January 24, 2014

TO COUNTY ASSESSORS:

SAN BENITO COUNTY ASSESSMENT PRACTICES SURVEY

A copy of the San Benito County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Tom J. Slavich, San Benito County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the San Benito County Board of Supervisors and Grand Jury.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from March through April 2012. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Slavich and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ John K. Thompson for

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:decl
Enclosure
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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office. This report reflects the BOE's findings in its current survey of the San Benito County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the San Benito County Board of Supervisors and Grand Jury. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Tom J. Slavich, San Benito County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see Scope of Assessment Practices Surveys at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.
SCOPE OF ASSESSMENT PRACTICES SURVEYS

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, a survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code\(^1\) section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix C.

Our survey of the San Benito County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contact with officials in other public agencies in San Benito County that provided information relevant to the property tax assessment program. This survey also included an assessment sample of the 2011-12 assessment roll to determine the average level (ratio) of assessment for all properties and the disparity among assessments within the sample. The ideal assessment ratio is 100 percent, and the minimum acceptable ratio is 95 percent. Disparity among assessments is measured by the sum of absolute differences found in the sample; the ideal sum of absolute differences is 0 percent and the maximum acceptable number is 7.5 percent. If the assessment roll meets the minimum standards for ratio and disparity, the county is eligible to continue to recover the administrative cost of processing supplemental assessments. The sampling program is described in detail in Appendix B.

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

Government Code section 15643 requires the BOE to repeat or supplement each survey of a county's assessment practices at least once in five years. Our last full survey of San Benito County was conducted in 2007, and published in 2009. The current survey will serve to

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\(^1\) Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code and all rule references are to sections of California Code of Regulations, Title 18, Public Revenues.
supplement the work done during the last survey by: (1) revisiting the issues about which we then made recommendations for improvement, (2) evaluating anew certain major areas of the assessor's operation, and (3) determining, for purposes of Revenue and Taxation Code section 75.60, whether San Benito County continues to be eligible to recover the costs associated with administering supplemental assessments.
EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office.

Many of our recommendations concern portions of programs which are currently effective, but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

In the area of administration, we found that the assessor is properly handling the staffing, workload, and assessment appeals programs. However, we noted that the staff property and activities program is in need of improvement.

In the area of real property assessment, we found that the assessor has efficient and well administered programs for new construction and declines in value. However, while we found the assessor's change in ownership program also to be efficient, we noted a need for improvement in the implementation of the penalty process when a property owner fails to timely file a BOE-502-AH, *Change in Ownership Statement*. In addition, we also noted areas for improvement in the assessor's mineral property program.

In the area of personal property and fixtures assessment, we found a need for improvement in both the assessor's audit and business property statement programs, even though, for the most part, the assessor's audit, business property statement, and business equipment valuation programs were effective and properly managed.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

The San Benito County assessment roll meets the requirements for assessment quality established by section 75.60. Our sample of the 2011-12 assessment roll indicated an average assessment ratio of 99.93 percent, and the sum of the absolute differences from the required assessment level was 0.72 percent. Accordingly, the BOE certifies that San Benito County is eligible to receive reimbursement of costs associated with administering supplemental assessments.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

**RECOMMENDATION 1:** Develop written procedures that address reporting economic interests and the assessment of staff-owned property. .............................................................15

**RECOMMENDATION 2:** Improve the change in ownership program by correctly implementing the penalty process in accordance with section 482(a). .................................................................21
RECOMMENDATION 3: Determine and compare adjusted base year values with current market values of mining properties in accordance with Rule 469.................................................................31

RECOMMENDATION 4: Properly calculate and compare adjusted base year values and current market values of the petroleum properties for decline in value determinations. .................................................31

RECOMMENDATION 5: Remove incorrect language advising taxpayers of their appeal rights from the Notice of Proposed Escape Assessment. ..................................................................................34

RECOMMENDATION 6: Improve the BPS program by: (1) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS, and (2) periodically sending BPSs to taxpayers participating in the direct billing program. ....................36
PRIOR SURVEY RECOMMENDATIONS, RESPONSES, AND CURRENT STATUS

Following are the recommendations included in the BOE's March 2009 Assessment Practices Survey Report and the assessor's response to each recommendation. After each recommendation, we report the current status of the assessor's effort to implement the recommendation as noted during our survey fieldwork.

Assessment Roll Changes

RECOMMENDATION 1: Enroll all escape assessments.

Assessor's Response:

We concur and plan to implement a low value escape assessment ordinance pursuant to section 531.9.

Current Status:

This recommendation has been implemented. The San Benito County Board of Supervisors adopted a low value supplemental and escape assessments ordinance, Ordinance No. 877, on June 7, 2011.

Low-Value Property Tax Exemption

RECOMMENDATION 2: Enroll all supplemental assessments, regardless of change in value.

Assessor's Response:

We concur and plan to implement a low value supplemental assessment ordinance pursuant to section 75.55(b).

Current Status:

This recommendation has been implemented. The San Benito County Board of Supervisors adopted a low value supplemental and escape assessments ordinance, Ordinance No. 877, on June 7, 2011.
Declines in Value

RECOMMENDATION 3: Include the factored base year value on the decline-in-value notice, as required by section 619(c).

Assessor's Response:

We concur. Our old computer system was not capable of providing this information. However, the new property tax computer system will have the capability to include the FBYV on the decline-in-value notice, as required by section 619(c).

Current Status:

This recommendation has been implemented. The decline-in-value notice now includes the factored base year value as required by section 619(c).

California Land Conservation Act Properties

RECOMMENDATION 4: Improve the California Land Conservation Act assessment program by: (1) using current production, income, and expense data in the annual valuation; (2) documenting expense sources and identifying what is included in expenses; (3) using an appropriate income stream when valuing restricted orchards and vineyards; (4) valuing commercial use portions of restricted property using an economic commercial site rent; and (5) calculating nonrenewal values in accordance with section 428.

Assessor's Response:

1) We concur and plan to review the production, income and expense data in the annual valuation.

2) We concur and plan to document expense sources and identify what is included in expenses.

3) This recommendation has been a subject of debate between our office and the State Board of Equalization for many years. San Benito County horticultural practices differ from most other areas of the State in that trees or vines are individually replaced as needed and reflect a fairly level income stream until the entire orchard or vineyard becomes uneconomical and then removed for another use of the land. In addition, actual tree and vine acreage in the county has decreased from 14,400 acres in 1976 to 10,800 acres in 1986, to 9,100 acres in 1996 and 7,800 acres in 2006 substantiating our reasoning for using the straight line method to discount the income stream.

4) We concur and plan to value commercial use portions of restricted property using an economic commercial site rent.
5) *We concur and with our new computer property tax system we will be able to calculate nonrenewal values in accordance with section 428.*

**Current Status:**

1) This part of the recommendation has been partially implemented. The assessor is using information from property owner questionnaires and the county's crop report to establish current income from various crops; however, the assessor has not conducted any studies to establish current expenses.

2) This part of the recommendation has not been implemented. The assessor does not document the source of the expenses nor does he identify what is included in the expenses being used to value these properties.

3) This part of the recommendation has not been implemented. The assessor continues to use straight-line declining income premise to value orchards and vineyards in all stages of production.

4) This part of the recommendation has not been implemented. The assessor continues to value sites for compatible commercial uses by capitalizing rents for agricultural land.

5) This part of the recommendation has been implemented. The assessor now excludes the homesite value from the restricted value when calculating nonrenewal values.

**Taxable Government-Owned Properties**

**RECOMMENDATION 5:** Establish base year values for taxable government-owned properties according to BOE guidelines.

**Assessor's Response:**

*We concur and have already implemented this recommendation.*

**Current Status:**

This recommendation has been implemented. The assessor now establishes base year values for taxable government-owned properties according to BOE guidelines and Letter To Assessors No. 2000/37.
**Taxable Possessory Interests**

**RECOMMENDATION 6:** Revise the taxable possessory interest assessment program by: (1) enrolling supplemental assessments for changes in ownership of taxable possessory interests, and (2) reappraising taxable possessory interests only for renewal as provided in section 61(b)(2).

**Assessor's Response:**

1) *We concur. However, it is difficult and time consuming to determine when possessory interests actually undergo a change in ownership. To accomplish this task we need timely and accurate information from the public agencies involved. We plan to implement this recommendation as time and staffing levels allow.*

2) *We concur and plan to reappraise taxable possessory interests only for renewal as provided in section 61(b)(2).*

**Current Status:**

1) This part of the recommendation has not been implemented. The assessor does not issue supplemental assessments when valuing taxable possessory interests for changes in ownership.

2) This recommendation has been implemented. The assessor revalues taxable possessory interests without stated terms of possession or month-to-month tenancies only at the end of the reasonably anticipated term of possession used by the assessor to value the taxable possessory interest.

**Mineral Properties**

**RECOMMENDATION 7:** Determine and compare adjusted base year values with current market values with respect to mineral properties.

**Assessor's Response:**

*We concur and will pursue implementation in making such a determination and comparison as time, workload constraints and staffing levels allow.*

**Current Status:**

This recommendation has not been implemented. The assessor does not track the adjusted base year values of these properties.
RECOMMENDATION 8: Apply Rule 468 to properties by tracking adjusted base year values of petroleum properties.

Assessor's Response:

*We concur and will pursue implementing this tracking process with available staff as time permits.*

Current Status:

This recommendation has not been implemented. The assessor does not track the adjusted base year values of these properties.

Manufactured Homes

RECOMMENDATION 9: Assess manufactured homes at the lesser of fair market value or factored base year value.

Assessor's Response:

*We concur and will pursue implementation of this recommendation.*

Current Status:

The assessor has implemented this recommendation and now values manufactured homes annually at the lesser of fair market value or factored base year value. Valuation is based on an in-house study of comparable sales.
OVERVIEW OF SAN BENITO COUNTY

San Benito County is located in California's Central Coast region. The county encompasses an area of 1,391 square miles, which consists of 1,389 square miles of land area and 2.0 square miles of water area. San Benito County is bordered by Merced County to the east, Fresno County to the east and southeast, Monterey County to the west and southwest, and Santa Cruz and Santa Clara Counties to the north.

San Benito County was originally created from a portion of Monterey County in 1874. The county boundaries were later expanded to include parts of Merced and Fresno Counties. As of 2011, San Benito County had a population of 55,520. There are two incorporated cities in the county: Hollister and San Juan Bautista. The county seat is Hollister.
The following table displays information pertinent to the 2011-12 assessment roll:

<table>
<thead>
<tr>
<th>PROPERTY TYPE</th>
<th>ENROLLED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secured Roll</td>
<td></td>
</tr>
<tr>
<td>Land</td>
<td>$2,287,485,382</td>
</tr>
<tr>
<td>Improvements</td>
<td>$3,076,017,661</td>
</tr>
<tr>
<td>Personal Property</td>
<td>$98,001,163</td>
</tr>
<tr>
<td>Total Secured</td>
<td>$5,461,504,206</td>
</tr>
<tr>
<td>Unsecured Roll</td>
<td></td>
</tr>
<tr>
<td>Land</td>
<td>$11,892,691</td>
</tr>
<tr>
<td>Improvements</td>
<td>$67,778,702</td>
</tr>
<tr>
<td>Personal Property</td>
<td>$182,815,643</td>
</tr>
<tr>
<td>Total Unsecured</td>
<td>$262,487,036</td>
</tr>
<tr>
<td>Exemptions²</td>
<td>($87,918,729)</td>
</tr>
<tr>
<td>Total Assessment Roll</td>
<td>$5,636,072,513</td>
</tr>
</tbody>
</table>

The next table summarizes the change in assessed values over recent years:³

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>TOTAL ROLL VALUE</th>
<th>CHANGE</th>
<th>STATEWIDE CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>$5,636,073,000</td>
<td>-2.4%</td>
<td>0.1%</td>
</tr>
<tr>
<td>2010-11</td>
<td>$5,777,574,000</td>
<td>-5.1%</td>
<td>-1.9%</td>
</tr>
<tr>
<td>2009-10</td>
<td>$6,088,496,000</td>
<td>-8.4%</td>
<td>-2.4%</td>
</tr>
<tr>
<td>2008-09</td>
<td>$6,645,334,000</td>
<td>-1.0%</td>
<td>4.7%</td>
</tr>
<tr>
<td>2007-08</td>
<td>$6,712,518,000</td>
<td>6.2%</td>
<td>9.6%</td>
</tr>
</tbody>
</table>

² The value of the Homeowners' Exemption is excluded from the exemptions total.
³ State Board of Equalization Annual Report, Table 7.
ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, workload, staff property and activities, and assessment appeals.

Budget and Staffing

The following table shows the assessor's budget and staffing over recent years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>GROSS BUDGET</th>
<th>CHANGE</th>
<th>PERMANENT STAFF</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>$1,530,711</td>
<td>0.4%</td>
<td>15</td>
</tr>
<tr>
<td>2010-11</td>
<td>$1,524,290</td>
<td>11.7%</td>
<td>15</td>
</tr>
<tr>
<td>2009-10</td>
<td>$1,364,952</td>
<td>-4.1%</td>
<td>14</td>
</tr>
<tr>
<td>2008-09</td>
<td>$1,423,284</td>
<td>15.2%</td>
<td>15</td>
</tr>
<tr>
<td>2007-08</td>
<td>$1,235,141</td>
<td>0.8%</td>
<td>15</td>
</tr>
</tbody>
</table>

As of the date of our survey, the assessor had 15 full-time budgeted permanent positions. This included the assessor, assistant assessor, an assessment office manager, a supervising appraiser, 2 auditor-appraisers, 4 appraisers, 2 computer mapping specialists, and 3 assessment clerks.

Workload

Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. In order to accomplish this task, the assessor reviews recorded documents and building permits to discover assessable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

In addition, for most real property, the assessor is required to annually enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has impacted the taxable value of the property for that year. In certain economic times, this decline may greatly impact the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

As shown in prior tables, the total roll value has decreased four of the past five years, while the gross budget has increased four of the past five years. During this same time period, the assessor's workload has been changing. The number of reappraisable transfers due to changes in ownership has decreased each of the last three years. The number of new construction
assessments has decreased three of the last four years, most recently reflecting a decrease. The number of decline-in-value assessments has been fluctuating; showing a decrease one year and then an increase the next year. The number of assessment appeals filed reflected a decrease each of the last two years.

These trends are shown in the following table:

<table>
<thead>
<tr>
<th>WORKLOAD DESCRIPTION</th>
<th>2011-12</th>
<th>2010-11</th>
<th>2009-10</th>
<th>2008-09</th>
<th>2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reappraisable Transfers</td>
<td>827</td>
<td>972</td>
<td>1,338</td>
<td>1,367</td>
<td>683</td>
</tr>
<tr>
<td>New Construction Assessments</td>
<td>157</td>
<td>199</td>
<td>192</td>
<td>254</td>
<td>304</td>
</tr>
<tr>
<td>Decline-In-Value Assessments</td>
<td>6,658</td>
<td>6,321</td>
<td>6,410</td>
<td>2,685</td>
<td>2,910</td>
</tr>
<tr>
<td>Assessment Appeals Filed</td>
<td>17</td>
<td>52</td>
<td>206</td>
<td>60</td>
<td>38</td>
</tr>
</tbody>
</table>

**Staff Property and Activities**

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

The assessor becomes aware of employee-owned property through name recognition when a recorded deed is received in the office, through self-declaration by the employee acquiring the property, and from the annual filing of the California Fair Political Practices Commission Form 700, Statement of Economic Interests (Form 700), which requests information regarding employee ownership in any real property, other than their primary residence, as well as ownership interest in any business entity.

In San Benito County, all certified appraisers in the assessor's office are required to submit Form 700 annually. The forms are submitted to and maintained by the elections clerk. The assessor certifies annually to the BOE that he and his staff have complied with the requirements of section 672 by disclosing their financial interests.

We reviewed the assessor's practice for the assessment of staff-owned property. The assessor does not have any written policies or procedures for processing staff-owned property. However, the assessor's informal policy is that staff does not appraise their own property or property owned by family or friends. Typically, staff-owned property in need of valuation is assigned to the appraiser of the geographic area. If the appraiser of the area is also the owner of the property to be appraised, then the property is assigned to another appraiser. Once the staff-owned property is appraised, the appraisal is reviewed by the assistant assessor or the assessor. The assistant assessor reviews all escape assessments and roll corrections for staff-owned property prior to enrollment.

The assessor utilizes San Benito County's Personnel Policies & Procedures Handbook for addressing conflicts of interest. Personnel Ordinance No. 546, Rule 15 – Outside Employment provides specific written guidelines regarding outside employment, activities, or enterprises
which are inconsistent, incompatible, or in conflict with an employee's duties with the county or with state law. Employees engaged in or considering outside employment must submit an Outside Employment Request form to the assessor for approval.

We reviewed several staff-owned property records and assessments. We found that the assessor is properly handling assessments of staff-owned property and we found no evidence that any staff was directly involved in the assessment of their own property. However, we did note an area where improvement is needed.

**RECOMMENDATION 1:** Develop written procedures that address reporting economic interests and the assessment of staff-owned property.

The assessor does not have any written procedures in place addressing the reporting of economic interests by staff, and simply relies on the elections clerk to notify staff of the requirements to file Form 700 each year. In addition, the assessor has only informal policies and no written procedures in place addressing the assessment of staff-owned property. While we found no problems with the assessor's handling of staff-owned properties, the assessor should have written procedures in place to fully address the assessment of real and personal property in which staff in the assessor's office holds an interest.

Conversion of the informal policies to written procedures to formalize existing policies is good business practice. Written procedures are preferred because they are more easily tracked and can be referenced when questions arise; their existence commonly results in a greater degree of compliance. Letter To Assessors No. 2008/058 was issued as a guide to assist assessors in establishing procedures relative to the assessment of staff-owned property. Additionally, the issues of reporting economic interests and preventing conflicts of interest in assessors' offices have been statutorily addressed. Section 672 provides that certified employees must reveal their financial interests held in corporations and section 1365 prohibits the assessor and his/her employees from engaging in remunerative employment that would involve a conflict of interest with their official activities.

The procedures for the assessment of staff-owned property need not be lengthy or complicated, but should be formalized in a written format and provided to all staff. The procedures adopted by the assessor should:

- Clearly define the assessor's policies and procedures,
- Establish staff's responsibilities,
- Create a file or listing of all staff-owned property in the county,
- Contain well-defined review procedures, and
- Accurately track and document all events with potential assessment implications.

Development of written procedures for the assessment of staff-owned property that include these bulleted practices and expand upon the assessor's existing informal procedures is recommended.

In addition, development of written procedures related to economic interests is also recommended. These procedures should address contract appraisers, as well as the assessor's
annual letter to the BOE reporting that all certified appraisers have met the requirements of section 672.

Further development of and adherence to the procedures in these areas would help ensure that staff is aware of and follows office policy.

**Assessment Appeals**

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application for reduction by the same taxpayer.

In San Benito County, the five-member board of supervisors sits as the local board of equalization. The county does not have hearing officers. The filing period for assessment appeals in San Benito County is July 2 through November 30. Assessment appeals hearings are typically conducted twice a year.

The clerk is responsible for providing applications for changed assessment to the public. The application can be obtained at the clerk's office or on the county's website. San Benito County does not currently accept electronically submitted applications for changed assessments.

Once an application is received, the clerk date stamps the application, reviews it for completeness, determines if it is valid and timely filed, assigns it an appeals number, and scans it into the computer system. The clerk sends an electronic copy of the application to the assessor. The clerk enters any necessary information from the application into a spreadsheet for tracking purposes. Appeals hearings are scheduled by the clerk and the applicant is sent a notice of the hearing no less than 45 days prior to the date of the hearing in accordance with section 1605.6.

The clerk and the assistant assessor both track the progress of the assessment appeals and work closely together in an effort to resolve all appeals within the two-year time period. No appeal filed in the last five years has gone unresolved for more than two years without a timely filed extension being received.
The following table summarizes the assessment appeals workload over recent years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>2011-12</th>
<th>2010-11</th>
<th>2009-10</th>
<th>2008-09</th>
<th>2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeals Filed</td>
<td>17</td>
<td>52</td>
<td>206</td>
<td>60</td>
<td>38</td>
</tr>
<tr>
<td>Appeals Carried Over From Prior Year</td>
<td>77</td>
<td>170</td>
<td>32&lt;sup&gt;4&lt;/sup&gt;</td>
<td>51&lt;sup&gt;5&lt;/sup&gt;</td>
<td>76</td>
</tr>
<tr>
<td>Total Appeals Workload</td>
<td>94</td>
<td>222</td>
<td>238</td>
<td>111</td>
<td>114</td>
</tr>
</tbody>
</table>

Resolution:

<table>
<thead>
<tr>
<th>Resolution</th>
<th>2011-12</th>
<th>2010-11</th>
<th>2009-10</th>
<th>2008-09</th>
<th>2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawn</td>
<td>56</td>
<td>112</td>
<td>68</td>
<td>14</td>
<td>5</td>
</tr>
<tr>
<td>Stipulation</td>
<td>2</td>
<td>26</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Appeals Reduced</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Appeals Upheld</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>60</td>
</tr>
<tr>
<td>Appeals Increased</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Other Determination*</td>
<td>13</td>
<td>5</td>
<td>0</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Total Resolved</td>
<td>72</td>
<td>145</td>
<td>68</td>
<td>19</td>
<td>68</td>
</tr>
<tr>
<td>To Be Carried Over**</td>
<td>22</td>
<td>77</td>
<td>170</td>
<td>92</td>
<td>46</td>
</tr>
</tbody>
</table>

*Note: Includes, but not limited to late-filed appeals, applicants' failure to appear and board denied applications.

**Note: "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

The assistant assessor oversees and tracks the assessment appeals process in the assessor's office. Appeals are assigned to the appraiser responsible for valuing property within the geographical location of the property under appeal. The appraiser is responsible for preparing and presenting each assigned appeal.

When working an assessment appeal, the assigned appraiser attempts to contact the applicant to discuss the current assessed value and to determine the basis of the applicant's request for a reduction in an effort to resolve the appeal prior to the hearing. Any information provided by the applicant is reviewed and taken into consideration during the review process. If the appraiser and the applicant agree that the current assessed value is correct and no value change is necessary, the applicant submits a withdrawal request with the clerk. The assessor is forwarded a copy of all withdrawals filed with the clerk. If the appraiser and the applicant agree to a value different from the current assessed value, the appraiser prepares a stipulation outlining the details of the requested change to the current assessed value. The stipulation is reviewed by the assessor before being mailed to the applicant. The applicant signs and returns the stipulation, so it can be added to the appeals hearing agenda and presented to the local board of equalization for approval. If no

<sup>4</sup> The assessor incorrectly reported the number of "Appeals Carried Over From Prior Year" for 2009-10. The assessor reported 32; however, the number should be 92, as indicated by the number "To Be Carried Over" from 2008-09, based on the numbers previously reported by the assessor.

<sup>5</sup> The assessor incorrectly reported the number of "Appeals Carried Over From Prior Year" for 2008-09. The assessor reported 51; however, the number should be 46, as indicated by the number "To Be Carried Over" from 2007-08, based on the numbers previously reported by the assessor.
agreement can be reached, the assessment appeals process continues and the appeal is scheduled for hearing.

The assessor is typically present at each assessment appeals hearing. During our survey, we were able to attend an assessment appeals hearing. The hearing was well organized. The assessor and his staff in attendance were well prepared and presented the assessment appeals cases sufficiently. We found the assessor's assessment appeals program to be well administered and we have no recommendations for this program.
ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as mineral property.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed 2 percent.

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of change in ownership for property tax purposes. Section 50 requires the assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of change in ownership.

Discovery

The assessor's primary means of discovering properties that have changed ownership is through the analysis of deeds and other documents recorded at the recorder's office. The assessor also discovers potential changes in ownership through change of address requests, field checks by appraisers, and correspondence from transferors, transferees, attorneys, or family members.
Document Processing

The following table shows the total number of recorded documents received and the total number of reappraisable transfers processed in recent years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>RECORDED DOCUMENTS RECEIVED</th>
<th>REAPPRAISABLE TRANSFERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>2,318</td>
<td>827</td>
</tr>
<tr>
<td>2010-11</td>
<td>2,299</td>
<td>972</td>
</tr>
<tr>
<td>2009-10</td>
<td>2,538</td>
<td>1,338</td>
</tr>
<tr>
<td>2008-09</td>
<td>2,540</td>
<td>1,367</td>
</tr>
<tr>
<td>2007-08</td>
<td>2,238</td>
<td>683</td>
</tr>
</tbody>
</table>

The recorder's office requires BOE-502-A, Preliminary Change of Ownership Report (PCOR), to accompany documents submitted for recording that transfer ownership of real property. If a document is received without a PCOR, the recorder adds a $20 charge to the recording fee. PCORs are available at both the assessor's and recorder's offices, as well as on the assessor's website.

All recorded documents are sent electronically from the recorder's office to the assessor's office through a shared computer program. Each day, an assessment clerk goes to the recorder's office to pick up a list of all documents that recorded from the prior day, a list of the pre-selected documents from the prior day's recordings pertaining to functions of the assessor's office, and all of the original PCORs submitted for the prior day's recordings. The assessment clerk then reviews both lists and prints all documents relating to the functions of the assessor's office and matches the documents to the corresponding PCOR. The printed documents and attached PCORs are routed to another assessment clerk for processing.

The assessment clerk verifies the legal description for each transfer document and identifies the property being transferred. Documents with the more complex legal descriptions are forwarded to a computer mapping specialist for further confirmation. The assessment clerk determines the percentage of interest being transferred, how much of that interest is reappraisable, and whether an exclusion from a change in ownership may apply. The assessment clerk enters any necessary information into the computer system and updates the property record. If the transfer is determined to be a reappraisable event, the property record, transfer document, and corresponding PCOR are forwarded to the appropriate appraiser for valuation.

We examined several recorded documents and found that the assessor has an effective program for the determination of reappraisable events. For changes in ownership resulting from the death of a property owner, the assessor properly uses the date of death as the event date.

Leases

The assessor typically discovers lease transactions by reviewing recorded documents. An assessment clerk initially reviews all long and short term lease transactions, and determines
whether the lease transaction results in a reappraisable event. Lease documents resulting in reappraisable events are processed and forwarded to the appropriate appraiser for valuation. The assessor attempts to obtain copies of all long term leases; however, if the assessor is unsuccessful at obtaining the lease, an appraiser will typically contact the property owner to obtain terms and conditions of the lease.

We reviewed several files involving leases and found all were properly processed.

Penalties

When a transfer document is received without a PCOR or the PCOR is incomplete, an assessment clerk sends a BOE-502-AH, Change in Ownership Statement (COS), to the property owner and places the transfer document in a holding bin. Once a month, an assessment clerk goes through the bin and sends an additional COS if the property owner has not responded. The COS is not tracked nor does the COS indicate a due date for the property owner to respond. After the assessment clerk sends a total of three COSs to the property owner and the property owner has not responded, the assessment clerk forwards the property record and transfer document to the appropriate appraiser for valuation. The assessor does not apply penalties if the property owner does not return the COS or if the COS is not returned timely. San Benito County has not adopted an ordinance pursuant to section 483(b), which allows the assessor to automatically abate penalties.

RECOMMENDATION 2: Improve the change in ownership program by correctly implementing the penalty process in accordance with section 482(a).

It is the assessor's current practice not to apply penalties when a property owner fails to return a COS or fails to return the COS timely. In addition, the assessor does not have a tracking system in place to monitor whether the COS is filed timely.

Section 482(a) provides that if a person or legal entity required to file a statement described in section 480 fails to do so within 90 days (45 days prior to 1/1/2012) from the date of a written request by the assessor, a specific penalty is applied. When the property owner fails to return the COS timely, the assessor should notify the property owner of the penalty being applied and inform them of the abatement process as described in section 483(a).

The information contained in a properly completed COS is important because it assists the assessor in making an accurate assessment of a property. The assessor's current practice of not applying penalties to property owners who fail to file a COS or fail to file a COS by the deadline is contrary to statute and results in an unequal treatment of taxpayers. The assessor should put a tracking system in place to monitor the date a COS is sent and the date the COS is returned in order to determine if the COS is filed timely.

6 Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends section 482(a) to allow property owners 90 days to return a completed COS when requested by the assessor before penalties are applicable. At the time of our survey, section 482(a) allowed property owners only 45 days to return the completed COS before penalties were applicable.
Transfer Lists

Pursuant to section 408.1(a), the assessor shall maintain a list of transfers of any interest in property, other than an undivided interest, within the county, which have occurred within the preceding two-year period. Section 408.1(e) states the provisions of section 408.1(a) shall not apply to any county with a population under 50,000 people, as determined by the 1970 federal decennial census. Based on the population of 18,226 in San Benito County in 1970, the assessor is not required to maintain a transfer list and has elected not to maintain one.

Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under section 64(d). A change in ownership statement must be filed with the BOE within 90 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, Statement of Change in Control and Ownership of Legal Entities. Section 482(b) provides for application of a penalty if a person or legal entity required to file a statement under sections 480.1 and 480.2 does not do so within 90 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE.7 The BOE advises county assessors of entities that are subject to penalty, so they can impose the applicable penalty to the entity's real property.

In San Benito County, the assessor discovers changes in control or ownership of legal entities by reviewing monthly LEOP reports from the BOE, newspaper articles, field inspections, and staff's personal knowledge.

When the assessor receives the monthly LEOP reports, the assistant assessor and an appraiser review the report for the effective date and any changes that have occurred. All parcels located

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7 Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends the filing requirement in section 482(b) from 45 days to 90 days for a person or legal entity to report a change in control or change in ownership, or to comply with a written request from the BOE, whichever occurs earlier.
within the county are identified and reviewed. A name search is also performed to ensure that all of the entity's real property is reassessed. Once a change in control or ownership of a legal entity has been confirmed by the assistant assessor and processed for a reappraisable event, the assistant assessor assigns the parcels involved to an appraiser for valuation.

Our review of several records shows that the assessor does a thorough job in reviewing LEOP reports and reassessing all property interests identified on the BOE-100-Bs. The assessor also reviews any additional properties owned by the entity that were not reported on the BOE-100-B. The assessor has not had any late-filings of BOE-100-Bs in recent years and, therefore, has not applied any penalties for late-filings. We found the assessor's LEOP program to be well administered.

Change in Ownership Exclusions – Section 63.1

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first $1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the $1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. However, if an assessor opts not to report quarterly to the BOE, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have exceeded their $1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.
Applications regarding exclusions are available to the public at the assessor's office. The following table represents the number of section 63.1 claims filed and granted in recent years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>SECTION 63.1 CLAIMS FILED</th>
<th>SECTION 63.1 CLAIMS GRANTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>2010-11</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>2009-10</td>
<td>35</td>
<td>51</td>
</tr>
<tr>
<td>2008-09</td>
<td>97</td>
<td>96</td>
</tr>
<tr>
<td>2007-08</td>
<td>100</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The assessor is proactive regarding public awareness of potential change in ownership exclusions. If a PCOR indicates that a transfer may be between a parent(s) and child(ren) or from grandparent(s) to grandchild(ren) and a claim form was not submitted, an assessment clerk sends a claim form to the property owner advising of a possible exclusion from reassessment. The transfer documents are then placed in a holding bin for tracking purposes while waiting for a response from the property owner. Once a month, an assessment clerk reviews the transfer documents in the holding bin. If there has been no response, an additional claim form is sent to the property owner. A total of three claim forms are sent before the transfer document and property record are forwarded to an appraiser for valuation.

When a section 63.1 claim form is received, an assessment clerk reviews the claim form and determines if the exclusion will be accepted or denied. The assessor does not formally notify the claimant when a claim is accepted or denied. The claimant is only notified by receipt of the notice of supplemental assessment when the property has been reassessed, indicating that the claim was denied.

The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. When the assessor receives a Report of Transferors Exceeding $1,000,000 from the BOE, an assessment clerk or the assessment office manager reviews the report to determine if property in San Benito County has exceeded the limit. If multiple properties are involved in the transfer, the assessor contacts the property owner or representative to determine which properties to exclude and which to reassess. If the transfer exceeding the limit involves properties in other counties, contact is also made with the other counties to coordinate which properties in each county are to be excluded or reassessed.

Pursuant to section 63.1(i), to protect property owner confidentiality, claim forms are scanned and kept on a secured computer server. Paper copies are kept in a secure location before eventually being destroyed.

We reviewed several section 63.1 claim forms and found them to be properly handled.

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8 For year 2009-10, it is noted that the assessor reported a higher number of section 63.1 claims being granted (51) than were actually filed (35) for that same year. According to the assessor, this is due to the fact that claims may be filed in one year, but not granted until the following year.
Change in Ownership Exclusions – Section 69.5

Section 69.5 generally allows persons 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

San Benito County does not have an ordinance in place to accept base year value transfers from other counties. Applications for exclusions are available to the public at the assessor's office and on the assessor's website.

The following table represents the number of section 69.5 claims filed and granted in recent years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>SECTION 69.5 CLAIMS FILED</th>
<th>SECTION 69.5 CLAIMS GRANTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>2010-11</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>2009-10</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>2008-09</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2007-08</td>
<td>2</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Submitted section 69.5 claim forms are forwarded to an appraiser to determine the fair market value for both the replacement and original properties, and to determine whether the property values meet the exclusion requirements before accepting or denying the claim. The appraiser or the assessor determines whether a claim is accepted or denied.

The assessor submits required quarterly reports to the BOE listing approved section 69.5 exclusions. The assessor reviews the Duplicate SSN Report from the BOE to determine if any claims are duplicated within the county, have been made previously in another county, or qualify for a second section 69.5 exclusion due to a severe and permanent disability.

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9 For year 2008-09, it is noted that the assessor reported a higher number of section 69.5 claims being granted (2) than were actually filed (1) for that same year. According to the assessor, this is due to the fact that claims may be filed in one year, but not granted until the following year.
Pursuant to section 69.5(n), to protect property owner confidentiality, claim forms are scanned and kept on a secured computer server. Paper copies are kept in a secure location before eventually being destroyed.

We reviewed several section 69.5 claim forms and found them to be properly handled.

Valuation

Once a transfer has been determined to be a reappraisable event, the information is sent to an appraiser for valuation. Every reappraisable transfer is reviewed to determine if the reported sale price reflects market value; the sale price is not automatically enrolled.

Appraisers maintain in-house residential and commercial sales data to assist with the valuation process. Residential properties experiencing a change in ownership are typically valued using the comparative sales approach, while commercial properties are typically valued using the income approach or the comparative sales approach. For partial interest transfers, the reappraisable portion is valued at market value and added to the factored base year value of the non-reappraisable portion. The partial interest is given a separate base year value and the correct inflation factor is applied. Value conclusions are typically documented on the appraisal record, and any supporting data is included in the property record.

We reviewed several property records and found that the assessor properly recognizes and values changes in ownership, and correctly processes supplemental assessments. We found that the assessor is following proper procedures for valuation and has an efficient valuation program in place for reappraising properties having undergone a change in ownership.

Improvement Bonds

Improvement bonds are instruments used to finance construction of public improvements, including sewers, sidewalks, lighting, and water lines. Such public improvements generally enhance the land value of privately owned real property. Land directly benefiting from such improvements is pledged as security for payment of the construction loan. The improvement bond is a lien that runs with the land and binds the owner and all successors in interest in accordance with the 1911 or 1915 Bond Acts.

Section 110(b) provides a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration paid for a property exclusive of the lien amount. An assessor can overcome this presumption by a preponderance of evidence that all or a portion of the value of those improvements is not reflected in that consideration.

San Benito County has approximately 309 parcels encumbered by improvement bonds, with an outstanding balance of approximately $3,047,000. The assessor presumes that the value of the improvements financed by the bonds is reflected in the purchase price paid for the property exclusive of the bond amount and, therefore, does not add the bond indebtedness to the purchase price. This is consistent with the requirements of section 110(b). We found no problems with the assessor's treatment of parcels encumbered by improvement bonds.
**New Construction**

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.


There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

**Discovery**

The assessor's primary means of discovering new construction is through reviewing building permits. The assessor receives building permits from four permit-issuing agencies: San Benito County Planning & Building Inspection Services, San Benito County Health and Human Services Agency, City of Hollister Building Department, and City of San Juan Bautista Building Department. Other discovery methods include field canvassing by appraisers in their assigned areas, newspaper articles, business property statements, and information received from taxpayers.

**Permit Processing**

The assessor receives all building permits in hard-copy format from each of the permit-issuing agencies on a monthly basis. The assessor culks those permits that do not represent assessable new construction, such as re-roofing, replacement, or repairs and maintenance. The assessor also receives notices of completion and building plans in hard-copy format.
The following table shows the number of building permits received and the number of new construction assessments processed in recent years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>BUILDING PERMITS RECEIVED</th>
<th>NEW CONSTRUCTION ASSESSMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>236</td>
<td>157</td>
</tr>
<tr>
<td>2010-11</td>
<td>275</td>
<td>199</td>
</tr>
<tr>
<td>2009-10</td>
<td>288</td>
<td>192</td>
</tr>
<tr>
<td>2008-09</td>
<td>381</td>
<td>254</td>
</tr>
<tr>
<td>2007-08</td>
<td>456</td>
<td>304</td>
</tr>
</tbody>
</table>

Once the permits and final notices are received, the information is entered into the assessor's computer system. Although not required by ordinance, the assessor's parcel number (APN) is listed on each building permit.

Any unpermitted new construction is enrolled as of the date of completion whenever possible. The appraiser will attempt to determine the date of completion by contacting the taxpayer or by obtaining information if a permit is issued after the construction is completed. If the appraiser is unable to determine the date of completion, the unpermitted new construction is enrolled as of the date of discovery. The assessor enrolls supplemental assessments, as allowed by law, for unpermitted new construction when discovered.

**Construction in Progress (CIP)**

On each lien date, section 71 requires the assessor to enroll CIP at its fair market value. The assessor values new construction by estimating the full value of new construction as of the date of completion. For CIP, the appraiser must determine the completion status of new construction on each lien date and estimate the fair market value. On subsequent lien dates, if the new construction is still incomplete, the assessor must again enroll the CIP at its fair market value. This process continues until the new construction is complete, at which time the new construction is assessed at its fair market value and a base year value is assigned. We reviewed several property records and found that the assessor is correctly valuing CIP.

**Valuation**

Appraisers typically value residential new construction using the comparative sales and/or cost approaches to value. The income approach, as well as the comparative sales and/or cost approaches, are used in determining the value of new construction for commercial and industrial properties. The assessor uses a variety of sources to develop a cost indicator of value for new construction, which includes Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), the owner's reported costs, and the assessor's in-house cost study. Appraisers may also utilize cost questionnaires for some properties to obtain historical costs from property owners in order to assist with the valuation process.
Summary

We reviewed several property records involving new construction and found the assessor's program for the assessment of new construction to be thorough and the values reasonable. We have no recommendations for this program.

**Declines in Value**

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.

The following table shows the number of decline-in-value assessments in San Benito County for recent years:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>DECLINE-IN-VALUE ASSESSMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011-12</td>
<td>6,658</td>
</tr>
<tr>
<td>2010-11</td>
<td>6,321</td>
</tr>
<tr>
<td>2009-10</td>
<td>6,410</td>
</tr>
<tr>
<td>2008-09</td>
<td>2,685</td>
</tr>
<tr>
<td>2007-08</td>
<td>2,910</td>
</tr>
</tbody>
</table>

San Benito County has experienced a notable decline in property values in recent years. Consequently, there has been a significant increase in the total number of properties eligible for decline-in-value assessment. As can be seen in the table, the number of decline-in-value assessments has increased significantly over the last few years. These numbers represent a major increase in workload for the assessor and his staff.

Discovery and valuation of properties with declines in value are of high priority for the assessor. The assessor has been proactive in discovering and adjusting the assessments of properties affected by declines in value. The assessor's primary method of discovering declines in value is through taxpayer requests for review. Other methods of discovery include assessment appeals and appraisers' familiarity with their assigned areas. The assessor also uses the local Multiple Listing Service (MLS) to help identify trends in different areas within the county that might indicate potential declines in value.

A taxpayer can initiate an informal request for review by filing an *Application for "Decline-in-Value" Review* with the assessor. Request for review forms can be obtained at the assessor's office and on the assessor's website. Information regarding the assessment appeals process is included in the application. All requests for review must be filed by November 30.

In San Benito County, residential properties make up the majority of properties with declining values. There are only a few small subdivisions or homogeneous tracts in the county. Most of the
parcels are rural home sites. Appraisers are assigned specific geographical areas within the county and each appraiser keeps comparable sales information for their assigned areas. To determine current market values for comparison purposes, the appraisers rely primarily on the comparative sales and income approaches for commercial and industrial properties, and the comparative sales and cost approaches for residential and rural properties.

The assessor does not have an automated system in place to value properties experiencing a decline in value. All properties with a 2000 base year and forward are reviewed for a potential decline in value. When a potential decline in value is discovered, the appraiser of the area will manually review the property in question and lower the assessed value if warranted. If other properties in the surrounding area have similar features and dates of sale, the appraiser will also review these properties to determine if they have also declined in value and warrant a reduction. Such adjustments are made without requiring the taxpayer to submit a request for review.

Once a property is placed in a decline-in-value status, it is coded with an "800" number in the assessor's computer system for tracking purposes and a Notification of 20XX-20XX Assessed Value Change is sent to the property owner. The value notice shows the FBYV, the proposed decline-in-value assessment, and informs the property owner of their rights to appeal the assessment. Value notices are sent to the property owner when the assessed value has changed due to a decline in value, the decline-in-value assessment remains unchanged on the current roll, or the decline-in-value assessment has been partially or fully restored back to its FBYV. All decline-in-value assessments are identified and tracked in order to prevent the annual inflation factor from being automatically applied and to ensure that the property is annually reviewed.

We reviewed several residential and commercial property records and found the assessor's declines in value program to be efficient in identifying and assessing properties with declining values. We have no recommendations for this program.

**Mineral Property**

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.

There are no assessable high temperature geothermal properties in San Benito County.

**Mining Property**

San Benito County has several quarry operations. Currently, it is the responsibility of a real property appraiser to assess the mining properties in the county.
RECOMMENDATION 3: Determine and compare adjusted base year values with current market values of mining properties in accordance with Rule 469.

We found that the assessor does not track adjusted base year values for mining properties as required by Rule 469(e)(2)(C). In addition, there is no indication in the assessor's records that the adjusted base year value is tracked for change in reserves either for depletion or other changes that may occur.

Rule 469(e)(2)(C) provides that declines in value are to be recognized when the current market value of the appraisal unit is less than the adjusted base year value of the same appraisal unit. Additionally, Rule 469 requires that the adjusted base year value of the appraisal unit reflect depletion of the mineral reserve, as well as other changes due to additional geologic and engineering information. Failure to compare current market values to adjusted base year values could result in incorrect assessments for mining properties.

Petroleum Property

San Benito County has several petroleum properties. The total assessed value of these properties is approximately $1 million.

RECOMMENDATION 4: Properly calculate and compare adjusted base year values and current market values of the petroleum properties for decline in value determinations.

We found that the assessor does not track adjusted base year values for petroleum properties. We found no documentation in the appraisal records indicating that the assessor had tracked and compared the adjusted base year value of the appraisal unit to its current market value in order to properly enroll the lower of the two values for decline in value purposes.

In addition, we found that the appraiser assigned to value the petroleum properties uses methods developed and recommended in the 1966 version of Assessors' Handbook Section 566, Assessment of Petroleum Properties (AH 566), to appraise these properties. While these methods are still valid and yield comparable values to other methods, they were primarily of use to appraisers before the advent of personal computers and spreadsheet programs. The method the assessor uses does not provide an estimate of reserves. The assessor's method combines all of the input required to develop a mineral property value, such as the decline rate, production rate, economic limit, and discount rate. Parameters for a valuation estimate are then read from a table.

Rule 468(c)(6) provides that value declines shall be recognized when the market value of the appraisal unit (land, improvements, and reserves) is less than the current taxable value of the same unit. To make the necessary adjustments to the base year value, additional calculations are needed to estimate reserves for each year. Using the decline rate, initial production, and economic limit, reserves can be estimated using the appropriate production model. Reserves can change from one year to the next due to production, changes in property economics, and improved geologic and engineering information. This change requires annual reviews of base year values to make the adjustments in accordance with Rules 468(c)(2) and 468(c)(3).
By not properly calculating and comparing the adjusted base year value to the current market value of the petroleum property, the assessor may be enrolling incorrect assessments.
ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

In this section of the survey report, we review the assessor's audit, business property statement, and business equipment valuation programs. The assessor has two auditor-appraisers for assessing personal property and fixtures.

Audit Program

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit at least once every four years the books and records of any taxpayer engaged in a profession, trade, or business if the taxpayer had assessable trade fixtures and business tangible personal property valued at $400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below $400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of property taxpayers with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of $400,000 or more at least once every four years. Instead, the county assessor is required to annually audit a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually, assessors now have some flexibility in determining which accounts will comprise this mandated workload.

As previously noted, effective January 1, 2009, section 469 specifies a minimum audit workload equal to 75 percent of a statutorily defined base level. Rule 192 prescribes the computation establishing minimum required audit production and provides the basis for the audit selection.
process. According to Letter To Assessors No. 2009/049, the amended statute requires the assessor to complete 15 audits per year. The assessor has completed 23 audits for the 2009-10 roll year and completed 27 audits for the 2010-11 roll year. Given recent and current audit production levels, the assessor has exceeded the minimum number of audits required as defined by section 469.

Statute of Limitations

Section 532 provides that when the assessor discovers through an audit that property has escaped assessment, an assessment of such property must be enrolled within four years after July 1 of the assessment year during which the property escaped assessment. If the assessor cannot complete an audit within the prescribed time period, the assessor may request, pursuant to section 532.1, a waiver of the statute of limitations from the taxpayer to extend the time for making an assessment.

The assessor requests signed waivers of the statute of limitations from taxpayers when he anticipates an audit will not be completed in a timely manner. Waivers presented to taxpayers were found to be adequately prepared and properly executed.

Audit Quality

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

We sampled several completed audits and found they were thoroughly conducted, well documented, supported by a comprehensive audit narrative and checklist defining the areas of investigation. We found that the assessor verifies leased equipment, accounts for supplies, conducts field inspections, and properly classifies equipment. We also reviewed the assessor's application of roll corrections to reflect audit findings and found that when correcting for multiple-year audit findings, the assessor is enrolling roll corrections for each year in which the escape assessment took place, which is consistent with section 531.

The assessor's audit program is effectively managed. However, we found an area in need of improvement.

RECOMMENDATION 5: Remove incorrect language advising taxpayers of their appeal rights from the Notice of Proposed Escape Assessment.

When the assessor initiates an escape assessment, a Notice of Proposed Escape Assessment is sent to notify taxpayers of the change to the assessed value on their property. The notice correctly includes the information as required by section 531.8:
"NOTICE OF PROPOSED ESCAPE ASSESSMENT" heading prominently displayed,
- The amount of the proposed escape assessment for each tax year involved, and
- The telephone number of the assessor's office to allow the taxpayer to contact the office regarding the proposed escape assessment.

However, the assessor includes incorrect information regarding appeal rights on the Notice of Proposed Escape Assessment.

In Letters to Assessors No. 2008/021, dated March 10, 2008, the BOE advised county assessors and the county clerks of the board that an assessment made outside of the regular filing period is not effective for any purpose until proper notice is given to the taxpayer in accordance with sections 534 and 1605. The Notice of Proposed Escape Assessment is not a valid notice within the meaning of section 534 and 1605. Therefore, an Application for Changed Assessment filed solely upon receipt of a Notice of Proposed Escape Assessment and filed prior to receipt of a Notice of Enrollment of Escape Assessment or a tax bill reflecting the escape assessment is invalid.

The assessor's current Notice of Proposed Escape Assessment provides taxpayers with misleading information regarding their rights to appeal an escape assessment because an appeal based on this notice would be invalid.

**Business Property Statement Program**

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of $100,000 or more annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

**Discovery**

The assessor utilizes a wide range of tools for discovering taxable business property. In addition to taxpayer self-reporting and periodic field canvassing, the assessor reviews city and county business licenses, fictitious business name filings, real property appraiser referrals, and landlord reports of tenants. We found that the assessor employs effective methods for discovering business personal property.

**General Statement Processing**

BPSs are date stamped and reviewed for completeness, timeliness, and the inclusion of an authorized signature. BPSs are also reviewed for any changes to existing accounts, such as mailing address, ownership or business name, DBA, or situs address. The assistant assessor oversees all routine processing of statements performed by non-certified staff. A certified auditor-appraiser prepares and enters valuation adjustments into the computer system.
Direct Billing

Many assessors utilize an assessment procedure known as "direct billing" or "direct assessment." It is a method of assessing qualified lower-value business accounts without the annual filing of a BPS. The assessor establishes an initial value and continues the value for several years. Property statement filing is required periodically. Examples of businesses suitable for direct billing include apartments, barbershops, beauty parlors, coin-operated launderettes, small cafes, restaurants, and professional firms with small equipment holdings.

The direct billing program is beneficial to the taxpayer and to the assessor. It results in a reduction of paperwork for taxpayers and fewer BPSs that must be processed annually by the assessor's staff thereby increasing time available for the auditor-appraisers to perform other required duties.

In San Benito County, the assessor allows only business accounts for apartments and churches to participate in the direct billing program.

Findings

We reviewed all major aspects of the assessor's BPS program, including processing procedures, use of Board-prescribed forms, application of penalties, real property division coordination, and record storage and retention. In addition, we reviewed several recently processed BPSs. We found that in all observed cases, BPSs sampled and accepted by the assessor evidenced the proper usage of Board-prescribed forms, were completed in sufficient detail, and were properly signed. However, we did find areas in need of improvement.

RECOMMENDATION 6: Improve the BPS program by: (1) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS, and (2) periodically sending BPSs to taxpayers participating in the direct billing program.

Value taxable business property in accordance with section 501 when a taxpayer fails to file a BPS.

In our review of business property assessments, we found that when a BPS is not returned, the assessor does not estimate the current market value of the known taxable business property. Instead, the assessor simply carries forward the previous year's enrolled value and applies the 10 percent penalty. In addition, we found that the assessor sets no formal limits on the number of consecutive years a business property owner may fail to file a BPS before the assessor either visits the location of the taxable property or conducts an audit.

Section 441(b) provides that a penalty shall apply if a BPS is not filed by May 7. If an assessee does not file a BPS by May 7, section 501 provides that the assessor shall estimate a value based on available information and add a 10 percent penalty to that estimated value. If a BPS was received during the previous year, it is usually reasonable to use the reported cost data as a basis for estimating the current year's value. However, when allowing estimated assessments to continue for several years without any new information, the values become increasingly susceptible to error.
The assessor's current enrollment methodology as applied to non-filing accounts may lead to erroneous value conclusions and may lead to improper application of the late or non-filing penalty provided for in section 463.

**Periodically send BPSs to taxpayers participating in the direct billing program.**

We found that the assessor does not periodically send a BPS to taxpayers participating in the direct billing program. The assessor only sends a BPS if there has been a change in ownership.

As stated previously, direct billing is a method of assessing qualified low-value business accounts without the annual filing of a BPS. The assessor typically establishes an initial value based on information from the initial BPS, and the assessor will enroll this value for several years. However, as a good business practice, the assessor should periodically send a BPS to the taxpayer in order to update the direct billing account with current information, so that an accurate assessment can be determined.

The assessor's practice of not periodically sending BPSs to all taxpayers participating in the direct billing program, thereby allowing estimated assessments that are based on outdated information to continue on the roll for several years, may lead to inaccurate assessments and unequal treatment of taxpayers.

**Business Equipment Valuation**

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581).

**Application of Board-Recommended Index Factors**

The assessor has adopted the price indices and percent good factors recommended by the California Assessors' Association (CAA). The indices and factors parallel those published in AH 581 with the exception of specific types of equipment (such as pagers, facsimile equipment, and high tech medical equipment), which the CAA recommends should not be trended. We reviewed the assessor's valuation tables and a number of processed BPSs. The valuation calculations enrolled by the assessor indicate both consistent and appropriate application of Board-recommended tables.
APPENDIXES

A. County-Assessed Properties Division Survey Group

San Benito County

Chief
  Dean Kinnee

Survey Program Director:
  Mike Harris  Manager, Property Taxes

Survey Team Supervisor:
  Ronald Louie  Supervisor, Property Taxes

Survey Team Leader:
  Glenn Danley  Senior Specialist Property Appraiser

Survey Team:
  James McCarthy  Senior Petroleum and Mining Appraisal Engineer
  Tammy Aguiar  Senior Specialist Property Appraiser
  Paula Montez  Associate Property Auditor-Appraiser
  Dany Lunetta  Associate Governmental Program Analyst
B. Assessment Sampling Program

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing\(^\text{10}\) activities is very important in today's fiscally stringent times. The importance of compliance is twofold. First, the statewide maximum tax rate is set at one percent of taxable value. Therefore, a reduction of local revenues occurs in direct proportion to any undervaluation of property. (It is not legally allowable to raise the tax rate to compensate for increased revenue needs.) Secondly, with a major portion of every property tax dollar statewide going to public schools, a reduction in available local property tax revenues has a direct impact on the State's General Fund, which must backfill any property tax shortfall.

The BOE, in order to meet its constitutional and statutory obligations, focuses the assessment sampling program on a determination of the full value of locally taxable property and eventually its assessment level. The purpose of the BOE's assessment sampling program is to review a representative sampling of the assessments making up the local assessment rolls, both secured and unsecured, to determine how effectively the assessor is identifying those properties subject to revaluation and how well he/she is performing the valuation function.

The BOE's County-Assessed Properties Division (CAPD) conducts the assessment sampling program on a five-year cycle for the 11 largest counties and cities and counties and on either a random or as needed basis for the other 47 counties. This sampling program is described as follows:

A representative random sampling is drawn from both the secured and unsecured local assessment rolls for the counties to be surveyed.

These assessments are stratified into 18 value strata (nine secured and nine unsecured.)\(^\text{11}\)

From each stratum a random sampling is drawn for field investigation, sufficient in size to reflect the assessment level within the county.

For purposes of analysis, after the sample is drawn, the items are identified and placed into one of the five categories listed below:

**Base year properties.** Those properties the county assessor has not reappraised for either an ownership change or new construction during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

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\(^{10}\) The term "assessing" as used here includes the actions of local assessment appeals boards, the boards of supervisors when acting as boards of equalization, and local officials who are directed by law to provide assessment-related information.

\(^{11}\) The nine value strata are $1 to $99,999; $100,000 to $199,999; $200,000 to $499,999; $500,000 to $999,999; $1,000,000 to $1,999,999; $2,000,000 to $19,999,999; $20,000,000 to $99,999,999; $100,000,000 to $249,999,999; and $250,000,000 and over.
**Transferred properties.** Those properties last reappraised because of an ownership change that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

**New construction.** Those properties last reappraised to reflect new construction that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

**Non-Proposition 13 properties.** Those properties not subject to the value restrictions of article XIII A, or those properties that have a unique treatment. Such properties include mineral-producing property, open-space property, Timberland Production Zone property, and taxable government-owned property.

**Unsecured properties.** Those properties on the unsecured roll.

From the assessment universe in each of these 18 value strata (nine strata on both secured and unsecured local rolls), a simple random sampling is drawn for field investigation that is sufficient in size to reflect the assessment practices within the county. A simple nonstratified random sampling would cause the sample items to be concentrated in those areas with the largest number of properties and might not adequately represent all assessments of various types and values. Because a separate sample is drawn from each stratum, the number of sample items from each category is not in the same proportion to the number of assessments in each category. This method of sample selection causes the raw sample, that is, the "unexpanded" sample, to overrepresent some assessment types and underrepresent others. "Expanding" the sample data eliminates this apparent distortion in the raw sampling; that is, the sample data in each stratum are multiplied by the ratio of the number of assessments in the particular stratum to the number of sample items selected from the stratum. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices. This expansion further converts the sampling results into a magnitude representative of the total assessed value in the county.

The field investigation objectives are somewhat different in each category, for example:

**Base year properties** -- for those properties not reappraised during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: was the value properly factored forward (for the allowed inflation adjustment) to the roll being sampled? Was there a change in ownership? Was there new construction? Or, was there a decline in value?

**Transferred properties** -- for those properties where a change in ownership was the most recent assessment activity during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that a reappraisal was needed? Do we concur with the county assessor's new value? Was the base year value trended forward (for the allowed inflation adjustment)? Was there a subsequent ownership change? Was there subsequent new construction? Was there a decline in value?
**New construction** -- for those properties where the most recent assessment activity was new construction added during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that the construction caused a reappraisal? Do we concur with the value enrolled? Was the base year amount trended forward properly (for the allowed inflation adjustment)? Was there subsequent new construction? Or, was there a decline in value?

**Non-Prop 13 properties** -- for properties not covered by the value restrictions of article XIII A, or those properties that have a unique treatment, do we concur with the amount enrolled?

**Unsecured properties** -- for assessments enrolled on the unsecured roll, do we concur with the amount enrolled?

The results of the field investigations are reported to the county assessor, and conferences are held to review individual sample items whenever the county assessor disagrees with the conclusions.

The results of the sample are then expanded as described above. The expanded results are summarized according to the five assessment categories and by property type and are incorporated into the published assessment practices survey report.

The primary use of the assessment sampling is to determine an assessor's eligibility for the cost reimbursement authorized by section 75.60. During the course of the sampling activity, the assessment practices survey team may also discover recurring causes for the differences in the opinion of taxable value that arise between the assessor and the CAPD. These discoveries may lead to recommendations in the survey report that would not have otherwise been made.
C. Relevant Statutes and Regulations

Government Code

15640. Survey by board of county assessment procedures.

(a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.

(b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.

(c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.

(d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.

(e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.

(f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

15641. Audit of records; appraisal data not public.

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.
The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

15642. Research by board employees.

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

15643. When surveys to be made.

(a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.

(b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.

(c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.
(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

15644. Recommendations by board.

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

15645. Survey report; final survey report; assessor's report.

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

15646. Copies of final survey reports to be filed with local officials.

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.
Revenue and Taxation Code

75.60. Allocation for administration.

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

(1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.

(2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:

(A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.

(B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).
(3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

Title 18, California Code of Regulations

Rule 370. Random selection of counties for representative sampling.

(a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.

(b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.

(1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.

(2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.
(3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS. If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) ADDITIONAL SURVEYS. This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.


(a) For purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

(1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or

(2) the sum of all the differences between the Board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

(1) Uniformity of treatment for all classes of property.

(2) Discovering and assessing newly constructed property.

(3) Discovering and assessing real property that has undergone a change in ownership.

(4) Conducting audits in accordance with Revenue and Taxation Code section 469.

(5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code sections 421 et. seq.

(6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code sections 107 et. seq.
(7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.

(8) Discovering and assessing property that has suffered a decline in value.

(9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.

(c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.
ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendations in the survey report. The survey report, the assessor's response, and the BOE's comments on the assessor's response, if any, constitute the final survey report.

The San Benito County Assessor's response begins on the next page. The BOE has no comments on the response.
November 27, 2013

Mr. Dean R. Kinnee, Chief
County - Assessed Properties Division
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0064

Dear Mr. Kinnee:

Pursuant to Section 15645 of the California Government Code, I am providing the following response to the findings and recommendations contained in the San Benito County Assessment Practices Survey and sampling of the 2011-2012 assessment roll.

I wish to express my appreciation for the professional and courteous manner in which the State Board of Equalization Survey Team conducted the survey of our office. These periodic surveys are an essential and useful tool, which provides constructive observation and suggestions for the proper administration of the varied functions carried out by the Assessor's Office.

I also want to acknowledge and commend my staff for their dedication, hard work and professionalism in providing excellent service to the taxpayers of San Benito County, and in providing an equitable and quality assessment roll, which is evident by the 99.93% overall assessment ratio as determined by your sampling program.

Sincerely,

Tom J. Slavich
San Benito County Assessor
SAN BENITO COUNTY
ASSESSMENT PRACTICES SURVEY

RECOMMENDATION 1: Develop written procedures that address reporting economic interests and the assessment of staff-owned property.

Response: We concur and will be implementing written procedures for all employees of the Assessor’s Office. This will be in addition to the required annual FPPC Form 700 filings and the annual disclosure of financial interest as required by section 672.

RECOMMENDATION 2: Improve the change in ownership program by correctly implementing the penalty process in accordance with section 482(a).

Response: We concur and will implement the penalty process in accordance with section 482(a).

RECOMMENDATION 3: Determine and compare adjusted base year values with current market values of mining properties in accordance with Rule 469.

Response: We concur and will pursue implementation in making such a determination and comparison as time, workload constraints and staffing levels allow.

RECOMMENDATION 4: Properly calculate and compare adjusted base year values and current market values of the petroleum properties for decline in value determinations.

Response: We concur and have begun working on this process.
RECOMMENDATION 5: Remove incorrect language advising taxpayers of their appeal rights from the Notice of Proposed Escape Assessment.

Response: We concur and have implemented this recommendation.

RECOMMENDATION 6: Improve the BPS program by: (1) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS, and (2) periodically sending BPSs to taxpayers participating in the direct billing program.

Response: (1) We concur and will implement valuing taxable business property in accordance with section 501 when a taxpayer fails to file a Business Property Statement (BPS).

(2) We concur in theory that this recommendation is good for small businesses in the direct billing program. However, in San Benito County our direct billing program consists of apartments and churches. Periodically sending property statements to owners of apartments for reporting of business personal property and churches which receive an exemption from taxation is not a good use of productive time. In prior years and most recently in 2008 when we began using the Megabyte computer system, we sent property statements to churches and owners of apartments which generated a tremendous number of phone calls and confusion from the taxpayers, besides a difficult time having the statements properly completed and sent back to us. This recommendation is not practical in our situation and counter-productive based on our prior experiences.