BOARD / HEARING OFFICER DECISIONS FINAL.** The decision of a Board or Hearing Officer upon an application is final. The Board cannot change or reconsider the recommendation or value decision of a Hearing Officer, and a Hearing Officer likewise may not reconsider a Board decision.
- B. **LACK OF APPEARANCE RECONSIDERATION.** In accordance with a procedure adopted by the Board, the clerk is authorized and directed to reopen and reschedule for value hearings appeals previously denied for lack of appearance of the applicant when all the following conditions are met:
 - The appeal was denied solely on the ground that the applicant failed to appear at the duly noticed and scheduled hearing on the application; and
 - The applicant files a written request for reconsideration of the denial for failure to appear within sixty (60) days from the date of mailing of the notification of denial; and
 - In the clerk’s judgment, the applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement of the hearing.

When an application has been denied for lack of appearance and a request to reopen has been granted, the Board will take final action on the appeal at the subsequent scheduled hearing regardless of the appearance of the applicant.

The clerk shall administratively deny all requests that do not meet the all of the above conditions. Upon administrative denial by the clerk, the applicant may appeal the decision within thirty (30) calendar days of the notice of denial and have the matter calendared before the Board for a hearing on the merits of the request for reconsideration issue only. The Board may reopen and take evidence upon an application denied solely because of the lack of appearance of the applicant or applicant’s agent to determine whether the request for reconsideration was timely filed and whether there was reasonable justification for the failure of the applicant to appear at the scheduled hearing.

- C. **CLERICAL ERROR.** Boards and Hearing Officers may reopen applications on their own motions to correct any errors made in computing the subject property's value or any administrative errors discovered after the hearing. In these instances, the clerk shall provide a summary of the error and a recommendation for correction to the Board.

RULE NUMBER 28 – 1604 (c) WAIVER AGREEMENTS AND CANCELLATION POLICY

1604(c) Waiver Agreements are unconditional and extend the two-year statutory time frame in which applications may be heard. These agreements may be canceled by providing written notice of intent to cancel the extension and serving written notice upon the clerk. The notice must include:

- The complete name of the applicant;
- The appeal application number provided by the clerk;
- The Assessor's Parcel Number (APN) and/or Assessment Number; and,
- The applicant or applicant's agent of record original signature and date signed, mailing address and phone number.

If all information above is included in the written notice to cancel the waiver agreement, the clerk shall, within ten (10) working days of receipt of written notice to cancel waiver agreement, issue a *Notice of Receipt of Cancellation of Waiver Agreement* to the applicant.

The appeal will be scheduled for hearing within one hundred and twenty (120) days from the date of issuance of the Notice of Receipt of Cancellation of Waiver Agreement if the two-year period has expired or if the two-year period will expire within the one hundred and twenty (120) days. If the issuance of the Notice of Receipt of Cancellation of Waiver Agreement will not expire within one hundred and twenty (120) days, the normal two-year filing deadline will be in effect. Applicants will be advised under separate notice of the exact date and time of the hearing.

In the event the cancellation request is incomplete, the clerk shall within ten (10) working days of receipt of written notice to cancel waiver agreement, forward a request for additional information to the applicant. The request must be complete prior to issuance of the Notice of Receipt of Cancellation of Waiver Agreement and commencement of the one hundred and twenty (120) day period.