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Alpine County
Assessment Appeals Board
Rules and Procedures

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RULES

The purpose of these rules is to clarify how certain matters shall be conducted in Alpine County. It is not intended to restate the Code or the Property Tax Rules that apply to the equalization procedures. Revenue and Taxation Code Section 1600 et seq and Property Tax Rules 300-326 apply to the County Board of Equalization.

The Board of Equalization will conduct a Quasi-Judicial Hearing. The Quasi-Judicial Hearing involves the property rights of a limited number of individuals and involves distinct proponents or opponents.

Local Rule 1 - Property on Multiple Assessment Rolls

An application cannot include more than one property on the secured roll and property on the unsecured roll. Individual applications are required.

Local Rule 2 - Incomplete Status

If an Application is filed that is missing required information, the Clerk of the Board will notify the applicant, or his/her agent if applicable, that the missing information results in the 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 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 and the deficiency is corrected within the thirty-day period, the Application will be deemed valid.

Local Rule 3 - Filed Untimely Status

Any Application that is postmarked or received by personal delivery on a date that is after that Application's applicable filing deadline, the Clerk shall promptly notify the applicant or his/her agent that the application has not been filed timely.

The Clerk's notice will contain an explanation of the untimely filing and a request for evidence of timely filing if any is available. Acceptable evidence includes a certificate of mailing, signed delivery receipt, or some other written evidence that the application was timely filed.

If the applicant is unable to produce evidence of timely filing, a hearing will be held before the Board to consider only the issue of timeliness of filing. If the Board determines that the evidence demonstrates that the Application was filed within the appropriate time

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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 an application which was untimely filed and the file will be closed.

Local Rule 4 - Prehearing Conferences

Prehearing conferences shall be held for complex appeals. If requested by either party or at the direction of the County Assessment Appeals Board, prehearing conferences will be conducted by County Counsel or his or her designee consistent with Rule 305.2 of the Property Tax Rules.

Local Rule 5 - Bifurcated Hearings

An application may involve a legal issue and a valuation issue. In those instances, the Board will hold a hearing on the controlling legal issue first. If a decision can be rendered at the end of the hearing on the legal issue and if time permits, the Board may hold the second hearing on the valuation issue immediately after rendering its decision on the legal issue.

The applicant or assessor can request that the hearing on the valuation issue be scheduled for hearing on another day if that request is received at least 20 days before the scheduled hearing on the legal issue. If neither party has requested that the valuation issue be scheduled for another date, the decision to proceed with the hearing will be at the sole discretion of the Board.

Local Rule 6 - Reconsideration

If an appeal has been denied for lack of appearance, the applicant may request reconsideration under the following circumstances:

- A written request for reconsideration is made that contains the reason why the applicant failed to appear.
- The request for reconsideration is made within 45 days of the date of mailing of the notification of denial due to lack of appearance.

The Board may, however, amend a decision to correct a ministerial clerical error and may reopen a hearing when it is previously closed due to nonappearance by the applicant.

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Local Rule 7 - Postponements

Requests for postponements must be made in writing and delivered to the Clerk of the Board consistent with the timing set forth in the Property Tax Rules. The Clerk of the Board is authorized to grant the first postponement that is a matter of right to either party unless that request is made within 120 days of the expiration of the two-year limitation period provided in section 1604 of the Revenue and Taxation Code. The two-year limitation period is two years from the date the application was originally filed.

Requests for postponement by the applicant, that are made within 120 days of the expiration of the two-year period, must be considered by the Board.

The Clerk shall notify the other party, by telephone or e-mail, as soon as is practicable following receipt of the request for a postponement that has been granted.

Local Rule 8 - Continuances

If an applicant requests a continuance within 90 days of the expiration of the two-year period provided for in Section 1604 of the Revenue and Taxation Code, the request will not be granted unless the applicant agrees in writing to extend the two-year period indefinitely.

Local Rule 9 - Findings of Fact

Findings of Fact will be prepared by County Counsel when requested. If either party proposes findings of fact, the proposal must be sent to the Clerk with a \$400 nonrefundable fee, a copy to County Counsel and the opposing party. The request must be in writing and submitted to the Clerk before the commencement of the hearing. The fee for findings may be tendered at any time before the conclusion of the hearing.

Local Rule 10 - Exhibits

No exhibits, maps, letters, papers, documents, charts, etc. to be submitted by an applicant or the applicant's agent as evidence in an appeal will 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 is not 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 prior to being marked for identification and received into evidence *at the time of the hearing*.

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Both the Applicant and the Assessor must submit eight (8) copies of each written exhibit to be offered into evidence during Board hearings.

Local Rule 11 - Notices

Notices of hearing dates will be made by e-mail to the Assessor. Interim notices to the applicant or the assessor by the Clerk, such as requests for postponements, may be made by e-mail if an e-mail address has been provided.

Local Rule 12 - Documents Accepted by Facsimile or Electronic Filing

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.

Documents that may be transmitted by fax or e-mail include Stipulations, 1604(c) Waiver Agreements, letters requesting reconsideration of an appeal denied for failure to appear, Withdrawals, Agent Authorization/Revocation/Substitution of Attorney/Agent and Requests for Postponement.

In the event the Clerk of the Board establishes online filing of assessment appeals applications, the signature requirements for the Applications for Changed Assessment will be accepted pursuant to established standards set forth by the California Secretary of State.

Local Rule 13 - Confirmation Notice

Applicants are required to confirm their intent to attend a scheduled appeal hearing at least 21 days prior to the hearing date. That Notice may be sent by first class mail, electronic mail, facsimile or personal delivery. If an applicant fails to return the confirmation notice in a timely manner, the assessor will not be expected to prepare for the hearing and it may be postponed if the applicant appears as scheduled.

If the applicant confirms attendance within 21 days prior to the hearing and does not show, the applicant will bear the burden of the costs of processing the appeal in the amount of \$500. The defaulting applicant's appeal shall be summarily denied. For good cause in failing to appear the Board may waive the \$500 fee and the hearing may be postponed.

PROCEDURES

Order of Proceedings

A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for cross-examination of all witnesses and materials proffered as evidence, for argument, and for rebuttal.

The Board delegates authority to County Counsel to make legal objections, legal rulings and admissibility rulings subject to a motion by any Board member.

Hearings on applications shall proceed as follows:

1) Calling of Cases:

The Chair shall announce the number of the Application and the name of the Applicant, by reading the agenda title.

2) Failure to Appear:

If the Applicant or Authorized Agent is not present, the Chair shall ascertain whether the Clerk has notified the Applicant of the time and place of hearing. If the notice has been given, the application shall be denied for lack of appearance. If the notice has not been given, the hearing shall be postponed to a later date and the Clerk directed to give proper notice of the new hearing date to the Applicant. A denial for lack of appearance by the Applicant is not a decision on the merits of the application and reconsideration of the denial may occur as provided in Local Rule 6.

3) Introduction to the Proceeding:

If the Applicant is present, the Chair shall announce the nature of the application, the assessed value as it appears on the local roll, and the Applicant's opinion of the value of the property (see agenda transmittal summary). The Chair shall then state the issues the Board has been requested to determine, inquire as to whether any agreements or stipulations have been agreed to by the parties, and briefly explain the hearing procedure to the parties. The parties will then be given the opportunity to ask any procedural questions.

4) Swearing of Witnesses:

The Clerk shall administer the oath to the parties and any other persons assembled to be called as witnesses. Where a witness objects to taking the oath, that witness may affirm that he or she will tell the truth, the whole truth, and nothing but the truth under the penalty of perjury.

5) Burden of Proof:

If there is any disagreement as to: 1) the issues before the Board, 2) which party has the burden of proof, or 3) any other legal issue that would affect the order or nature of the hearing, the Board shall give both parties the opportunity to present legal argument and factual evidence solely in regard to that legal or procedural issue, which it shall decide based on the record before moving forward with the hearing to opening statements.

6) Opening Statements:

Both parties shall have the opportunity to make an optional opening statement, the duration of which may be reasonably limited by the Board. Either party may waive this opportunity, but the Chair shall first offer the opportunity to the party with the burden of proof.

The opening statement should briefly describe the property or properties that are the subject of the appeal and outline the facts that the party will demonstrate during its presentation of evidence. The opening statement is not evidence and should not include argument, but should merely be a brief preview of the party's presentation.

7) Presentation of Evidence:

a) Order of Presentation-

For appeals where the Applicant has the burden of proof, the Board shall require the Applicant to present his or her evidence first. The Assessor and the Board may conduct a cross-examination after each piece of evidence or witness presented by the Applicant. When the Applicant is finished presenting evidence and all cross-examination has been conducted, the Board shall then determine whether the Applicant has presented sufficient evidence supporting his or her position.

If the Applicant fails to present evidence sufficient to rebut the correctness of the assessed value, the Board will, at the request of the Assessor, dismiss the appeal without requiring the Assessor to provide evidence substantiating the assessed value. In the event the Applicant has presented sufficient evidence, the Board shall then require the Assessor to present his or her evidence and the Applicant and the Board may conduct a cross-examination after each piece of evidence or witness presented by Assessor.

For appeals where the Assessor has the burden of proof, the order of presentation is reversed and if the Assessor fails to present evidence sufficient to rebut the presumption, the Board shall rule in favor of the Applicant if there is substantial evidence in the record to support the Applicant's value.

b) Admissibility of Evidence-

Assessment appeal hearings are not conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. However it is in the best interests of the parties to be as concise as possible when presenting their evidence. Failure to enter a timely objection to evidence constitutes a waiver of that objection.

c) Presentation of Documentary Evidence-

The parties should introduce documents as evidence at the outset of their respective presentations by verbally identifying them for the record and then providing the Clerk with eight (8) sets of all documents to be introduced.

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- (i) The Clerk shall distribute one copy of each document or set of documents to each of the Board members, one copy to the Board's counsel, and one copy to the opposing party and shall keep one copy for the record.
 - (ii) The Clerk will then announce the exhibit number. Assessor Exhibits are labeled numerically; Applicant Exhibits are labeled alphabetically.
 - (iii) If a party fails to bring the required number of copies, the Chair may, on his or her own motion, postpone or continue the hearing or direct the Clerk to make additional copies at that party's expense. If the Chair chooses to postpone the hearing, said postponement shall constitute a request for postponement by the party failing to supply the required number of copies. If the Clerk is instead directed to make copies, she or he will collect the appropriate photocopying charges as set forth in the County Clerk Fee Schedule prior to the Board making a final decision on the appeal.
 - (iv) Each party will have the opportunity to object to any document introduced as evidence.
 - (v) Once documentary evidence has been admitted, the opposing party and the Board shall have the opportunity to conduct a cross-examination in regard to that evidence.
- d) Testimonial Evidence-
- All testimony shall be taken under oath or affirmation. Once the party presenting evidence has directly examined a witness, the opposing party and the Board shall have the opportunity to cross-examine that witness before the presenting party calls another witness to testify. At the discretion of the Board, the presenting party may then conduct a redirect examination of the witness.
- e) Evidence of Comparable Sales-
- If the evidence includes data on sales of comparable properties, the data will be rejected unless the sales closed no more than 90 days after the valuation date. Applicants and Authorized Agents should be prepared to answer questions about the comparable properties.
- f) Written Opinions of Value-
- If any party intends to offer in evidence at the hearing a written opinion of value, including, but not limited to an appraisal report, that party shall cause the author of the written opinion of value or appraisal report, to be present at the hearing and to be available for cross examination by the other party and by members of the Board. Notwithstanding the foregoing, the parties may stipulate to the admissibility of the written opinion of value or appraisal report or portion thereof without the presence of the author.

g) Greater Than Roll Value-

When the Assessor requests the Board find a higher assessed value than he or she placed on the roll and offers evidence to support the higher value, the Chair shall determine whether or not the Assessor gave notice in writing to the Applicant by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered have been supplied at least 10 days prior to the hearing the Assessor may introduce such evidence at the hearing. The foregoing notice requirement shall not prohibit the Board from a finding of a higher assessed value when it has not been requested by the Assessor.

h) Qualifications of Assessor's Appraisers Presumed-

The Board hereby finds and declares that the Assessor's presentation of evidence to qualify the Assessor's appraisers as experts constitutes a waste of administrative resources. There shall be a rebuttable presumption that the Assessor's appraisers are qualified to render expert testimony concerning valuation issues.

i) Receipt of Evidence Outside of Hearing-

No member of the Board shall, after an Application for equalization has been filed with the county, solicit or receive evidence outside of the public hearing relating to said application or knowingly view the property that is the subject of the appeal. If a Board member has personal knowledge of a matter before the Board, other than the type which could lead to potential recusal or disqualification, then at the appropriate time during the hearing, the Board member shall publicly report such fact (e.g., knowledge of neighboring properties).

8) Closing and Rebuttal Arguments:

After both parties have had an opportunity to present their cases and cross-examine each other's evidence, the evidentiary portion of the hearing is closed. The Board shall then allow both parties to present optional closing arguments, the duration of which may be reasonably limited by the Board. Either party may waive this opportunity, but the party with the burden of proof shall have the right to make a closing argument first. The opposing party shall then have the right to make a closing argument, to which the party with the burden of proof may make a rebuttal argument, not to exceed one minute unless otherwise allowed by the Board.

Deliberation

After closing public testimony, the Board may question the assessor or the applicant. Further public testimony will not be received unless the Board votes to re-open the public testimony. The Board will deliberate in Closed Session. The Board may announce the decision at the conclusion of the hearing, or take the matter under submission and render a decision, which is entered into the record. The findings of fact are then prepared and distributed by the County Clerk to the Applicant, Assessor and County Counsel.

After the Appeal Hearing

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1. Notice of Decision:

The decision becomes final when:

- 1) The vote is entered into the record at the conclusion of the hearing provided no findings of fact are requested by either party, and all parties are present at the hearing or the hearing is subject to stipulation by both parties. The Board may provide a written notice of the decision.
- 2) A written notice of the decision is issued provided no findings of fact are requested by either party, or the decision is taken under submission by the Board at the conclusion of the hearing. The Board shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. The Clerk shall notify the Applicant in writing of the decision of the Board by United States mail addressed to the Applicant or Authorized Agent at the address given in the application.
- 3) A written notice of the decision is issued or the findings of fact are issued, whichever is earlier, provided findings of fact are requested. The Board shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. If so requested by an Applicant or an Applicant's agent, the determination shall become final upon issuance of the findings of fact which the Board shall issue no later than 180 days after the conclusion of the hearing. Such a request must be made by the Applicant or the Applicant's agent prior to or at the conclusion of the hearing. If the conclusion of the hearing is within 180 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the Applicant shall agree in writing to extend the two-year period. The extension shall be for a period equal to 180 days from the date of the conclusion of the hearing.

Judicial Review

Judicial review of the decisions of the Board may be sought by means of a suit for refund of property taxes erroneously or illegally collected brought under Revenue and Taxation Code Sections 5141-5142.

- 1) In order to seek review of a Board decision, it is necessary to obtain findings of fact from the Board and to make a request in writing for a copy of the tape recorded transcript of proceedings within sixty (60) days of the date of decision (Revenue and Taxation Section 1610). Upon the deposit of reasonable costs, the Clerk will arrange for a transcript to be created and certify typed transcripts made from the tape recorded record.
- 2) If the Applicant has not filed a claim for refund of taxes as part of the assessment appeal, the Applicant is required to file a claim for property tax refund with the Board of Supervisors of the County of Alpine under the provisions of Revenue and Taxation Code section 5097. This section requires that a person seeking a tax refund submit a claim,

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verified under oath, the facts of the dispute with the County and the amount of taxes sought to be refunded.

- 3) Upon rejection of the claim by action of the Board of Supervisors or upon denial of the assessment appeal (if the refund claim is filed as part of the assessment appeal), the Applicant has a period of six (6) months to file a suit for refund of taxes in the Alpine County Superior Court.
- 4) Because of the legal requirements that must be satisfied in order to successfully pursue a property tax refund suit, Applicants contemplating suit should promptly seek competent professional legal advice.

Retention of Records

Assessment appeals records, including applications and related documents, will be retained for no less than five years after final decision by the Board.