



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

STATE BOARD OF EQUALIZATION
Thomas R. Parker Item # M1
Item Name: Impact of Covid-19 on PT Admin
Meeting Date: 5/13/20 Minutes Exhibit # 5.4
PUBLIC COMMENT

MARY C. WICKHAM
County Counsel

May 12, 2020

TELEPHONE
(213) 974-1834
FACSIMILE
(213) 613-4751
TDD
(213) 633-0901

VIA E-MAIL

The Honorable Antonio Vazquez, Board Chair
The Honorable Mike Schaefer, Board Vice-
Chair
The Honorable Ted Gaines, Board Member
The Honorable Malia Cohen, Board Member
The Honorable Betty T. Yee, State Controller
Yvette Stowers, Deputy State Controller
Brenda Fleming, Executive Director
Henry Nanjo, Chief Counsel

**Re: May 13, 2020 State Board of Equalization Agenda Item M-
COVID-19 Property Tax Relief Task Force Report
Commenters**

Dear Honorable Chair Vazquez and Honorable Vice-Chair Shaefer, Members of
the State Board of Equalization:

Thank you for the opportunity to comment on the State Board of
Equalization's COVID-19 (C-19) Task Force Report (Report). I have served as a
counsel for the Los Angeles County Assessment Appeals Board since 2014. I
have also served as a county legal advisor on property tax matters since 1994. My
participation in State Board of Equalization (State Board) proceedings dates back
to 1998 and includes involvement in this Report process at issue on May 13,
2020.

Factual Errors

I first wish to note that, at page 11 the Report mistakenly attributes to me
comments in opposition to extending and tolling the Revenue and Taxation Code
Section 1604(c) 2-year time limit for appeals' resolution without penalty. I have
consistently advocated for the extending and tolling of the 2-year time limit
during the period of the emergency C-19 pandemic period plus 120 days
thereafter. In fact, CATA representatives have also supported in one form or
another the concept of extending and tolling of the 2-year time period during this
Report process.

Honorable Chair Vazquez, Board Chair
May 12, 2020
Page 2

The Report, at page 4 of the Cover Letter and at page 9 of the Team 2 Subgroup Report, also incorrectly characterizes the sum of \$442.66 billion as "lost revenue" should the 2-year time period not be extended and tolled. That sum represents the potential "lost roll value", which translates to \$4.427 billion in "lost property tax revenue" should the taxpayers' opinions of value be automatically adopted as correct due to their appeals not being heard within 2 years.

Time Waivers

Assessment Appeal applications do not "languish" interminably while waiting for the tax appeals to be heard. CATA seeks State Board action establishing taxpayer waivers for only a specific time-limited duration. These proposals are based on a false premise, namely the picture of taxpayers being forced to sign time waivers and having no control thereafter of when their appeals will be heard. "Real life" is very different. Taxpayers enter into time waivers for a variety of reasons, including reasons that they or their representatives deem advantageous to the taxpayer. CATA paints a picture where they never voluntarily enter into time waiver agreements and they are always disadvantaged by time waivers. Further, taxpayers already have the unilateral ability to terminate the time waiver they previously executed by providing 120 days written notice. (See Rule 323.) Put another way, the time waiver is actually only indefinite until the taxpayer decides to withdraw from it and demands a hearing with 120 days. Such a taxpayer termination notice requires the local assessment appeals board (AAB) or county board of equalization to schedule that taxpayer's hearing accordingly. I am aware that this fact has been mentioned before by AAB representatives in State Board proceedings.

It is important to reiterate it here, however, to ensure that any proposals pursued by your Board fully reflect what existing laws and regulations provide to taxpayers in the way of rights and protections. The CACEO has also stated in this Report process that taxpayers whose hearings were delayed by the C-19 pandemic will not be placed at the back of the line once hearings can recommence. Given these realities and the taxpayer control mechanisms already built into existing law, there is no need for a time-limited time waiver. Such unnecessary proposals would only add to the complexity and burdens already facing AABs in scheduling hearings and providing taxpayers with a decision on their appeals.

AABs are Constitutional Quasi-Judicial Hearing Bodies

AABs are not just administrative hearing bodies. They are quasi-judicial bodies with the constitutional power to hear property tax valuation disputes. Just

Honorable Chair Vazquez, Board Chair
May 12, 2020
Page 3

as in ordinary civil cases superior courts are the triers of fact in the first instance, so too are AABs in property tax appeals. And their determinations are given the same deference by superior courts that superior court factual determinations receive from district courts of appeal and the California Supreme Court. (See *Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298, at 1307.) AABs are essentially trial courts for property tax disputes as a constitutional matter. It is instructive to note what has happened to superior court hearings because of the C-19 emergency needs. The time to hear civil court filings in superior court has been extended by 1 year, to 6 years, from the statutory 5-year time period because of the C-19 pandemic. Superior courts have not been hamstrung by proposals to make the scheduling of civil litigation more burdensome and complex than the process already is. I respectfully urge the State Board to treat AABs similarly to superior courts for the reasons stated above and allow AABs to schedule hearings with maximum flexibility. CACEO has clearly stated that AABs have no intention of penalizing taxpayers who would have had their hearings held by now but for the C-19 crisis.

Concurrence with May 11, 2020 Letter of Santa Clara County AAB Counsel

I will not reiterate the points raised by Ms. Marcy Berkman in her May 11, 2020 letter to the State Board. I will add that I am in agreement with her observations and points.

Input and Recommendations from State Board Legal Staff and Property Tax Division Staff

I urge the State Board to also seek the input and recommendations of State Board legal staff and the State Board Local Property Tax Division. They are experienced and knowledgeable professionals in the field of property tax. Their input and recommendations would be of great value in crafting together any proposed package of measures to address the impacts of C-19 on the property tax administration system.

I thank the State Board again for the opportunity to participate in this Task Force and to comment on the Report. I also thank the State Board for its interest in addressing the C-19 impacts to the normal property tax administrative system.

Honorable Chair Vazquez, Board Chair
May 12, 2020
Page 4

Very truly yours,

MARY C. WICKHAM
County Counsel

By
THOMAS R. PARKER
Deputy County Counsel
Property Division

TRP:bh