BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION
450 N STREET
SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT
APRIL 25, 2007

CHIEF COUNSEL MATTERS
J RULEMAKING
J1 REQUEST TO PUBLISH CHAPTER 3
PROPERTY TAXES OF THE BOARD OF EQUALIZATION
RULES FOR TAX APPEALS
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Reported by: Juli Price Jackson
No. CSR 5214
PRESENT

For the Board of Equalization:
Betty Yee
Chair

Judy Chu
Vice-Chair

Bill Leonard
Member

Michelle Steel
Member

Marcy Jo Mandel
Appearing for John Chiang, State Controller
(per Government Code Section 7.9)

Gary Evans
Acting Chief, Board Proceedings Division

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MR. EVANS: Next item is Chief Counsel matters, item J, rulemaking, J1, request to publish Chapter 3, Property Taxes of the Board of Equalization Rules for Tax Appeals.

Mr. Lambert will make the presentation.

MS. YEE: Good morning, Mr. Lambert.

MR. LAMBERT: Madam Chairwoman, Members of the Board, the staff is here this morning requesting the following three things with respect to the Rules for Tax Appeals:

One, direction from the Board as to who can request Appeals conferences for State assesses;

And, two, direction from the Board as to whether this should be a specific recommendation or pros and cons or any variation on the above;

And, three approval to publish Chapter 3. As you know, the other four chapters have been approved for publication but not yet been published.

MS. YEE: Okay. Very well, questions or comments by Members?

MS. MANDEL: No.

MS. YEE: Okay, is there a motion?

MS. MANDEL: On the -- I'll try again on the Appeals conference, I move alternative 3, which is at
the taxpayer's request to have an Appeals conference.

MS. YEE: Okay, we have a motion by Ms. Mandel to -- on the first issue related to the Appeals conferences, to move alternative 3.

Is there a second?

Okay, hearing none, that motion fails.

MS. CHU: I'd like to make a motion to have alternative 1 as the procedure for holding Appeals conferences.

MS. YEE: Okay, we have a motion by Ms. Chu for Alternative 1, which I believe is the staff recommendation.

Is there a second?

MR. LEONARD: Second.

MS. YEE: Second by Mr. Leonard.

Please call the roll.

MR. EVANS: Madam Chairwoman?

MS. YEE: Not voting.

MR. EVANS: Mr. Leonard?

MR. LEONARD: Aye.

MR. EVANS: Ms. Steel?

MS. STEEL: Aye.

MR. EVANS: Ms. Chu?

MS. CHU: Aye.

MR. EVANS: Ms. Mandel?

MS. MANDEL: No.

MS. YEE: Okay, That motion carries.

MS. MANDEL: On the question of the hearing
1 summary, I would move the staff recommendation, which
2 is -- which is -- includes the Appeals Division analysis
3 and --
4 MR. LAMBERT: Alternative 1.
5 MS. MANDEL: -- right, Alternative 1.
6 MS. YEE: Okay. On issue 2, regarding the
7 hearing summaries, we have a motion by Ms. Mandel for
8 Alternative 1, which is the staff recommendation.
9 Is there a second?
10 MS. MANDEL: I can't give you the reason why
11 without --
12 MS. YEE: Okay.
13 Hearing none, that motion fails.
14 MS. CHU: Well, I --
15 MS. YEE: Ms. Chu?
16 MS. CHU: -- if I may put forth the motion?
17 It is the same reasoning I had before, which is
18 I just would like to here what people's expertise brings
19 them to conclude.
20 I would like to just hear what -- what the
21 staff's thinking is.
22 I would, therefore, make a motion for
23 Alternative 2.
24 MS. YEE: Okay. We have the motion by Ms. Chu
25 for Alternative 2, relating to the second issue on
26 hearing summaries.
27 Is there a second?
28 MR. LEONARD: Second.
MS. YEE: Second by Mr. Leonard.

MS. MANDEL: Is there discussion?

MS. YEE: Yes.

MS. MANDEL: Let me just say, since I couldn't say on the last one, except for the local assessment cases that come before us, which would be the Section 11, government owned property outside their jurisdictions, the -- there may be a few little other things, but that's the big one -- and the State assessment, what we're really talking about is State assessment cases are really the big ones.

That is the only tax assessment thing that this Board does where, when we are reviewing it, we are reviewing what the five Members, including the Controller, who is actually here for that because it's a constitutional function, this is the core constitutional function of the Board, that the Board, on petition of the taxpayer, is reviewing its own actual decision, its own actual work, as opposed to, you know, the sales and use tax audits, which is the one area where we do have the D & Rs.

The income tax area we have hearing summaries that are in the same format as what the staff recommendation is for this.

I have confidence in our Department, Mr. Siu's division, to work with taxpayers to resolve things to the best that they can be resolved. Every Member also, I'm sure, has confidence in their own staff to give them
appropriate advice in these cases.

But in large part because it is the core constitutional function of the Board, rather than what I used to say was -- what were those lovely words I used? Lovely, I am being sarcastic on myself, but delegating to staff, the Board -- in a sense, the Board's decision. Maybe that comes up and you have these alternatives of how the phrasing would go in these documents if your motion succeeded, but that sort of view of the Board's role -- and, perhaps, because I can read between the lines a little bit in the staff analysis -- that was kind of why we were with the staff recommendation on this.

Overall, if that's the way you go, it may make a difference on how it's presented in the document itself.

This time they've got -- I don't remember these alternatives, like you have 2-A and 2-B, I don't remember that from last time.

MS. RUWART: 2-B represents Mr. Leonard's request to talk about pros and cons. And what we developed was a mechanism whereby the staff -- where it would be appropriate to discuss an issue in that level of detail, would discuss the merits of each party's position on a particular issue, but not be required to do so for every single issue.

MR. LAMBERT: Or to express that, if necessary.

MS. MANDEL: Or to express a conclusion?
MS. RUWART: Recommendation on every single
issue -- or even on that issue, but just to express the
specific merits.

MS. MANDEL: Perhaps I should have asked the
question before when I said I didn't really have a
question.

Because that -- that sounds more like the type
of analysis without -- that sounds to me a little like
analysis. I mean, you're not reaching a conclusion, you
are doing an analysis, which is what staff
recommendation is is an analysis.

MR. LAMBERT: I think it was offered as maybe a
halfway point between maybe asking questions and making
a black and white recommendation.

MS. MANDEL: Which one of these is your --
what's your motion?

MS. YEE: Alternative 2.

MS. CHU: It was Alternative 2, but, you're
right, there is 2-A and 2-B.

I guess I really was intending 2-A.

MS. MANDEL: Okay.

MS. CHU: So, the 2-A would be a straight out
recommendation that would be put in by the Appeals
Division.

MS. YEE: Other questions or comments, Members?

We have a motion by Ms. Chu; seconded by
Mr. Leonard to adopt Alternative 2-A, this relates to
the hearing summaries.
Please call the roll.

MR. EVANS: Madam Chairwoman?

MS. YEE: Not voting.

MR. EVANS: Mr. Leonard?

MR. LEONARD: Aye.

MR. EVANS: Ms. Steel?

MS. STEEL: Aye.

MR. EVANS: Ms. Chu?

MS. CHU: Aye.

MR. EVANS: Ms. Mandel?

MS. MANDEL: No.

MS. YEE: That motion carries.

And then I believe we need a motion on authorization to publish.

Is there a motion?

MS. CHU: So moved.

MR. LEONARD: Second.

MS. YEE: Moved by Ms. Chu, second by Mr. Leonard, please call the roll.

MR. EVANS: Madam Chairwoman?

MS. YEE: No -- not voting.

MR. EVANS: Mr. Leonard?

MR. LEONARD: Aye.

MR. EVANS: Ms. Steel?

MS. STEEL: Aye.

MR. EVANS: Ms. Chu?

MS. CHU: Aye.

MR. EVANS: Ms. Mandel?
MS. MANDEL: No.

MS. YEE: Okay, that motion carries.

Thank you very much.

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REPORTER'S CERTIFICATE

State of California  
) ss  
County of Sacramento  

I, JULI PRICE JACKSON Hearing Reporter for the California State Board of Equalization certify that on APRIL 25, 2007 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 10, constitute a complete and accurate transcription of the shorthand writing.

Dated:  May 10, 2007

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JULI PRICE JACKSON

Hearing Reporter