

COUNTY OF HUMBOLDT ASSESSMENT APPEALS BOARD RULES

1. DEFINITIONS

The provisions set forth in this section shall govern the construction of the terms, as used hereinafter in these Rules.

- A. "County" is the County of Humboldt.
- B. "Assessor" is the assessor of the county.
- C. "Auditor" is the auditor of the county.
- D. "County legal advisor" is the county counsel.
- E. "Board" is the assessment appeals board of the county.
- F. "Chair" is the chair of the board.
- G. "Clerk" is the clerk of the board.
- H. "Person affected" is one who owns, claims, possesses or controls the property on the lien date which has been assessed and valued by the County Assessor for purposes of property taxation.
- I. "Applicant" is a person affected who files an application for a reduction in assessment pursuant to Rule 5.
- J. "Party" is the applicant and the assessor.
- K. "Property" includes all matters and things, real, personal, and mixed, capable of private ownership.
- L. "Restricted value" is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.
- M. "Taxable value" is the base year full value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less.
- N. In addition to the meaning ascribed to them in the Revenue and Taxation Code, the words "full value", "full cash value", "cash value", "actual value" and

"fair market value", mean the price at which a property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

- (1) The "full value", "full cash value", "cash value", "actual value" and "fair market value" of real property being appraised upon a purchase or other transfer constituting a change in ownership as defined in section 60 et seq. of the Revenue and Taxation Code shall be the purchase price paid in such transaction unless there is substantial and convincing evidence that the real property would not have transferred for such purchase price in an open market transaction.
- (2) The purchase price shall be rebuttably presumed to be the "full value," "full cash value," "cash value," "actual value," or "fair market value" if the terms of the transaction were negotiated at arms-length between a knowledgeable transferor and transferee, neither of which could take advantage of the exigencies of the other.
- (3) "Purchase price" as used in this section is the total consideration provided by the purchaser or on his/her behalf, valued in money, whether paid in money or otherwise. If a single transaction results in a change in ownership of more than one parcel of real property, the purchase price shall be allocated among those parcels and other assets, if any, transferred based on the relative fair market value of each.

2. RULES: SPECIAL APPEALS BOARD PANEL

The Rules of the Assessment Appeals Board shall apply to any Assessment Appeals Board panel appointed pursuant to section 1622.6 of the Revenue and Taxation Code.

3. FUNCTION AND JURISDICTION

The functions of the assessment appeals board are:

- A. Determine the full cash value of each property for which an application for equalization is made, and by reducing or increasing the individual assessments to equalize assessments on the local assessment roll;

- B.** To determine whether or not property has been subject to change of ownership and to hear and decide issues with respect to penalties, pursuant to Section 1605.5 of the Revenue and Taxation Code;
- C.** Review, equalize and adjust penal and escaped assessments on the assessment roll, except escaped assessments made pursuant to Revenue and Taxation Code section 531.1 where an exemption was improperly granted; and
- D.** To exercise the powers specified in Section 1613 of the Revenue and Taxation Code.

The board acts in a judicial capacity and may act only on the basis of relevant evidence. The board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied. The board has no legislative power.

4. LOCATION OF LOCAL ROLL FOR INSPECTION

The local roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours of the officer having custody thereof. Copies may be made available for inspection at other places for the convenience of the public.

5. APPLICATION

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

- A. WHO MAY FILE** - The application shall be made by the person affected by the assessment or the authorized agent of such person. An application submitted by an agent (other than an agent who is also a relative of the property owner, as described in Rule 26, or an attorney admitted to practice in California) shall be accompanied by a written authorization signed by the property owner authorizing the agent to act on behalf of the property owner in assessment appeal proceedings. Applications filed on behalf of corporate property owners shall be signed by officers of the corporation.
- B. SIGNATURE AND VERIFICATION** - The application shall be in writing and signed by the applicant or his/her agent, declaring under penalty of perjury that the statements made in the application are true. If the application is executed outside the state of California, it shall be

sworn to before a notary public or other person authorized to administer oaths.

- C. FORM AND CONTENTS** - The Clerk shall provide, without charge, application forms. All information requested on the form shall be provided by the applicant. The application shall be in a form approved by the Board and the State Board of Equalization.

See Appendix A: Application for Reduction in Assessment – AAB 305

An application which does not contain all of the information requested is invalid and shall not be acted upon by the board. When the clerk, the board's attorney or the assessor determines that the application fails to substantially comply with or fails to supply the information required by these items or has been filed by the applicant outside of the applicable filing period for such appeals, the clerk shall give the applicant notice of the perceived deficiency and advise the applicant that the application appears to be invalid. The clerk shall also specifically identify the missing or deficient information for the applicant which is necessary to correct the defects in the application by amendment or submission of a new application (if time remains in the applicable filing period). The clerk shall notify the applicant that a copy of the clerk's notice of deficiency will be provided to the AAB, and the issue of the legal sufficiency of the application only shall be scheduled for hearing and consideration as to sufficiency of the application at the next regular meeting of the AAB. The clerk shall provide at least thirty (30)-days notice of this hearing.

See Appendix A: Notice of Invalid Application -- Form AAB 305I.

If the applicant provides the missing information requested by the clerk, the matter shall be taken off calendar and no appearance by the applicant shall be necessary. If no information is supplied or the information supplied is not responsive to the request, the matter shall be heard and the AAB shall determine whether the application is valid. If the application is determined to be valid, it shall be set for hearing on another date upon the merits of the application. If the application is deemed to be invalid due to insufficiency, the decision of the AAB shall be final for all further administrative purposes.

In the event a duplicate application for reduction is filed with the board, the clerk may accept only the first application for reduction filed by or on behalf of the taxpayer, and may reject any duplicate application for reduction. For the purposes of this section, “duplicate application for reduction” means an application for reduction filed by an applicant, or by his or her agent or attorney on his or her behalf, subsequent to an application for reduction previously filed by or on behalf of the same applicant, that seeks the same relief with respect to the same property for the same year in issue.

- D. AMENDMENTS AND CORRECTIONS** - A subsequent application for reduction that seeks to amend a previously filed application for reduction shall not be considered a duplicate application for reduction for purposes of this section.

See Appendix A: Application for Reduction -- Form AAB 305

- E. TIME FOR FILING** - An application for a reduction of an assessment made during the regular assessment period must be filed with the clerk between July 2 and 5:00 p.m. on November 30. An application will be deemed to have been timely filed if it is served by United States mail, properly addressed with postage prepaid and is post marked on November 30 or earlier within such period. An application for a reduction of an assessment made outside the regular assessment period must be filed with the clerk no later than sixty (60) days after the date the assessee was notified of the assessment pursuant to section 1605 of the Revenue and Taxation Code.

An application for a reduction of an assessment for real property acquired between the lien date and the beginning of the fiscal year for which the owner of such real property did not receive the notice required by Revenue and Taxation Code sections 619 with respect to such property must be filed with the clerk no later than November 30.

Except as provided in Revenue and Taxation Code sections 619.2 and 620, the board has no jurisdiction to hear an application unless filed within the time specified.

Notwithstanding the above, if the party affected and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of

the property, an application to present the stipulation may be filed at any time. Any application for reduction filed and received after November 30 of the calendar year must be accompanied by evidence that it has been timely filed for purposes of a particular type of assessment appeal. Applications received after November 30 which are not accompanied by evidence of timely filing shall be noticed and scheduled by the clerk for a validity hearing on grounds of untimeliness according to the procedure established by Rule 5.C. above.

- F. AMENDMENTS** - No application may be amended after 5:00 p.m. on the last day upon which it might have been filed if the effect of the amendment is to request relief additional to or different in nature from that originally requested.

6. BASE YEAR VALUE PRESUMPTION

- A. The full value determined for real property that is purchased, newly constructed, or changed ownership after the 1975 lien date, shall be conclusively presumed to be the base year value, unless an application for equalization is filed:
- (1) Within the time period specified in section 1605 of the Revenue and Taxation Code following a determination of new construction or change in ownership;
 - (2) During the regular equalization period provided for in section 1603 of the Revenue and Taxation Code for the year in which the assessment is placed on the roll, or during the regular equalization period in any of the three succeeding years;
 - (3) At any time after the time period specified in A(1) or A(2) above if the applicant claims that an erroneous change in ownership determination has occurred.
- B. Upon filing of an application, the board's determination of the base year value shall be conclusively presumed to be the base year value, and shall apply for the assessment event for which the application is filed and prospectively thereafter.

- C. A base year value determined pursuant to section 51.5 of the Revenue and Taxation Code shall be conclusively presumed to be the base year value unless an application is filed during the regular equalization period in the year in which the error was corrected, or during the regular equalization period in any of the three succeeding years. Once an application is filed, the base year value determined pursuant to that application shall be conclusively presumed to be the base year value for that assessment event.
- D. The board's decision that the current full cash value, as defined in section 110 of the Revenue and Taxation Code, is lower than the adjusted base year value (the base year value adjusted by the inflation factor), shall not establish a new base year value unless that value is the subject of the appeal.

7. COPY OF APPLICATION TO ASSESSOR

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

8. NOTICE OF HEARING

- A. After the filing of an application for a change in assessment, the clerk shall set the matter for hearing and notify the applicant or the person affected or their agent in writing by personal delivery or by depositing the notice in the United States mail (via certified mail return receipt requested) directed to the address given in the application or the latest address of the applicant or the person affected available to the assessor on file in the records of the assessor's office. The notice shall designate the time and place of the hearing. It shall also include a statement that the board is required to find the full taxable value of the property from the evidence presented at the hearing, and that this finding may exceed the full cash value on which the assessment was based, with the result that the assessment will be raised rather than lowered. The notice shall include a statement that an application for a reduction in the assessment of a portion of an improved real property (e.g., land only or improvements only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and

equipment) may result in an increase in the unprotected assessment of the other portion or portions of the property, which increase will offset, in whole or in part, any reduction in the protested assessment. If the general notice does not include the latter statement, such a statement shall be included in notices in those cases to which the clerk deems it relevant.

- B.** The notice shall be given no less than forty-five (45) days prior to the hearing unless:
- (1) The clerk has received a request for information pursuant to Rule 9, in which event the notice shall be given no less than twenty (20) days prior to the hearing; or,
 - (2) The clerk has received a writing from the applicant which states that the applicant will not make a request for information, in which event the notice shall be given no less than five (5) days prior to the hearing; or,
 - (3) A shorter notice has been stipulated to by the assessor and the applicant or his/her agent; or,
 - (4) The matter has been continued from the original noticed hearing date.
 - (5) The original hearing has been vacated and the matter has been reset, without the agreement of the parties, upon ten (10) days oral or written notice.
- C.** The clerk shall notify the assessor and the county legal advisor of the time and place of the hearing.
- D.** When proposing to raise an assessment on its own motion without an application for reduction pending before it, the board shall give the assessee as revealed by the latest assessment roll notice of the time and place of the hearing in the manner provided herein not less than twenty (20) days prior to the hearing, unless notice is waived by the assessee or his/her agent in writing in advance of the hearing or orally at the time of the hearing, or a shorter notice is stipulated to by the assessor and

assessee or his/her agent. The notice shall contain, in addition to time and place of the hearing:

- (1) A statement that a hearing will be held before the board to determine whether or not the assessment shall be raised;
- (2) The assessor's parcel number or numbers of the property as shown on the assessment roll;
- (3) A statement that the board is required to find the taxable value of the property from the evidence presented at the hearing;
- (4) The amount by which it is proposed to raise the assessment.

9. EXCHANGE OF INFORMATION

A. At the time of filing the application, or at any time prior to thirty (30) days before the hearing on the application, the applicant may file with the clerk, or submit directly to the assessor, a written request for information containing the basis of the opinion of value and the following data:

- (1) **COMPARABLE SALES DATA** - If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold, there shall be presented: the approximate date of the sale, the price paid, the terms of the sale (if known), and the zoning of the property.
- (2) **INCOME DATA** - If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the expenses and the capitalization method and rate or rates employed.
- (3) **COST DATA** - If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:
 - (a) With regard to improvements to real property; the date of construction, type of construction and replacement cost of construction.

- (b) With regard to machinery and equipment: the date of installation, installed cost and any history of extraordinary use.
- (c) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence and remaining economic life.

The assessor, in those cases where the assessed value of the property involved exceeds one hundred thousand dollars (\$100,000) may also file a request for an exchange of information under the requirements of this subpart. The clerk shall immediately forward any request received or a copy thereof to the other party in each instance.

See Appendix A: Request for Information – Form AAB 305X.

- B.** If a party has submitted the data required by subpart A of this Rule within the time specified, **at least ten (10) days prior** to the hearing, the other party shall mail to the party who caused the exchange of information a writing which shall set forth the basis of the opinion of value and shall contain the same type of data as provided in subpart A of this Rule in support of that opinion.
- C.** Whenever information has been exchanged pursuant to this section, the parties may introduce evidence only on matters so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

10. PRE-HEARING STIPULATIONS

Whenever the Assessor determines that there is no basis to oppose the board granting the relief requested in the application, the Assessor shall (1) file with the clerk of the board a Stipulation to Requested Relief setting the matter for hearing at the next available hearing date; and (2) within fifteen (15) days of the date of the hearing, notify the applicant of their intention to stipulate to the board granting the requested relief.

The Assessor shall provide the Clerk with a complete list of such stipulations within ten (10) days of each hearing date.

See Appendix A: Stipulation to Requested Relief -- Form AAB 305S.

11. REQUEST FOR FINDINGS

Written findings, as provided by Revenue and Taxation Code section 1611.5, shall be made by the AAB if requested by a party, in writing by a party prior to or at the commencement of a hearing. If payment of a fee is required from the party, the fee shall be deposited with the Clerk prior to the conclusion of the hearing. A party may abandon a request for findings prior to the conclusion of the hearing and have any submitted fee returned. If a request for findings is abandoned by one party, the other party may submit a written or oral request for the preparation of findings prior to the conclusion of the hearing and submit any required deposit of fees.

The following fees shall be charged to the appellant per parcel as a precondition to the preparation of written findings and represent an estimate of the actual reasonable costs of preparation and review of the findings. The Assessor shall not be required to pay for findings under the provisions of Government Code section 6103.

- A.** Owner Occupied Single Family Homes/Mobile Homes-\$50.00
- B.** All Other Assessable Real or Personal Property-\$100.00 per parcel plus \$250 per hour after the first hour of time spent by the AAB and/or AAB counsel in preparation, review or approval of findings.

The per parcel fee and a reasonable estimate of fees necessary to pay for the reasonably anticipated amount of time to be spent by the AAB in the preparation and consideration of findings shall be deposited prior to the close of the hearing. If a party who has requested the preparation of findings withdraws the request prior to the close of hearing or fails to deposit the required fees which may be required.

If a single taxpayer appeals the value of multiple parcels of commercial property in the same hearing, the AAB hourly fee shall not be assessed until the AAB and/or its counsel have devoted more than one hour per parcel under appeal. A single hourly fee shall be levied no matter how many appeals are heard together.

The AAB shall provide an estimate of the amount of additional fees for the preparation of findings prior to the close of the hearing.

12. HEARING

- A.** On the third Monday in July of each year, the board shall meet to equalize the assessment of property on the local roll and shall continue in session for that purpose on the second Wednesday of every month at 1:00 p.m. until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in these Rules.
- B.** The hearing must be held and a final determination made within two (2) years of the timely filing of an application for reduction in assessments submitted pursuant to subdivision (a) of section 1603 of the Revenue and Taxation Code, unless the taxpayer and the county assessment appeals board mutually agree in writing to an extension of time.
- C.** If the hearing is not held and a decision is not entered within the two (2) years or the time for hearing waived by written agreement as specified in subpart B of this Rule, the applicant's opinion of value stated in the application shall be conclusively determined to be the taxable value of the property for the year under appeal except when:

 - (1) The applicant has not filed a timely or complete application providing all information required by Rule 5C above; or
 - (2) The application seeks relief which is not within the legal jurisdiction of the AAB as described by Rule 3 above; or
 - (3) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or
 - (4) The applicant has not fully complied with requests for information made under Revenue and Taxation Code sections 408, 441, and/or 454 with respect to the property under appeal; or
 - (5) The applicant has not fully complied with a request for the exchange of information under Rule 9; or
 - (6) The issues involved in the application are the subject of "controlling litigation" which does not permit the assessment appeal to be economically heard and determined by the AAB due

to the unresolved nature of the litigation. As used in this Rule, "controlling litigation" means:

- (a) Litigation between the applicant and the county assessor of Humboldt County before any California or federal trial or appellate court and before the Humboldt County AAB involving substantially similar facts and legal issues as are presented in the pending appeal; or
- (b) Litigation pending before any California or federal appellate court not necessarily involving the applicant and/or the county assessor of Humboldt County which the parties have agreed, by means of a written stipulation executed by the parties and approved by the AAB, that the county assessor and applicant have identified a specific trial or appellate court case as dealing with substantially similar facts and legal issues as are presented by the pending appeal and the resolution of which will help determine or will determine legal or factual issues in dispute. As part of any such written stipulation, the applicant and assessor may agree to have the Rule developed by the stipulated controlling case apply automatically to the pending appeal and guide the decision of the AAB on the appeal when the appeal is to be heard.

- D.** The applicant shall not be denied a timely hearing and determination pursuant to subpart (B) of this Rule, by reason of any of the exceptions enumerated in subparts C(1), C(2), C(3) or C(4) herein, unless, within two (2) years of the date of the application, the board gives the applicant written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his/her right to protest the denial at the time of the hearing on his/her application. When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending or an assessment hearing is not conducted due to any of the exceptions listed in subparts C(1) through C(6), inclusive, the time to hear and determine the appeal shall be stayed during the duration of the listed reason for the delay. The delay period created by the controlling litigation or by the exceptions listed in

subparts C(1) through C(6) shall merely suspend the running of the two (2) year time limit during the period of the delay and the AAB shall have the balance remaining in the original time period to resolve the appeal after the reason for the stay terminates or expires.

13. CHALLENGE OF A BOARD MEMBER

- A.** The party affected by an equalization proceeding or his/her 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, and setting forth the facts constituting the ground of the disqualification of such member. Copies of the written statement shall be served by the presenting party on each party in the proceeding and on the board member alleged in the statement to be disqualified.

Within ten (10) days after the filing of any such statement, or ten (10) days after the service of such statement as above provided, whichever is later in time, the board member alleged therein to be disqualified may file with the clerk his/her consent in writing that the action or proceeding be tried before another member, or may file with the clerk his/her written answer admitting or denying any or all of the allegations contained in such statement and setting forth any additional fact or facts material or relevant to the question of his/her disqualification.

The clerk shall forthwith transmit a copy of such consent or answer to each party. Every such statement and every such answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure for the verification of pleadings. The statement of a party objecting to the member on the ground of his/her disqualification shall be presented at the earliest practicable opportunity after his/her appearance and discovery of the facts constituting the ground of the member's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member.

No member of the board who shall deny his/her disqualification shall hear or pass upon the question of his/her own disqualification; but in every such case, the question of the member's disqualification shall be heard and determined by some other member agreed upon by the parties who have appeared in the proceeding, or, in the event of their failing to agree, by a member assigned to act by the board of supervisors, and, if

the parties fail to agree upon a member to determine the question of the disqualification, within five (5) days after the expiration of the time allowed herein for the member to answer, it shall be the duty of the clerk then to notify the board of supervisors forthwith, upon receipt of notice from the clerk, to assign some other member, not disqualified, to hear and determine the question.

- B.** In order to avoid the appearance of conflict, board members should refrain from communicating with any applicant or applicant's representative who has an appeal pending before the board outside of the regularly constituted hearing on the matter. No member shall discuss any application or prospective application at times other than the hearings or deliberations set therefor.

14. SELECTION OF BOARD CHAIR

The board shall select one of its members to act as chair and preside over hearings. This function may be rotated among board members. The chair shall exercise such control over the hearings as is reasonable and necessary. The chair shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence.

15. QUORUM AND VOTE REQUIRED

No hearing before the board shall be held unless a quorum consisting of a majority of the board is present. Except as is provided in Rule 12, no determination or order shall be made by the board by less than a majority vote of all the members of the board. Only those members who have been in attendance throughout the hearing may vote on the decision.

If a hearing takes place before a board consisting of two (2) members and they are unable to reach a majority decision, the application shall be reheard before the full board, or the parties may stipulate that the absent member may read or otherwise familiarize himself with the record and participate in the vote on the decision. No hearing shall take place before less than two (2) members.

16. PROCEEDINGS RECORDED

All hearings of the board shall be recorded. The recordings of the proceedings shall be the official record of the proceedings. The applicant is entitled to a copy of the recording and may arrange to obtain a transcript of the recording at his/her own expense.

The applicant, at his/her own expense may have the hearing reported by a stenographer. Only the clerk may certify that the transcript or record of the hearing is accurate and complete.

17. PRE-HEARING CONFERENCE

Upon the submitted written request of the applicant or the assessor or upon the motion of the board, the clerk of the board may order the applicant and the assessor to appear before the board for a pre-hearing status conference. These hearings may be scheduled: (1) to determine the present status of the appeal from the examination of the parties by the board; (2) to determine whether the parties have engaged in or completed necessary case preparation, discovery or settlement of non-controverted issues; (3) to have the parties explain to the board the factual and legal issues in dispute; (4) to have the parties disclose the names of the witnesses to be called, the order of testimony and the anticipated duration of the hearings; (5) to determine the readiness of the parties to proceed with the hearings and (6) to discuss and disclose such other matters as the board deems appropriate to facilitate the hearing and resolution of the case. The failure of an applicant to appear and to fully participate in a pre-hearing conference, if unexcused by the board, shall constitute abandonment of the appeal and provide grounds for denial of the appeal on the merits.

18. DISCOVERY AND EXCHANGE OF INFORMATION

The applicant and the assessor shall complete any and all discovery and exchange of information authorized by law prior to the hearing. Continuances for discovery or for court action to enforce discovery demands or subpoenas shall be granted by the board only upon a showing of good cause. To expedite the hearing and to carry out its equalization duties, the board may in its discretion order compliance with discovery demands and subpoenas as provided by Rule 18.

19. ORDER TO PRODUCE INFORMATION AND SANCTIONS

Upon its own motion or upon written request of the applicant or the assessor and a showing of good cause, the board may order the applicant or the assessor to produce before it that oral or documentary evidence which is determined by the board to be relevant and necessary to a determination of the full cash value of the subject property. Failure on the part of the applicant or the assessor to comply with such order may result in the imposition by the board of one or more of the sanctions authorized by Code of Civil Procedure section 2023.030 if the board deems such an order necessary to carry out its equalization duties and to expedite the hearing.

20. EXHIBITS

Exhibits, maps, letters, papers, documents, charts, etc., submitted by the parties shall not be delivered to the members of the board or considered as part of the record prior to their being marked for identification or received into evidence at the hearing. The parties shall submit all marked and identified original exhibits to the board clerk together with six (6) accurate photocopies of each exhibit. Three (3) copies of each exhibit shall be given to the presiding board members, one (1) copy of each exhibit shall be given to the opposing party, one (1) copy shall be given to the legal advisor to the board, and one (1) copy shall be given to the clerk of the board. The parties may, but are not required, to provide letter or legal size copies of large exhibits.

21. EVIDENCE: ORDER OF PRESENTATION

Hearings on applications shall proceed as follows:

- A.** In the event of a failure to appear by the applicant, or the applicant's representative, the chair shall inquire of the clerk whether the applicant had notice of the hearing.
 - (1) If the applicant had notice of the hearing, and a copy of such notice is on file with the clerk, the board shall set for hearing the request of the assessor for an increase to the assessed value. The clerk shall notify the applicant and the applicant's authorized representative of the subsequent hearing. If the applicant or the applicant's authorized representative fails to appear at the hearing, the board may act on the basis of the assessor's evidence properly presented and admitted to the record.
 - (2) If the clerk cannot confirm the applicant had notice of the hearing, the chair shall continue the hearing and direct the clerk to give proper notice thereof to the applicant.
- B.** If the applicant or his/her agent is present, the assessor shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the full value of the property as appears on the application, and identify the subject property for the board and the applicant.
- C.** The chair shall then require the applicant or his/her agent to present his/her case to the board, except when the hearing involves a penalty portion of an assessment. If the applicant fails to present evidence of

value of the property, the presumption set forth in Rule 27A applies, and the board shall not require the assessor to present his/her case.

- D.** When a hearing involves a penalty portion of an assessment, the assessor shall present his/her evidence notwithstanding the failure of the assessee or his/her agent to present evidence, to appear, or to request postponement of the hearing.
- E.** All testimony shall be taken under oath or affirmation administered by the clerk at the hearing.
- F.** The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of evidence properly admitted into the record. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for the cross-examination of all witnesses, for argument and for rebuttal.
- G.** When the assessor requests the board find a higher assessed value than he 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 of such increase and supplied a copy of such evidence to the applicant or his/her agent by personal delivery or by deposit in the United States mail at least ten (10) days before the hearing directed to the address given on the application. If notice and a copy of the evidence to be offered by the assessor have been timely supplied to the applicant, 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.** Hearing shall be open except that:

 - (1) Upon conclusion of the hearing, the board may take the matter under submission and deliberate in private in reaching a decision; and
 - (2) The board may grant a request by the applicant to close to the public a portion of the hearing relating to trade secrets. Such a

request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the applicant which relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the applicant.

22. LEGAL COUNSEL

Any party may be represented by legal counsel, except that when an assessment protest is heard by a hearing officer appointed pursuant to section 1636 of the Revenue and Taxation Code, the assessor may have legal counsel only if the applicant is represented by an attorney.

23. EXAMINATION OF APPLICANT BY BOARD

No reduction of an assessment shall be made unless the board examines, on oath, the applicant or his/her agent as to the value of the property, and the applicant or agent attends the hearing and answers all questions pertinent to the inquiry; provided that:

- A.** In the event there is filed with the board a written stipulation signed by the assessor and county legal advisor on behalf of the county and the person affected or the agent making the application, as to the taxable value and assessed value of the property, which stipulation sets forth the facts upon which the reduction in value is premised, the board may at a public hearing:
 - (1) Accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with section 1610.8 of the Revenue and Taxation Code; or
 - (2) Reject the stipulation and set or reset the application for hearing.

A written stipulation will not be accepted by the board nor may the board waive the appearance of the person affected or the agent if the application was filed pursuant to section 1603.1 of the Revenue and Taxation Code.

- B.** The board may, in its discretion, waive the examination of the applicant or his/her agent if the board and the assessor are satisfied that the issues

raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or his/her agent requests such waiver in his/her application. The board shall consult with the assessor and shall act promptly on any request for waiver and give written notice of its decision. If the board waives the examination of the applicant or his/her agent, it shall decide the case on the merits of the application.

24. PERSONAL APPEARANCE BY APPLICANT/AGENT

The applicant must appear personally at the hearing or be represented by an agent who shall be thoroughly familiar with the facts pertaining to the matter before the board except as otherwise provided in these Rules. Any person intending to act as agent shall file with the clerk written authority to represent the applicant at the hearing. The written authority must be filed before the hearing. An attorney at law acting as agent need not file the written authority. An appearance by an officer or employee of a corporate applicant or by a relative mentioned in Rule 26 requires no written authorization.

25. PROPERTY IN COMMON OWNERSHIP

If the property is held in joint or common ownership or in co-ownership, the presence of the applicant or any one of the owners shall constitute a sufficient appearance.

26. 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.

27. APPEARANCE BY MEMBERS OF FAMILY

A spouse may appear for a spouse, and sons or daughters for parents or vice versa.

28. BURDEN OF PROOF

- A.** Unless otherwise provided by law, the assessor is presumed to have properly performed his or her duty and assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose on the applicant the burden of proving that the property in question has not been correctly assessed. The law requires that the applicant present

independent evidence relevant to the full value of the property or other issue asserted in the application.

- B.** In any hearing involving the assessment of an owner-occupied single-family dwelling, there is a rebuttable presumption affecting the burden of proof in favor of the taxpayer or the assessee who has supplied all information to the assessor as required by law. The effect of this presumption is to impose upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.
- C.** In the appeal of an escape assessment, the assessor has the burden of proof, except where a taxpayer has failed to file a change in ownership statement or business property statement, has failed to obtain a permit for new construction, or has not supplied the assessor with all other information required by law.
- D.** In the case of a change of ownership, it shall be rebuttably presumed that the purchase price is the full value of the property. The party challenging the presumption assumes the burden of proof.
- E.** The assessor bears the burden of proof where the issue is the imposition of a penalty assessment.

29. SUBPOENAS

At the request of a party in advance of the hearing or at the time of the hearing, the board shall issue subpoenas for the attendance of witnesses and the production of records or documents at the hearing. The board may issue a subpoena upon its own motion. If a subpoena is issued at the request of a party, he is responsible for serving it and for the payment of witness fees and mileage. An application for a subpoena for the production of books, records, maps and documents shall be supported by an affidavit, such as is prescribed by section 1985 of the Code of Civil Procedure. No subpoena to take a deposition shall be issued nor shall depositions be considered for any purpose by the board. The clerk of the board is authorized to issue subpoenas mentioned in this Rule.

30. WITHDRAWAL OR DISMISSAL OF APPLICATION

After the filing of an application for a reduction of an assessment, the authority for the withdrawal or dismissal of such an application rests solely with the board. Upon written request submitted to the clerk, the applicant may seek a withdrawal or dismissal of an application from the board. If the assessor objects to a withdrawal or

dismissal of an application, that objection and the basis thereof shall be submitted to the board in writing.

See Appendix A: Withdrawal or Dismissal of Application -- Form AAB 305W.

31. CONTINUANCE

The board may continue a hearing to a later date. If the hearing is continued, the chair or the clerk shall inform the parties of the time and place of such further hearing, and no further notice thereof need be given.

After the clerk has set a matter for hearing and notified the applicant and assessor of such hearing, any continuance thereof requested by the applicant or the assessor shall not be made by the board other than upon written request directed to the board which sets forth the basis for the request.

See Appendix A: Request for Continuance of Hearing -- Form AAB 305C.

32. DECISION

- A.** Acting upon the evidence properly before it, the board shall determine the taxable value of the property which is the subject of the hearing. The determination of the taxable value shall be supported by the weight of the evidence at the hearing.
- B.** When an applicant requests a reduction in the taxable value, the board shall base its determination upon an assessment review of the entire unit of property which is the subject of an original appraisal or which is the subject of a reappraisal and not upon fractional parts of such a unit.
- C.** A motion and order to deny an application for reduction in an assessment or any portion thereof, because of the nonappearance of the applicant or his/her agent or because of the applicant's failure to carry his/her burden of proof, shall be deemed to be a determination or finding that the taxable value of the property which is the subject of the application or part thereof is as determined by the assessor and further that the assessed value of said property shall remain as set forth on the assessment roll of the county.
- D.** The board shall be bound by the same principles of valuation that are legally applicable to the assessor.

- E. The board shall neither raise nor lower the entire local roll.
- F. When valuing a property by comparison with sales of other properties, the board shall consider only those sales which in its judgment are sufficiently near in time to the valuation date, yet occurring no more than ninety (90) days after the lien date, are located sufficiently near the property being valued and which are sufficiently similar in size, quality, age, condition, utility amenities, site location, legally permitted use, or other physical attributes to the property being valued, thereby permitting the board to deductively conclude an indication of taxable value of the property being valued from the evidence of the cash equivalent price received for each property which was sold. Pursuant to section 402.1 of the Revenue and Taxation Code, the board shall presume that zoning or other legal restrictions on the use of either the properties sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the board to overcome that presumption.
- G. When written findings of fact are made, they shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the taxable value of the property and shall be made timely after the decision. If the prevailing party is represented by an attorney, the board shall order said party to submit proposed findings of fact and allow the other party a reasonable time for the submission of counter-findings and objections.

33. NOTICE OF DECISION

A board may announce its decision to the parties at the conclusion of the hearing, or it may take the matter under submission. The clerk of the board shall send the certified board order to all parties within seven (7) days of the decision.

See Appendix A: Board Order -- Form AAB 305BO If the matter is taken under submission, the clerk shall notify the applicant in writing of the decision of the board by United States mail addressed to the applicant or to his/her agent at the address given in the application.

34. INTEREST REQUIRED FOR FILING OF APPLICATION

No application shall be accepted for filing nor heard by the board unless the applicant has either an ownership or direct economic interest in the property subject to the application or in the payment of taxes on such property. A lien holder on property does not have a sufficient present ownership interest or sufficient present economic interest in such property to file an assessment appeal without the written authorization to act on behalf of the person who actually owns, claims, possesses or controls the subject property on the lien date.

35. RECONSIDERATION AND REHEARING

The decision of the board upon an application is final. The board shall not rehear or reconsider an application, except as hereinafter provided. The board may reconsider an application denied solely because of the nonappearance of the applicant, if the applicant: (a) files a written request for reconsideration within thirty (30) days from the date of mailing of notification of denial due to nonappearance; and (b) furnishes evidence of good cause for the failure to appear or to make a timely request for postponement. The board shall not consider a request for reconsideration unless it is accompanied by a written waiver of the two (2) year period provided in Revenue and Taxation Code section 1604(c).

36. JUDICIAL REVIEW

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

In order to seek review of a board decision, in addition to the certified board order, it is necessary to (1) obtain a statement of decision from the board (as provided in Rule 10); and (2) to make a request in writing for a copy of the recorded transcript of proceedings within sixty (60) days of the date of decision (Rev. & Tax. section 1610). The clerk of the AAB is unable to prepare typed transcripts. Upon the deposit of reasonable costs of comparison, the clerk will certify typed transcripts made from the AAB tape recorded record.

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 Humboldt under the provisions of Revenue and Taxation Code section 5097. This section requires that a person seeking a tax refund

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

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 Humboldt County Superior Court.

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.