

<b>SUBGROUP 4</b>	<b>3:00 p.m. to 4:00 p.m.-Prop 8, Decline in Value (lien date)</b>
<b>SPEAKER:</b>	<b>COMMENT:</b>
Kris Cazadd	Provide the following information to subgroup by Tuesday, April 28: <ol style="list-style-type: none"> <li>1. Need and data</li> <li>2. Legal arguments</li> <li>3. Practical solutions (i.e. LTA)</li> <li>4. Recommendations</li> </ol>
Chris O'Neil	<ul style="list-style-type: none"> <li>• An avenue but different approach similar to decline in value.</li> <li>• Two proposed solutions for this year: <ol style="list-style-type: none"> <li>1. Take valuation date and move to later date (i.e. May/June). RTC 2192. Easier than Section 170. Only requires Assessors to adjust dates.</li> <li>2. Relaxing evidentiary standards.</li> </ol> </li> </ul>
Chuck Leonhardt	<ul style="list-style-type: none"> <li>• Unrealistic for all counties.</li> <li>• Ask legislature to forgive requirements.</li> </ul>
Chris O'Neil	<ul style="list-style-type: none"> <li>• Data pertaining to COVID 19 will not be available for 180, 270 days out.</li> <li>• Even after June/July. No rental data.</li> </ul>
Wes Nichols	<ul style="list-style-type: none"> <li>• For Oct 2020 billings, looking for elected officials to give hope taxpayers that government is acting in good faith. Provide a sense of confidence that their government is doing something.</li> <li>• Use rental/cap rates as of Jan. 1 which is fast and easy to obtain.</li> </ul>
Don Gaekle	<ul style="list-style-type: none"> <li>• Uphill battle to have legislation changing dates.</li> <li>• These changes would not be realized for months.</li> <li>• More practical to ask legislature to give money for immediate relief.</li> <li>• Blunt tool redoing the tax code.</li> </ul>
Chuck Leonhardt	<ul style="list-style-type: none"> <li>• Take more time and thought putting recommendations/solutions to action.</li> <li>• Do not involve legislation in the short term where there is a possibility of litigation—waste of time.</li> </ul>
Wes Nichols	<ul style="list-style-type: none"> <li>• Looking for 3-5 years of flat growth/recession. Assessors need to be open about public sentiment.</li> </ul>
Larry Stone	<ul style="list-style-type: none"> <li>• We didn't change the system during the Great Recession.</li> </ul>
Marc Tonnesen	<ul style="list-style-type: none"> <li>• During Great Recession—Assessors were proactive. They assessed based on reductions sent to taxpayers. If taxpayers disagreed they can file an appeal.</li> <li>• There will be data out there.</li> </ul>
Paul Weldman	<ul style="list-style-type: none"> <li>• Asking for relief. It is different from market forces caused by Great Recession.</li> </ul>
Chuck Leonhardt	<ul style="list-style-type: none"> <li>• We don't have enough data to put anything meaningful. We are presuming what's going to happen without sizing up the problem.</li> <li>• What could be done here is to be proactive to mitigate appeals.</li> <li>• Form relationships with taxpayers to get data successfully.</li> </ul>
Larry Stone	<ul style="list-style-type: none"> <li>• Agrees with proactive action without taxpayers requesting help within the law.</li> </ul>

# Office of the Assessor

County of Santa Clara

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**Lawrence E. Stone**



April 28, 2020

*Sent via email*

Honorable Antonio Vazquez and Honorable Mike Schaefer  
California State Board of Equalization  
Capitol Mall  
Sacramento, CA 95814

Re: Responses to the Five Hearings Initiated by BOE Task Force on Covid-19

Dear Chair Vazquez and Vice Chair Schaefer,

We have a health crisis which has triggered an equally serious financial crisis. The vast majority of the proposals advanced by CATA, and under consideration by the BOE, will create a political crisis of equal proportions. Consideration of proposals, such as changing the lien/valuation date, is the height of irresponsibility.

As noted in this response, the dramatic, and at times radical, proposals offered by CATA and others are grossly disproportionate to the lack of demonstrated need. Unlike the evidence-based economic crisis and the commensurate national and state response, there is no information to suggest that the property tax system is the appropriate venue to provide financial relief. Implementing the proposals would be neither quick nor easy, and likely to invite lengthy litigation, further hampering the desired objective.

Simply, the property tax system cannot provide the urgent short-term financial relief proposed by CATA. Instead, the property tax system can and will provide the appropriate property tax relief. Where possible, the BOE should support efforts by assessors to waive penalties, or permit assessors to accept documents without a "wet" signature.

I urge the BOE to focus on the "doable" by partnering with assessors in managing through the greatest crisis facing property tax administration in 40 years.

Nevertheless, as requested last Thursday, I write to submit feedback in my capacity as Santa Clara County Assessor.

**I. Business Personal Property Tax Statement, 571L**

Statement of Need:

CATA has stated that Covid-19 is preventing taxpayers and their employees from gathering and assembling the necessary information needed to prepare and timely file business property statements by the May 7<sup>th</sup> deadline. The annual business property statement is the principal tool for assessors to discover equipment and machinery subject to assessment. To date, there is little evidence and minimal anecdotal accounts to support CATA's claim.

As noted by California tax collectors, the collection of property tax payments on April 10 ranged between 93 and 97 percent. Similarly, the Santa Clara County Assessor's Office continues to receive electronic and even paper submissions of the 571L form. Overall, the number of filings year to date remains over 80 percent with the largest numbers expected during the two weeks leading up to the deadline.

Second only to Los Angeles, Santa Clara County is an important indicator statewide of filings. If business owners were having problems filing statements due to this crisis, they would be contacting our office to inquire about the deadline. To date, inquiries have not materialized to any significance. Even though we are the 6<sup>th</sup> most populous County, we have the second largest unsecured roll in excess of \$35 billion.

In a letter to the Governor, the BOE has recommended that the compliance date for filing Form 571s be extended beyond May 7 (CATA requested to June 15 for all original and amended filings). To date, the Governor has not responded. Since the May 7 deadline will have passed by the time the BOE has re-convened, this recommendation is essentially moot.

As I outlined in the attached letter to the Governor, the CAA is strongly opposed to extending the deadline. There is little evidence to suggest that the coronavirus crisis has created a concurrent crisis for the ability of all companies to timely submit their 571L business property statement. In addition, since the filing date of corporate federal and state income taxes has been extended to July 15, many businesses and their tax managers should have sufficient time to prepare their 571L statements.

The Senior Tax Manager for Apple told me personally last week that Apple will have no problem meeting the May 7<sup>th</sup> deadline, and any decent software system should provide the ability for business owners to meet the deadline. Most very small business owners do not need software, as they utilize an online tool created by assessors. Most small businesses can e-file the form in less than 15 minutes.

In recognition that a limited number of taxpayers will need a temporary penalty waiver, I recommend that the Governor empower assessors with the same authority granted to tax collectors to waive the late filing penalties.

Revenue Impact:

Assessors are not revenue agents, and revenue impacts should be directed to the appropriate agency, including the BOE staff which routinely projects financial impacts.

Extending the filing deadline for the 571 would have immediate and significant financial consequences for schools, cities and counties, already struggling to manage the demand for expanded services, while facing diminishing resources due to the economic impact of the impending recession. Any blanket, statewide delay of the filing of the business personal property statement to July, would have immediate impacts on anticipated cash flow derived from \$3 billion in taxes, payable no later than August 31.

Legal Arguments/Considerations:

The only legal recourse must come from the Governor who has not responded to the BOE request.

Solution:

The BOE can support efforts by local assessors to waive the penalty for late filings submitted until May 31.

Recommendation:

It is recommended that the proposal to extend the filing date of the Business Property Statement (571L) be rejected. Further, that the BOE urge the Governor to grant assessors the authority to waive late filing penalties for Covid-19 related circumstances.

**II. County Assessment Appeals Board (AAB) Deadlines (statutes of limitations: 2-year deadline for AAB, 60-day deadline for taxpayer to appeal supplemental assessment notice)**

Statement of Need:

The BOE task force conducted a hearing on the extent to which property owners right to file an assessment appeal is impacted by Covid-19.

Supplemental Assessment Notice

CATA stated that due to the Covid-19, the 60-day deadline to file an assessment appeal on supplemental assessments should be extended as taxpayers will not be receiving mailed notices due to the shelter in place order.

There is no evidence to indicate that taxpayers are not receiving supplemental notices, or that dramatic change is needed. The vast majority of supplemental and escape assessments notices are issued to homeowners who receive their mail at their residence. Businesses are not legally prohibited from entering their premises to gather mail and other documents, including utility bills, bank and mortgage statements, etc. They always have the option to request mail be automatically forwarded to an alternate address.

In Santa Clara County, the public health department FAQ specifically addresses the issue of the "Shelter-in-Place" order as it relates to non-essential businesses. Specifically, it states:

"What if my business is not considered an essential business? Does this Order require that I shut down my business facility? Yes, it does, except for the following "Minimum Basic Operations," which are defined in the following excerpt from the Order:

1. The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; process payroll and employee benefits; provide for the delivery of existing inventory directly to residences or businesses; and related functions.
2. The minimum necessary activities to facilitate owners, employees, and contractors of the business being able to continue to work remotely from their residences, and to ensure that the business can deliver its service remotely."

The Revenue and Taxation Code (RTC) provides a sufficient mechanism for relief in limited circumstances. For assessments made outside of the regular roll time period, RTC Section 1605(b)(1) provides that if the taxpayer does not receive the notice of the supplemental assessment or notice of escape assessment at least 15 calendar days before the 60-day deadline to file an assessment appeal application, then the applicant may file their assessment appeal application within 60 days of the date of mailing printed on the tax bill or the postmark on the tax bill, whichever is later, along with an affidavit declaring under penalty of perjury that the notice of assessment was not timely received.

#### Assessment Appeal Issues

Counsel to and the Clerks of the AAB testified that appeals in March, April and May have been cancelled throughout California out of abundance of caution to protect taxpayers and staff alike and due to the shelter in place order. Assessors and taxpayers have agreed to numerous hearing postponements. As shelter in place orders continue to hamper AAB operations and jeopardize due process for a taxpayers, we support efforts by the CACEO that provide relief in a manner that limits a backlog of appeals. It is anticipated that appeals in 2021 will skyrocket and accumulated backlog heading into that difficult situation will only further jeopardize due process.

#### Revenue Impact:

A delay of appeals now will create an uneven flow of appeals and potential refunds (plus interest) as a larger number of appeals than normal will be processed at a later time once appeal hearings resume.

#### Legal Arguments/Considerations:

The BOE has the legal authority to grant, upon request, the AAB with a minimum of forty days extension on appeals with pending deadlines. As the demonstrated need has far exceeded 40 days the BOE should call on the Governor to support tolling of the statute beyond the Covid-19 emergency declaration and other recommendations from the CACEO.



Solution:

Support tolling of the statute beyond the Covid-19 emergency declaration; authorizing AAB to conduct hearings with non-physical appearance of applicants, their agents, and/or assessor office representatives by means of remote-access technology and allow the clerk to schedule an application based on the urgency of the appeal, and not consider whether or not the clerk, county board, or assessment hearing officer had postponed or continued an appeal to a specific calendar date.

Recommendation:

We oppose any extension of time from issuance of supplemental or escape assessments to file assessment appeals and support the CACEO's proposals to toll deadlines to hear appeals during the Covid-19 pandemic.

**III. RTC Section 170, Disaster Relief**

Statement of Need:

The BOE task force received a proposal by CATA to adopt a rule permitting taxpayers to file Misfortune and Calamity (M&C) claims under Revenue and Taxation Code Section 170 due to the impact on property values from Covid-19 "Shelter-in-Place" orders. The primary purpose of such a radical change is to provide property tax relief faster than allowed by the California Constitution. The proposal will not provide rapid relief, nor is it lawful. Moreover, it is not consistent with sound appraisal theory, and cannot be implemented without creating extreme chaos with California's property tax system.

Revenue Impact:

It is likely that the increased cost to administer this proposal, and the sudden and dramatic loss of revenue at the apex of the Covid-19 crisis may threaten the state and local government ability to deliver vital public health services.

Legal Arguments/Considerations:

There is significant historical precedent with attempting to apply R&T Code Section 170 for property tax relief as a result of economic harm.

In 2002, I served as President of the CAA after 9/11. The airlines claimed property tax relief as a result of economic harm suffered by 9/11 terrorist attacks.

BOE staff prepared a report concluding that Sec. 170 was not applicable to the events of 9/11 because the statute required physical damage. Nevertheless, BOE adopted Rule 139, allowing relief from a diminution of value resulting from a period of restricted access to the property (aircraft).

CAA filed 538 action against the BOE. Marcy Berkman, Deputy County Counsel in Santa Clara County, litigated the CAA lawsuit.

Assessors argued that State Constitution and related statutes, RTC 170 require that property must be physically damaged in order to qualify for relief. Assessors argued that Section 15, Article 13 of California Constitution, which provides for legislative implementation of calamity relief via Section 170, plainly requires physical damage, not economic damage.

Court on appeal ruled that a property owner must show that the property was physically damaged or destroyed. Court ruled physical damage is distinct from economic damage, and that Rule 139 improperly expanded the definition of damage beyond Section 170.

Solution:

Rely on the federal government to provide short term relief to the business community and rely on existing property tax laws for property tax relief by addressing declines in market value (Proposition 8) as of January 1, 2021.

Recommendation:

We recommend the BOE reject this proposal.

**IV. Prop 8, Decline in Value (Lien date)**

Statement of Need:

CATA representatives recommend that absent supplemental relief provided by R&T Section 170, the provisions of Section 51(a)2 will not provide timely property tax relief because, under current law, the next valuation (lien) date, under which reductions can be granted, will be January 1, 2021, affecting the 21/22 regular assessment roll for which tax bills will be issued in October 2021.

CATA has made two proposals. First, to change the lien date from January 1<sup>st</sup> to July 1<sup>st</sup>, or perhaps some other date. Second, to change Section 402.5 to allow consideration of comparable sales occurring more than 90 days after the valuation date. We strongly oppose both proposals.

First, to abruptly change the lien date would require legislative action to amend RTC Section 2192. In addition, it would throw the administration of California's property tax system into chaos and confusion for taxpayers, as well as assessors, as the lien date is referenced in scores of RTC code sections and official forms. The last time the lien was changed from March 1<sup>st</sup> to January 1<sup>st</sup>, the legislature allowed assessors more than a year to implement the change.

Assessors throughout the state have been preparing their local rolls for 10 months based on the statutory lien date of January 1, 2020. Millions of assessments throughout the state have already been calculated and prepared assuming a January 1, 2020 lien date. It would be impossible to amend these assessments in such a short time period, and deliver 2020 assessment rolls by the end of the June deadline. There are simply insufficient personnel resources available, nor are assessment computer systems, many legacy based, flexible enough to quickly adapt to such a radical change.

This idea risks the timely delivery of assessment rolls throughout California, and would further disrupt operations downstream for Tax Collectors, County Controllers, and Clerks of the Board, forcing changes to multiple noticing requirements, and changes to filing periods for assessment appeals.

In addition, changing the lien date would undermine confidence in the property tax system itself, long valued for its stability and predictability. Undermining that confidence, in a time of crisis, and imperiling the ability for local government to perform constitutional responsibilities, would exacerbate the crisis that we are already enduring. This is the worst time possible to entertain such a destabilizing notion when statewide property tax rolls are set to be delivered by the July 1 deadline.

The second proposal, extending the window of time for consideration of comparable sales, is seriously flawed and does not provide significant, timely relief for the vast majority of taxpayers. Consistent with nationally accepted appraisal practice, the best data available is actual transactions occurring before the date of valuation. Data from transactions after the date of valuation have rapidly diminished merit.

Moreover, a time adjustment would apply to any data not occurring on the date of valuation. A time adjustment of value would likely be greatest the further from the date of valuation. The best, and most plentiful and accessible information and data, would be close to the existing lien date, January 1, 2020. Allowing sales data further past that valuation date would likely not provide reliable relief to taxpayers.

The property tax system is not designed to provide rapid and significant relief, particularly when annual assessment rolls are nearly complete. However, should the Shelter in Place orders persist, creating further economic disruption, assessors statewide will proactively reduce assessments for the next lien date, January 1, 2021, as they did in 2009. At the height of the Great Recession, assessors proactively provided relief to over three million property owners, a clear demonstration of assessors' commitment to protect taxpayers and render accurate assessments.

Today, assessors are better prepared technologically to make proactive reductions, and possess more bandwidth in the appeals system. Market data will be more plentiful, allowing for well documented, auditable assessments.

The system should be allowed to work as designed by Howard Jarvis and Paul Gann, the architects of Proposition 13. As assessors prepare for the largest single year increase in Prop 8 requests, combined with the potential for a negative 2020 CCPI, assessors in 2021 are likely to enroll the steepest one year decline in assessed value in the State's history. This will have catastrophic consequences on property tax revenue and the bonding capacity of public agencies.



Assessors are independently elected and understand the economic crisis caused by Covid-19. As an income property owner, I am sympathetic to the plight of business owners. However, the federal government is providing the near-term response with \$2.3 trillion in stimulus aid to business and local governments. The Federal Reserve extended \$600 billion in loans through its Main Street Lending Program to small and medium-sized businesses impacted by the coronavirus pandemic. The bank's corporate credit facilities and Term Asset-Backed Securities Loan Facility are now collectively offering up to \$850 billion to households, employers, and companies.

With such assistance, the federal government is facilitating its traditional role as the sole entity in the nation that can literally print money. The statewide property tax system is designed to provide longer term relief as it has done historically.

Revenue Impact:

The revenue impact would be severe, hobbling the operations of local governments, schools, and county hospitals, essential to safeguarding our communities. Moreover, the property tax system would be thrown into chaos, confusing property owners as to payment deadlines, valuation dates, appeals filing periods and other unforeseen complications.

Worse, the coronavirus impact would remain for several years, creating controversy as to whether changes implemented due to the crisis would be permanent or sunset, and if so, when.

Legal Arguments/Considerations:

Each of these proposals would require legislative change, delaying implementation. Given there is only two months until completion of the 2020 assessment roll, the proposed changes, if adopted might have to be applied retroactively, further complicating implementation and impacting operations.

Solution:

Rely on the federal government to provide short term relief to the business community and rely on existing property tax laws provide property tax relief by addressing declines in market value as of January 1, 2021.

Recommendation:

We recommend that CATA's proposals be rejected.

**V. Wet Signature vs. e-Signature**

Statement of Need:

According to the BOE Taskforce taxpayers who are unable to hand deliver or mail forms, such as the 571 or assessment applications, requiring "wet" signatures are unable to submit forms due to the shelter in place order. It is feasible that some taxpayers' timely compliance may be hampered by limitations on the method of submission. However, there is no evidence to support the claim.

Assessors strongly support a variety of means to accept documents without a wet signature. Over the past 25 years, we have worked with the BOE to provide guidance, resources and direction, and opposed efforts that require a “one size fits all” solution.

A county that only receives a few hundred forms a year should not be mandated to utilize a technology solution that ignores the cost/benefit.

In 2002, Santa Clara County created an online filing system for businesses. In the absence of leadership and resources from the BOE, we worked with the CAA to create a statewide system for the filing of business property statements. This involved the creation of a JPA to fund the joint effort, including new statutes approving the utilization of this technology. CAA’s electronic filing was launched in 2005 with 35 counties participating. In 2020, most business property statements in California are now processed electronically through this system.

While more than two-thirds of all property statements are received electronically, Santa Clara County recently joined other assessors requesting the BOE to grant our office the authority to accept the 571 form without a wet signature; BOE professional staff promptly approved our request.

There is no demonstrated need requiring assessors divert precious limited resources, during this crisis, toward additional means for receiving taxpayer information. Going forward, the BOE should provide the financial and technology resources to continue to further expand the range of technologies available to assessors for accepting information contained in forms.

In 2018, CATA opposed AB 2425, a simple bill allowing assessors to require the electronic transmittal of information and data from taxpayers. AB 2425 was subsequently chaptered.

Revenue Impact:

It is unlikely there would be an impact on revenue, nor a demonstrated barrier to compliance.

Legal Arguments/Considerations:

The BOE has authority to grant assessors, upon request, the ability to receive documents without a wet signature. The BOE does not have the legal authority to dictate what medium the assessor utilizes for accepting documents and forms.

Solution:

The BOE should continue to grant assessors, upon request, the ability to receive documents without wet signature.

Recommendation:

The BOE should provide guidance and resources to support assessors’ efforts to increase the medium for transmitting information.

Conclusion:

CATA's proposals to extend deadlines would delay workload completion, compounding the problems in future years in which assessors already anticipate unprecedented surges in workload. Virtually everything in an assessor's office is on an annual 12-month cycle, ending with the close of the assessment roll, which is our constitutional responsibility. Within that 12-month cycle, there are many deadlines, some statutory, some internal. Deadlines usually don't stand alone. They are often connected. Changing one date can impact other deadlines in sequence, creating problems for not only assessors, but the tax collector, controller, clerk of the board, and even public jurisdictions, schools, cities, and special districts that depend on property tax revenue.

Any change in major deadlines simply compresses assessors work within that annual cycle. We simply cannot add a 13th month to handle an overload or a crisis. Deadlines are difficult, but they promote work discipline, consistency and efficiency. It is why assessors were united in their opposition to extending the May 7th statutory deadline to file form 571L.

Finally, we urge the BOE to notify and include BOE staff and members of the general public in future hearings. We were disappointed that the many affected parties, like homeowners, counties, schools and cities were not properly noticed.

As an Assessor, property owner and taxpayer, I am deeply troubled that the BOE would seriously entertain such radical changes which endanger the only predictable source of revenue for schools, county, and state government which all residents are relying upon to safeguard the health and welfare of our community.

Sincerely,



Lawrence E. Stone  
Assessor

LES:lcc

Attachments:

Santa Clara County letter to Governor dated April 10, 2020  
Santa Clara County Counsel memorandum re: RTC Sec. 170  
2002 Santa Clara County letter to BOE re: RTC Sec. 170

Honorable Vazquez and Schaefer  
April 28, 2020  
Page 11 of 11

cc: Honorable Malia Cohen, Board of Equalization  
Honorable Ted Gaines, Board of Equalization  
Honorable Betty T. Yee, State Controller  
Honorable Don Gaekle, CAA President, Assessor, Stanislaus County  
Honorable Phil Ting, Assemblymember  
Honorable Adrin Nazarian, Assemblymember  
Rob Grossglauser, CAA Advocate  
California Assessors' Association  
Dr. Jeffrey Smith, County Executive, Santa Clara County



## **SBE Property Tax Relief Task Force TEAM 4**

### **Prop. 8 Decline-in-Value (Lien Date)**

#### **1. Statement of need for relief**

Locally-assessed property valuations for the 2020-2021 fiscal year are based on market conditions as of January 1, 2020. The impact of COVID-19 on California property values did not occur until sometime in March 2020. Moreover, values of properties have plummeted since the implementation of statewide and local “stay-at-home” orders, which have caused the closure of many business properties that are deemed “not essential” (e.g., retail, hospitality). In addition, multifamily residential properties have been impacted by anti-eviction orders issued by many municipalities in response to widespread layoffs and unemployment caused by the COVID-19 orders, which have caused residential tenants to cease paying rents.

Because COVID-19’s impact was not felt until well-after the January 1, 2020 lien date, assesseees/taxpayers who file assessment appeal applications for property tax relief during the regular July to September /November 2020 assessment appeal filing period will be unable to receive any property tax reductions this year for the value declines caused by COVID-19. In fact, taxpayers will not be able to obtain property tax relief for the value declines that started in March 2020 until the 2021-2022 assessment appeal filing season. Those property tax appeals will be based on market conditions as of January 1, 2021, and appeals must be filed during the July to September/November 2021 assessment appeal filing period.

Taxpayers need immediate decline-in-value tax relief for the 2020-2021 tax year, the fiscal year in which COVID-19’s impact was first felt by taxpayers. Such relief will give taxpayers hope that state and local governments support taxpayers’ efforts to re-open their businesses, which includes being able to pay their property taxes during a period of reduced revenues. This is particularly true for businesses which face the prospect of losing their properties either because they are unable to pay their rent or because they are unable to pay their mortgage.

#### **2. Data or estimates supporting statement of need**

Nearly all assesseees/taxpayers’ property values have declined due to COVID-19. Absent some type of mid-year decline-in-value relief, none of those taxpayers will be able to obtain property tax relief until late 2021, and more likely 2022 or later. Fiscal Impact: Limited short-term revenue reduction; revenue impact beyond 2020-2021 unknown. Keeping businesses from failing or declaring bankruptcy will have long term benefits and may offset any potential revenue reduction.



### 3. Legal issues from CATA's perspective

The solutions recommended address specific Revenue and Taxation Code statutes, as discussed below.

### 4. Practical solutions for providing relief

- A. One solution to the concern about giving taxpayers immediate Prop. 8 decline-in-value real property relief and personal property relief would be to amend Revenue and Taxation Code Section 2192. Section 2192 establishes January 1, 2020 as the "lien date" for the July 1, 2020 through June 30, 2021 fiscal year. For all intents and purposes, the January 1, 2020 lien date is also the "date of value" for the 2020-2021 fiscal year. This proposal would separate the "date of value" from the "lien date" for the 2020-2021 tax year only. For 2020-2021, the date of value would be moved to July 1, 2020 so that the impact of COVID-19 on market values of all types of property could be measured by Assessors and AABs in setting values for the January 1, 2020 lien date.

Language for amending Section 2192 is set forth below (new language is bolded):

Except as otherwise specifically provided, all tax liens attach annually as of 12:01 a.m. on the first day of January preceding the fiscal year for which the taxes are levied. **Notwithstanding section 401.3 or other law to the contrary, fair market value of all property shall be determined as of July 1, 2020 for purposes of the 2020-2021 tax year, except that normal or typical depreciation shall be determined effective January 1, 2020. The lien date as such shall otherwise be unchanged.**

- B. Because January 1, 2020 is the lien date (and date of value) for the 2020-2021 tax year, most evidence of value used by Assessors and AABs must relate to that date.

There is an exception to this limitation in Revenue and Taxation Code Section 402.5/Property Tax Rule 324(a), which allows consideration of sales that occur up to 90 days after January 1, 2020 in the application of the Sales Comparison Approach. In addition, the Court of Appeal's decision in *Bank of America v. Fresno* permits use of some post-lien date information in the application of the Income Approach.

In contrast, the Court of Appeal's decisions in *Firestone v. County of Monterey* and *Fujitsu v. County of San Diego* both prevented taxpayers from relying on information about value-impacting events that occurred after the lien date/date of value.

Another solution to the concern about giving taxpayers immediate Prop. 8 decline-in-value real property relief and personal property relief would be to amend Section 2192 as suggested below to expand the market information that Assessors and AABs could use to set January 1, 2020 assessed values (new language is bolded):

Except as otherwise specifically provided, all tax liens attach annually as of 12:01 a.m. on the first day of January preceding the fiscal year for which the taxes are levied. **In assessing and equalizing all property types for the 2020-2021 tax year, assessors and assessment appeals boards shall consider any information available for up to nine months after the lien date of January 1, 2020 without being limited to comparable sales information pursuant to Section 402.5 and/or State Board of Equalization Rule 324(d) or any California judicial rulings limiting the time periods for evidence that may be considered in setting assessed values or in equalization proceedings. In addition, the requirement to time-adjust information to the lien date in Section 402.1 and State Board of Equalization Rules 4, 6 and 8 and 324 shall not be operative for purposes of assessing and equalizing property values during the 2020-2021 tax year. These provisions shall also apply to any reassessment caused by a change in ownership or completion of new construction which occurs during the 2020 calendar year.**

- C. For all assessments and equalization proceedings relating to the 2020-2021 tax year for all property types, establish prescribed capitalization rates/rates of return for different types of properties to be used due to the absence of market rate information. The rates would take into consideration the impact of COVID-19 on market values. The approach would be similar to the standards used for assessing agricultural properties under Williamson Act contracts and historical properties under Mills Act contracts. The assessors and taxpayers would work together to develop a table of rates that could be applied statewide for various types of properties.

This approach would (a) remove the problems caused by having little or no information from which to develop rates and (b) simplify the process of assessing properties for the 2020-2021 tax year only. However, Assessors would still have to determine market rental rates as of January 1, 2020.

This approach would not be used by Assessors to set the January 1, 2020 assessment roll values. However, in addition to filing assessment appeals for 2020-2021, the approach would allow taxpayers to request administrative review of their assessed values and allow Assessors to correct those values through June 30, 2021. This approach may reduce the number of contested 2020 Prop. 8 decline-in-value and personal property appeals and thus reduce the workloads of assessment appeals boards.

## 5. Recommendations to Board Members

- Request that the Legislature amend Section 2192 for the 2020-2021 tax year only to set July 1, 2020 as the “date of value” for assessment and equalization purposes.
- Alternatively, request that the Legislature amend Section 2192 for the 2020-2021 tax year only to allow for market value evidence existing as of nine months after the lien date (January 1, 2020) to be considered for assessment and equalization purposes.
- Alternatively, to work with Assessors and taxpayers to establish prescribed rates for different categories of properties to be used for 2020-2021 assessment and equalization purposes only, and to publicize the usage of such rates through an LTA or other means.



STATE BOARD OF EQUALIZATION

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Second District, Los Angeles

ERNEST J DRONENBURG, JR  
Third District, San Diego

RICHARD NEVINS  
Fourth District, Pasadena

KENNETH CORY  
Controller, Sacramento

DOUGLAS D BELL  
Executive Secretary

No. 86/36

May 23, 1986

TO COUNTY ASSESSORS:

DECLINES IN VALUES ON FIRST LIEN DATE  
(PROPOSITION 8)

We have received various inquiries about our recommended procedure for recognizing declines in value that occur subsequent to purchase date but before the first succeeding lien date.

Article XIII A, Section 2(a) of the Constitution says, in part:

"Full cash value<sup>1</sup> means the appraised value of property when purchased...or a change in ownership has occurred."

And Article XIII A, Section 2(b) of the Constitution says, in part:

"...full cash value base'...may be reduced to reflect...a decline in value."

However, Revenue and Taxation Code Section 50 says, in part:

"...values determined for property which is purchased or changes ownership...shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership." (Emphasis added.)

The problem is apparent. If the assessor must enter on the roll the value ascribed to the property on its purchase date, then the decline in value that occurred between the purchase date and the lien date will not be recognized. It is the Board's position that a decline in value must be reflected on the first lien date under Section 2(b) of Article XIII A, and that Section 50 should be interpreted as the general rule, applicable only where no declines in value are involved.

In discussing the proper implementation of Section 2(b) of Article XIII A (Proposition 8) the courts have stated:

"A fundamental rule of construction of any legal document is that the main object of the interpretation is to ascertain the intent of the parties who made the instrument and to give that intent the fullest effect possible consistent with the language of the provisions and the related body of law." (State Board of Equalization v. Board of Supervisors, 105 Cal. App. 3d 813.)

Further, the California Supreme Court in interpreting a previous constitutional amendment drew an analogy to interpreting a statute and stated:

"[t]he intent prevails over the letter, and the letter will, if possible, be so read to conform to the spirit of the act." (Bakkenson v. Superior Court (1925) 197 Cal. 504, 511 [241 P. 874].)

Thus, the two constitutional sections previously cited (Article XIII A, 2(a) and 2(b)) clearly intend that a property's base year value is established at the ownership change date and that any subsequent value declines should be recognized. And, the courts have made it clear that the intent of the sections should be given the "fullest effect possible." Therefore, we recommend that assessors recognize value declines that might occur between purchase date and the next lien date by enrolling the lower value on the regular roll as an Article XIII A, Section 2(b) (Proposition 8) assessment.

Revenue and Taxation Code Section 75.10

Section 75.10 provides that the full cash value of a property on date of ownership change is the new base year value (commencing with the 1983-84 assessment year). This new base year value is used for both supplemental roll purposes and regular roll purposes. If there is a subsequent value decline, the new base year value remains and values can rise back to that level without the 2 percent per year limitation. Thus, where there is a loss of value before the first lien date, the amount entered on the regular assessment roll for the first time is simply an interim taxable value (Proposition 8) and not the new base year value. The new base year value will, of course, be used on the supplemental roll. And this amount will need to be maintained in the assessors' records for future calculation purposes.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:wpc  
AL-04D-3050A





**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 445-4982

**WILLIAM M. BENNETT**  
First District, Kentfield

**BRAD SHERMAN**  
Second District, Los Angeles

**ERNEST J. DRONENBURG, JR.**  
Third District, San Diego

**MATTHEW K. FONG**  
Fourth District, Los Angeles

**GRAY DAVIS**  
Controller, Sacramento

**BURTON W. OLIVER**  
Executive Director

March 20, 1992

No. 92/24

TO COUNTY ASSESSORS:

DECLINES IN VALUE

As you know, property values in some areas of California have declined or stagnated due to the current recession in our economy. As a result, property owners who purchased at the height of the market may have a factored base year value which exceeds the current market value of their property. Therefore, to ensure that these property owners receive the benefits of Proposition 8, surveys of geographical areas or property use-types suspected of experiencing declines in value may be warranted. Press releases issued by your office will serve as a reminder to the taxpayers that they should notify you of potential overassessments.

Proposition 8, which added Section 2(b) of Article XIII A of the California Constitution, requires the assessor to recognize declines in value if the market value of the property on March 1 falls below its factored base year value.

Section 2(b) of Article XIII A states that:

"The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value." (Emphasis added.)

Section 51 of the Revenue and Taxation Code is the implementing legislation for Proposition 8; it states in part:

"For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall be the lesser of:

"(a) Its base year value, compounded annually since the base year by an inflation factor . . . .

March 20, 1992

"(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value. [Emphasis added] . . .

"(e) For purposes of subdivisions (a) and (b), 'real property' means that appraisal unit which persons in the marketplace commonly buy and sell as a unit, or which are normally valued separately.

"(f) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property."

The following list of letters to assessors provides guidance on implementing the provisions of Proposition 8:

- No. 79/39 - Questions and Answers Pertaining to Decline in Value
- No. 82/25 - The Consumer Price Index and Property Having Stagnant or Declining Value
- No. 86/04 - Applying Proposition 8 to Fractional Interests in Real Property
- No. 86/36 - Declines in Values on First Lien Date (Proposition 8)

If you have any questions concerning Proposition 8, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk



STATE BOARD OF EQUALIZATION

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Fourth District, Los Angeles

GRAY DAVIS  
Controller, Sacramento

BURTON W. OLIVER  
Executive Director

September 25, 1992

TO COUNTY ASSESSORS:

No. 92/63

DECLINES IN VALUE  
ASSESSMENT UNIFORMITY

The Members of the Board of Equalization continue to hear that property owners in some counties may not be receiving the property tax benefit they are entitled to as a result of Proposition 8. These economic times have resulted in the decrease of property values which is unparalleled since the passage of Proposition 13. The Board feels strongly that property owners entitled to reduced property taxes should receive priority from assessors at least equal to their other responsibilities. We recently issued Letter to Assessors 92/24, dated March 20, 1992, to ensure that those owners of property with factored base year values exceeding current market value receive the benefit of Proposition 8. This letter will stress the obligation of the assessor to inventory and process declines in value with the same diligence and resource expended on increases in values.

Taxpayers have proposed rule changes to the Board on how to address declines in value which they feel would be more directive to county assessors. However, at this time the Board feels the process of continuing to provide guidance and information through Letters to Assessors is the most effective and responsive way to address this issue.

Proposition 13 added Article XIII A to the California Constitution. Proposition 8 amended Article XIII A to require the assessor to recognize declines in value if the market value of the real property on March 1 falls below its factored base year value.

The first sentence of Section 1(a) of Article XIII A reads as follows:

"The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property."

Proposition 8 amended Section 2(b) of Article XIII A of the California Constitution to read that:

"The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value."

Section 51 of the Revenue and Taxation Code is the implementing legislation for Section 2(b). It reads in part:

"For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall be the lesser of:

"(a) Its base year value, compounded annually since the base year by an inflation factor, . . . .

"(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value. (Emphasis added.)

". . .(e) For purposes of subdivisions (a) and (b), 'real property' means that appraisal unit which persons in the marketplace commonly buy and sell as a unit, or which are normally valued separately.

"(f) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property."

Property Tax Rule 461(d) reads, in pertinent part:

". . . the assessor shall prepare an assessment roll containing the base year value appropriately indexed or the current lien date full value, whichever is less. . . In preparing such rolls the assessor is not required to make an annual reappraisal of all assessable property.

". . . When the current full value of property is less than its base year full value indexed to the current lien date, the full value shall be enrolled as the current taxable value."

The assessor's responsibility is to prepare an assessment roll which appropriately reflects both Constitutional and statutory provisions. Along with the responsibility to reassess property when a change in ownership or new construction occurs, the assessor has a responsibility to discover properties where assessments are in excess of their current value. Assessors are not required to annually appraise every assessable property. However, we urge assessors to be proactive in seeking particular property types, geographical areas of property, or categories of properties (such as those purchased at or near the peak of the real estate market) which require adjustment for declining value. We recognize the budgetary and workload problems assessors are facing throughout California but stress the need to properly allocate resources between the assessment decrease workload and the assessment increase workload.

Proactive suggestions for discovery of property with market values at levels below pending or actual assessed value include:

September 25, 1992

- \* Informational inserts to be included with future tax bills to alert taxpayers.
- \* Active public outreach program including information and public service announcements in radio, television, and newspapers.
- \* Surveys of geographical areas of property use-types suspected of experiencing declines in value.
- \* Reviewing assessment appeals to identify declining value trends.
- \* Reviewing assessments in areas where property owners have notified your office that their property has suffered a decline in value.
- \* Special mailings targeted to property owners to inform them of the potential for a reduction in their assessed value.
- \* Using automated sales ratio studies as a method of discovering geographical and use-types of property significantly impacted by the recession.
- \* Providing appropriate resource allocation for discovering and processing assessments declining in value. Resource management should create a level playing field for adjusting both decreases and increases of assessment.

For the most part, it is our impression that assessors have made it a high priority to provide declines in value relief where appropriate. By following some or all of the above suggestions, we believe all assessors can take the initiative to value declining properties appropriately.

The Board has asked that staff provide assistance to any county in reviewing their approach of identifying properties affected by declines in value. At the same time, they are aware that the California Assessors' Association is reviewing this issue and can offer assessors grappling with this issue advice on methods successfully used by counties.

If assessors believe certain aspects of this issue have been overlooked, please contact the Real Property Technical Services Unit at (916) 445-4982. The Board will schedule continued discussions on declines in value as necessary.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk



<b>SUBGROUP 4</b>	<b>3:00 p.m. to 4:00 p.m.-Prop 8, Decline in Value (lien date)</b>
<b>SPEAKER:</b>	<b>COMMENT:</b>
Kris Cazadd	Provide the following information to subgroup by Tuesday, April 28: <ol style="list-style-type: none"> <li>1. Need and data</li> <li>2. Legal arguments</li> <li>3. Practical solutions (i.e. LTA)</li> <li>4. Recommendations</li> </ol>
Chris O'Neil	<ul style="list-style-type: none"> <li>• An avenue but different approach similar to decline in value.</li> <li>• Two proposed solutions for this year: <ol style="list-style-type: none"> <li>1. Take valuation date and move to later date (i.e. May/June). RTC 2192. Easier than Section 170. Only requires Assessors to adjust dates.</li> <li>2. Relaxing evidentiary standards.</li> </ol> </li> </ul>
Chuck Leonhardt	<ul style="list-style-type: none"> <li>• Unrealistic for all counties.</li> <li>• Ask legislature to forgive requirements.</li> </ul>
Chris O'Neil	<ul style="list-style-type: none"> <li>• Data pertaining to COVID 19 will not be available for 180, 270 days out.</li> <li>• Even after June/July. No rental data.</li> </ul>
Wes Nichols	<ul style="list-style-type: none"> <li>• For Oct 2020 billings, looking for elected officials to give hope taxpayers that government is acting in good faith. Provide a sense of confidence that their government is doing something.</li> <li>• Use rental/cap rates as of Jan. 1 which is fast and easy to obtain.</li> </ul>
Don Gaekle	<ul style="list-style-type: none"> <li>• Uphill battle to have legislation changing dates.</li> <li>• These changes would not be realized for months.</li> <li>• More practical to ask legislature to give money for immediate relief.</li> <li>• Blunt tool redoing the tax code.</li> </ul>
Chuck Leonhardt	<ul style="list-style-type: none"> <li>• Take more time and thought putting recommendations/solutions to action.</li> <li>• Do not involve legislation in the short term where there is a possibility of litigation—waste of time.</li> </ul>
Wes Nichols	<ul style="list-style-type: none"> <li>• Looking for 3-5 years of flat growth/recession. Assessors need to be open about public sentiment.</li> </ul>
Larry Stone	<ul style="list-style-type: none"> <li>• We didn't change the system during the Great Recession.</li> </ul>
Marc Tonnesen	<ul style="list-style-type: none"> <li>• During Great Recession—Assessors were proactive. They assessed based on reductions sent to taxpayers. If taxpayers disagreed they can file an appeal.</li> <li>• There will be data out there.</li> </ul>
Paul Weldman	<ul style="list-style-type: none"> <li>• Asking for relief. It is different from market forces caused by Great Recession.</li> </ul>
Chuck Leonhardt	<ul style="list-style-type: none"> <li>• We don't have enough data to put anything meaningful. We are presuming what's going to happen without sizing up the problem.</li> <li>• What could be done here is to be proactive to mitigate appeals.</li> <li>• Form relationships with taxpayers to get data successfully.</li> </ul>
Larry Stone	<ul style="list-style-type: none"> <li>• Agrees with proactive action without taxpayers requesting help within the law.</li> </ul>

# Office of the Assessor

County of Santa Clara

County Government Center, East Wing  
70 West Hedding Street, 5<sup>th</sup> Floor  
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**Lawrence E. Stone**



April 28, 2020

*Sent via email*

Honorable Antonio Vazquez and Honorable Mike Schaefer  
California State Board of Equalization  
Capitol Mall  
Sacramento, CA 95814

Re: Responses to the Five Hearings Initiated by BOE Task Force on Covid-19

Dear Chair Vazquez and Vice Chair Schaefer,

We have a health crisis which has triggered an equally serious financial crisis. The vast majority of the proposals advanced by CATA, and under consideration by the BOE, will create a political crisis of equal proportions. Consideration of proposals, such as changing the lien/valuation date, is the height of irresponsibility.

As noted in this response, the dramatic, and at times radical, proposals offered by CATA and others are grossly disproportionate to the lack of demonstrated need. Unlike the evidence-based economic crisis and the commensurate national and state response, there is no information to suggest that the property tax system is the appropriate venue to provide financial relief. Implementing the proposals would be neither quick nor easy, and likely to invite lengthy litigation, further hampering the desired objective.

Simply, the property tax system cannot provide the urgent short-term financial relief proposed by CATA. Instead, the property tax system can and will provide the appropriate property tax relief. Where possible, the BOE should support efforts by assessors to waive penalties, or permit assessors to accept documents without a "wet" signature.

I urge the BOE to focus on the "doable" by partnering with assessors in managing through the greatest crisis facing property tax administration in 40 years.

Nevertheless, as requested last Thursday, I write to submit feedback in my capacity as Santa Clara County Assessor.

**I. Business Personal Property Tax Statement, 571L**

Statement of Need:

CATA has stated that Covid-19 is preventing taxpayers and their employees from gathering and assembling the necessary information needed to prepare and timely file business property statements by the May 7<sup>th</sup> deadline. The annual business property statement is the principal tool for assessors to discover equipment and machinery subject to assessment. To date, there is little evidence and minimal anecdotal accounts to support CATA's claim.

As noted by California tax collectors, the collection of property tax payments on April 10 ranged between 93 and 97 percent. Similarly, the Santa Clara County Assessor's Office continues to receive electronic and even paper submissions of the 571L form. Overall, the number of filings year to date remains over 80 percent with the largest numbers expected during the two weeks leading up to the deadline.

Second only to Los Angeles, Santa Clara County is an important indicator statewide of filings. If business owners were having problems filing statements due to this crisis, they would be contacting our office to inquire about the deadline. To date, inquiries have not materialized to any significance. Even though we are the 6<sup>th</sup> most populous County, we have the second largest unsecured roll in excess of \$35 billion.

In a letter to the Governor, the BOE has recommended that the compliance date for filing Form 571s be extended beyond May 7 (CATA requested to June 15 for all original and amended filings). To date, the Governor has not responded. Since the May 7 deadline will have passed by the time the BOE has re-convened, this recommendation is essentially moot.

As I outlined in the attached letter to the Governor, the CAA is strongly opposed to extending the deadline. There is little evidence to suggest that the coronavirus crisis has created a concurrent crisis for the ability of all companies to timely submit their 571L business property statement. In addition, since the filing date of corporate federal and state income taxes has been extended to July 15, many businesses and their tax managers should have sufficient time to prepare their 571L statements.

The Senior Tax Manager for Apple told me personally last week that Apple will have no problem meeting the May 7<sup>th</sup> deadline, and any decent software system should provide the ability for business owners to meet the deadline. Most very small business owners do not need software, as they utilize an online tool created by assessors. Most small businesses can e-file the form in less than 15 minutes.

In recognition that a limited number of taxpayers will need a temporary penalty waiver, I recommend that the Governor empower assessors with the same authority granted to tax collectors to waive the late filing penalties.

Revenue Impact:

Assessors are not revenue agents, and revenue impacts should be directed to the appropriate agency, including the BOE staff which routinely projects financial impacts.

Extending the filing deadline for the 571 would have immediate and significant financial consequences for schools, cities and counties, already struggling to manage the demand for expanded services, while facing diminishing resources due to the economic impact of the impending recession. Any blanket, statewide delay of the filing of the business personal property statement to July, would have immediate impacts on anticipated cash flow derived from \$3 billion in taxes, payable no later than August 31.

Legal Arguments/Considerations:

The only legal recourse must come from the Governor who has not responded to the BOE request.

Solution:

The BOE can support efforts by local assessors to waive the penalty for late filings submitted until May 31.

Recommendation:

It is recommended that the proposal to extend the filing date of the Business Property Statement (571L) be rejected. Further, that the BOE urge the Governor to grant assessors the authority to waive late filing penalties for Covid-19 related circumstances.

**II. County Assessment Appeals Board (AAB) Deadlines (statutes of limitations: 2-year deadline for AAB, 60-day deadline for taxpayer to appeal supplemental assessment notice)**

Statement of Need:

The BOE task force conducted a hearing on the extent to which property owners right to file an assessment appeal is impacted by Covid-19.

Supplemental Assessment Notice

CATA stated that due to the Covid-19, the 60-day deadline to file an assessment appeal on supplemental assessments should be extended as taxpayers will not be receiving mailed notices due to the shelter in place order.

There is no evidence to indicate that taxpayers are not receiving supplemental notices, or that dramatic change is needed. The vast majority of supplemental and escape assessments notices are issued to homeowners who receive their mail at their residence. Businesses are not legally prohibited from entering their premises to gather mail and other documents, including utility bills, bank and mortgage statements, etc. They always have the option to request mail be automatically forwarded to an alternate address.

In Santa Clara County, the public health department FAQ specifically addresses the issue of the "Shelter-in-Place" order as it relates to non-essential businesses. Specifically, it states:

"What if my business is not considered an essential business? Does this Order require that I shut down my business facility? Yes, it does, except for the following "Minimum Basic Operations," which are defined in the following excerpt from the Order:

1. The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; process payroll and employee benefits; provide for the delivery of existing inventory directly to residences or businesses; and related functions.
2. The minimum necessary activities to facilitate owners, employees, and contractors of the business being able to continue to work remotely from their residences, and to ensure that the business can deliver its service remotely."

The Revenue and Taxation Code (RTC) provides a sufficient mechanism for relief in limited circumstances. For assessments made outside of the regular roll time period, RTC Section 1605(b)(1) provides that if the taxpayer does not receive the notice of the supplemental assessment or notice of escape assessment at least 15 calendar days before the 60-day deadline to file an assessment appeal application, then the applicant may file their assessment appeal application within 60 days of the date of mailing printed on the tax bill or the postmark on the tax bill, whichever is later, along with an affidavit declaring under penalty of perjury that the notice of assessment was not timely received.

#### Assessment Appeal Issues

Counsel to and the Clerks of the AAB testified that appeals in March, April and May have been cancelled throughout California out of abundance of caution to protect taxpayers and staff alike and due to the shelter in place order. Assessors and taxpayers have agreed to numerous hearing postponements. As shelter in place orders continue to hamper AAB operations and jeopardize due process for a taxpayers, we support efforts by the CACEO that provide relief in a manner that limits a backlog of appeals. It is anticipated that appeals in 2021 will skyrocket and accumulated backlog heading into that difficult situation will only further jeopardize due process.

#### Revenue Impact:

A delay of appeals now will create an uneven flow of appeals and potential refunds (plus interest) as a larger number of appeals than normal will be processed at a later time once appeal hearings resume.

#### Legal Arguments/Considerations:

The BOE has the legal authority to grant, upon request, the AAB with a minimum of forty days extension on appeals with pending deadlines. As the demonstrated need has far exceeded 40 days the BOE should call on the Governor to support tolling of the statute beyond the Covid-19 emergency declaration and other recommendations from the CACEO.



Solution:

Support tolling of the statute beyond the Covid-19 emergency declaration; authorizing AAB to conduct hearings with non-physical appearance of applicants, their agents, and/or assessor office representatives by means of remote-access technology and allow the clerk to schedule an application based on the urgency of the appeal, and not consider whether or not the clerk, county board, or assessment hearing officer had postponed or continued an appeal to a specific calendar date.

Recommendation:

We oppose any extension of time from issuance of supplemental or escape assessments to file assessment appeals and support the CACEO's proposals to toll deadlines to hear appeals during the Covid-19 pandemic.

**III. RTC Section 170, Disaster Relief**

Statement of Need:

The BOE task force received a proposal by CATA to adopt a rule permitting taxpayers to file Misfortune and Calamity (M&C) claims under Revenue and Taxation Code Section 170 due to the impact on property values from Covid-19 "Shelter-in-Place" orders. The primary purpose of such a radical change is to provide property tax relief faster than allowed by the California Constitution. The proposal will not provide rapid relief, nor is it lawful. Moreover, it is not consistent with sound appraisal theory, and cannot be implemented without creating extreme chaos with California's property tax system.

Revenue Impact:

It is likely that the increased cost to administer this proposal, and the sudden and dramatic loss of revenue at the apex of the Covid-19 crisis may threaten the state and local government ability to deliver vital public health services.

Legal Arguments/Considerations:

There is significant historical precedent with attempting to apply R&T Code Section 170 for property tax relief as a result of economic harm.

In 2002, I served as President of the CAA after 9/11. The airlines claimed property tax relief as a result of economic harm suffered by 9/11 terrorist attacks.

BOE staff prepared a report concluding that Sec. 170 was not applicable to the events of 9/11 because the statute required physical damage. Nevertheless, BOE adopted Rule 139, allowing relief from a diminution of value resulting from a period of restricted access to the property (aircraft).

CAA filed 538 action against the BOE. Marcy Berkman, Deputy County Counsel in Santa Clara County, litigated the CAA lawsuit.

Assessors argued that State Constitution and related statutes, RTC 170 require that property must be physically damaged in order to qualify for relief. Assessors argued that Section 15, Article 13 of California Constitution, which provides for legislative implementation of calamity relief via Section 170, plainly requires physical damage, not economic damage.

Court on appeal ruled that a property owner must show that the property was physically damaged or destroyed. Court ruled physical damage is distinct from economic damage, and that Rule 139 improperly expanded the definition of damage beyond Section 170.

Solution:

Rely on the federal government to provide short term relief to the business community and rely on existing property tax laws for property tax relief by addressing declines in market value (Proposition 8) as of January 1, 2021.

Recommendation:

We recommend the BOE reject this proposal.

**IV. Prop 8, Decline in Value (Lien date)**

Statement of Need:

CATA representatives recommend that absent supplemental relief provided by R&T Section 170, the provisions of Section 51(a)2 will not provide timely property tax relief because, under current law, the next valuation (lien) date, under which reductions can be granted, will be January 1, 2021, affecting the 21/22 regular assessment roll for which tax bills will be issued in October 2021.

CATA has made two proposals. First, to change the lien date from January 1<sup>st</sup> to July 1<sup>st</sup>, or perhaps some other date. Second, to change Section 402.5 to allow consideration of comparable sales occurring more than 90 days after the valuation date. We strongly oppose both proposals.

First, to abruptly change the lien date would require legislative action to amend RTC Section 2192. In addition, it would throw the administration of California's property tax system into chaos and confusion for taxpayers, as well as assessors, as the lien date is referenced in scores of RTC code sections and official forms. The last time the lien was changed from March 1<sup>st</sup> to January 1<sup>st</sup>, the legislature allowed assessors more than a year to implement the change.

Assessors throughout the state have been preparing their local rolls for 10 months based on the statutory lien date of January 1, 2020. Millions of assessments throughout the state have already been calculated and prepared assuming a January 1, 2020 lien date. It would be impossible to amend these assessments in such a short time period, and deliver 2020 assessment rolls by the end of the June deadline. There are simply insufficient personnel resources available, nor are assessment computer systems, many legacy based, flexible enough to quickly adapt to such a radical change.

This idea risks the timely delivery of assessment rolls throughout California, and would further disrupt operations downstream for Tax Collectors, County Controllers, and Clerks of the Board, forcing changes to multiple noticing requirements, and changes to filing periods for assessment appeals.

In addition, changing the lien date would undermine confidence in the property tax system itself, long valued for its stability and predictability. Undermining that confidence, in a time of crisis, and imperiling the ability for local government to perform constitutional responsibilities, would exacerbate the crisis that we are already enduring. This is the worst time possible to entertain such a destabilizing notion when statewide property tax rolls are set to be delivered by the July 1 deadline.

The second proposal, extending the window of time for consideration of comparable sales, is seriously flawed and does not provide significant, timely relief for the vast majority of taxpayers. Consistent with nationally accepted appraisal practice, the best data available is actual transactions occurring before the date of valuation. Data from transactions after the date of valuation have rapidly diminished merit.

Moreover, a time adjustment would apply to any data not occurring on the date of valuation. A time adjustment of value would likely be greatest the further from the date of valuation. The best, and most plentiful and accessible information and data, would be close to the existing lien date, January 1, 2020. Allowing sales data further past that valuation date would likely not provide reliable relief to taxpayers.

The property tax system is not designed to provide rapid and significant relief, particularly when annual assessment rolls are nearly complete. However, should the Shelter in Place orders persist, creating further economic disruption, assessors statewide will proactively reduce assessments for the next lien date, January 1, 2021, as they did in 2009. At the height of the Great Recession, assessors proactively provided relief to over three million property owners, a clear demonstration of assessors' commitment to protect taxpayers and render accurate assessments.

Today, assessors are better prepared technologically to make proactive reductions, and possess more bandwidth in the appeals system. Market data will be more plentiful, allowing for well documented, auditable assessments.

The system should be allowed to work as designed by Howard Jarvis and Paul Gann, the architects of Proposition 13. As assessors prepare for the largest single year increase in Prop 8 requests, combined with the potential for a negative 2020 CCPI, assessors in 2021 are likely to enroll the steepest one year decline in assessed value in the State's history. This will have catastrophic consequences on property tax revenue and the bonding capacity of public agencies.

Assessors are independently elected and understand the economic crisis caused by Covid-19. As an income property owner, I am sympathetic to the plight of business owners. However, the federal government is providing the near-term response with \$2.3 trillion in stimulus aid to business and local governments. The Federal Reserve extended \$600 billion in loans through its Main Street Lending Program to small and medium-sized businesses impacted by the coronavirus pandemic. The bank's corporate credit facilities and Term Asset-Backed Securities Loan Facility are now collectively offering up to \$850 billion to households, employers, and companies.

With such assistance, the federal government is facilitating its traditional role as the sole entity in the nation that can literally print money. The statewide property tax system is designed to provide longer term relief as it has done historically.

Revenue Impact:

The revenue impact would be severe, hobbling the operations of local governments, schools, and county hospitals, essential to safeguarding our communities. Moreover, the property tax system would be thrown into chaos, confusing property owners as to payment deadlines, valuation dates, appeals filing periods and other unforeseen complications.

Worse, the coronavirus impact would remain for several years, creating controversy as to whether changes implemented due to the crisis would be permanent or sunset, and if so, when.

Legal Arguments/Considerations:

Each of these proposals would require legislative change, delaying implementation. Given there is only two months until completion of the 2020 assessment roll, the proposed changes, if adopted might have to be applied retroactively, further complicating implementation and impacting operations.

Solution:

Rely on the federal government to provide short term relief to the business community and rely on existing property tax laws provide property tax relief by addressing declines in market value as of January 1, 2021.

Recommendation:

We recommend that CATA's proposals be rejected.

**V. Wet Signature vs. e-Signature**

Statement of Need:

According to the BOE Taskforce taxpayers who are unable to hand deliver or mail forms, such as the 571 or assessment applications, requiring "wet" signatures are unable to submit forms due to the shelter in place order. It is feasible that some taxpayers' timely compliance may be hampered by limitations on the method of submission. However, there is no evidence to support the claim.

Assessors strongly support a variety of means to accept documents without a wet signature. Over the past 25 years, we have worked with the BOE to provide guidance, resources and direction, and opposed efforts that require a “one size fits all” solution.

A county that only receives a few hundred forms a year should not be mandated to utilize a technology solution that ignores the cost/benefit.

In 2002, Santa Clara County created an online filing system for businesses. In the absence of leadership and resources from the BOE, we worked with the CAA to create a statewide system for the filing of business property statements. This involved the creation of a JPA to fund the joint effort, including new statutes approving the utilization of this technology. CAA’s electronic filing was launched in 2005 with 35 counties participating. In 2020, most business property statements in California are now processed electronically through this system.

While more than two-thirds of all property statements are received electronically, Santa Clara County recently joined other assessors requesting the BOE to grant our office the authority to accept the 571 form without a wet signature; BOE professional staff promptly approved our request.

There is no demonstrated need requiring assessors divert precious limited resources, during this crisis, toward additional means for receiving taxpayer information. Going forward, the BOE should provide the financial and technology resources to continue to further expand the range of technologies available to assessors for accepting information contained in forms.

In 2018, CATA opposed AB 2425, a simple bill allowing assessors to require the electronic transmittal of information and data from taxpayers. AB 2425 was subsequently chaptered.

Revenue Impact:

It is unlikely there would be an impact on revenue, nor a demonstrated barrier to compliance.

Legal Arguments/Considerations:

The BOE has authority to grant assessors, upon request, the ability to receive documents without a wet signature. The BOE does not have the legal authority to dictate what medium the assessor utilizes for accepting documents and forms.

Solution:

The BOE should continue to grant assessors, upon request, the ability to receive documents without wet signature.

Recommendation:

The BOE should provide guidance and resources to support assessors’ efforts to increase the medium for transmitting information.



Conclusion:

CATA's proposals to extend deadlines would delay workload completion, compounding the problems in future years in which assessors already anticipate unprecedented surges in workload. Virtually everything in an assessor's office is on an annual 12-month cycle, ending with the close of the assessment roll, which is our constitutional responsibility. Within that 12-month cycle, there are many deadlines, some statutory, some internal. Deadlines usually don't stand alone. They are often connected. Changing one date can impact other deadlines in sequence, creating problems for not only assessors, but the tax collector, controller, clerk of the board, and even public jurisdictions, schools, cities, and special districts that depend on property tax revenue.

Any change in major deadlines simply compresses assessors work within that annual cycle. We simply cannot add a 13th month to handle an overload or a crisis. Deadlines are difficult, but they promote work discipline, consistency and efficiency. It is why assessors were united in their opposition to extending the May 7th statutory deadline to file form 571L.

Finally, we urge the BOE to notify and include BOE staff and members of the general public in future hearings. We were disappointed that the many affected parties, like homeowners, counties, schools and cities were not properly noticed.

As an Assessor, property owner and taxpayer, I am deeply troubled that the BOE would seriously entertain such radical changes which endanger the only predictable source of revenue for schools, county, and state government which all residents are relying upon to safeguard the health and welfare of our community.

Sincerely,



Lawrence E. Stone  
Assessor

LES:lcc

Attachments:

Santa Clara County letter to Governor dated April 10, 2020  
Santa Clara County Counsel memorandum re: RTC Sec. 170  
2002 Santa Clara County letter to BOE re: RTC Sec. 170

Honorable Vazquez and Schaefer  
April 28, 2020  
Page 11 of 11

cc: Honorable Malia Cohen, Board of Equalization  
Honorable Ted Gaines, Board of Equalization  
Honorable Betty T. Yee, State Controller  
Honorable Don Gaekle, CAA President, Assessor, Stanislaus County  
Honorable Phil Ting, Assemblymember  
Honorable Adrin Nazarian, Assemblymember  
Rob Grossglauser, CAA Advocate  
California Assessors' Association  
Dr. Jeffrey Smith, County Executive, Santa Clara County





## **SBE Property Tax Relief Task Force TEAM 4**

### **Prop. 8 Decline-in-Value (Lien Date)**

#### **1. Statement of need for relief**

Locally-assessed property valuations for the 2020-2021 fiscal year are based on market conditions as of January 1, 2020. The impact of COVID-19 on California property values did not occur until sometime in March 2020. Moreover, values of properties have plummeted since the implementation of statewide and local “stay-at-home” orders, which have caused the closure of many business properties that are deemed “not essential” (e.g., retail, hospitality). In addition, multifamily residential properties have been impacted by anti-eviction orders issued by many municipalities in response to widespread layoffs and unemployment caused by the COVID-19 orders, which have caused residential tenants to cease paying rents.

Because COVID-19’s impact was not felt until well-after the January 1, 2020 lien date, assessees/taxpayers who file assessment appeal applications for property tax relief during the regular July to September /November 2020 assessment appeal filing period will be unable to receive any property tax reductions this year for the value declines caused by COVID-19. In fact, taxpayers will not be able to obtain property tax relief for the value declines that started in March 2020 until the 2021-2022 assessment appeal filing season. Those property tax appeals will be based on market conditions as of January 1, 2021, and appeals must be filed during the July to September/November 2021 assessment appeal filing period.

Taxpayers need immediate decline-in-value tax relief for the 2020-2021 tax year, the fiscal year in which COVID-19’s impact was first felt by taxpayers. Such relief will give taxpayers hope that state and local governments support taxpayers’ efforts to re-open their businesses, which includes being able to pay their property taxes during a period of reduced revenues. This is particularly true for businesses which face the prospect of losing their properties either because they are unable to pay their rent or because they are unable to pay their mortgage.

#### **2. Data or estimates supporting statement of need**

Nearly all assessees/taxpayers’ property values have declined due to COVID-19. Absent some type of mid-year decline-in-value relief, none of those taxpayers will be able to obtain property tax relief until late 2021, and more likely 2022 or later. Fiscal Impact: Limited short-term revenue reduction; revenue impact beyond 2020-2021 unknown. Keeping businesses from failing or declaring bankruptcy will have long term benefits and may offset any potential revenue reduction.

### 3. Legal issues from CATA's perspective

The solutions recommended address specific Revenue and Taxation Code statutes, as discussed below.

### 4. Practical solutions for providing relief

- A. One solution to the concern about giving taxpayers immediate Prop. 8 decline-in-value real property relief and personal property relief would be to amend Revenue and Taxation Code Section 2192. Section 2192 establishes January 1, 2020 as the "lien date" for the July 1, 2020 through June 30, 2021 fiscal year. For all intents and purposes, the January 1, 2020 lien date is also the "date of value" for the 2020-2021 fiscal year. This proposal would separate the "date of value" from the "lien date" for the 2020-2021 tax year only. For 2020-2021, the date of value would be moved to July 1, 2020 so that the impact of COVID-19 on market values of all types of property could be measured by Assessors and AABs in setting values for the January 1, 2020 lien date.

Language for amending Section 2192 is set forth below (new language is bolded):

Except as otherwise specifically provided, all tax liens attach annually as of 12:01 a.m. on the first day of January preceding the fiscal year for which the taxes are levied. **Notwithstanding section 401.3 or other law to the contrary, fair market value of all property shall be determined as of July 1, 2020 for purposes of the 2020-2021 tax year, except that normal or typical depreciation shall be determined effective January 1, 2020. The lien date as such shall otherwise be unchanged.**

- B. Because January 1, 2020 is the lien date (and date of value) for the 2020-2021 tax year, most evidence of value used by Assessors and AABs must relate to that date.

There is an exception to this limitation in Revenue and Taxation Code Section 402.5/Property Tax Rule 324(a), which allows consideration of sales that occur up to 90 days after January 1, 2020 in the application of the Sales Comparison Approach. In addition, the Court of Appeal's decision in *Bank of America v. Fresno* permits use of some post-lien date information in the application of the Income Approach.

In contrast, the Court of Appeal's decisions in *Firestone v. County of Monterey* and *Fujitsu v. County of San Diego* both prevented taxpayers from relying on information about value-impacting events that occurred after the lien date/date of value.

Another solution to the concern about giving taxpayers immediate Prop. 8 decline-in-value real property relief and personal property relief would be to amend Section 2192 as suggested below to expand the market information that Assessors and AABs could use to set January 1, 2020 assessed values (new language is bolded):

Except as otherwise specifically provided, all tax liens attach annually as of 12:01 a.m. on the first day of January preceding the fiscal year for which the taxes are levied. **In assessing and equalizing all property types for the 2020-2021 tax year, assessors and assessment appeals boards shall consider any information available for up to nine months after the lien date of January 1, 2020 without being limited to comparable sales information pursuant to Section 402.5 and/or State Board of Equalization Rule 324(d) or any California judicial rulings limiting the time periods for evidence that may be considered in setting assessed values or in equalization proceedings. In addition, the requirement to time-adjust information to the lien date in Section 402.1 and State Board of Equalization Rules 4, 6 and 8 and 324 shall not be operative for purposes of assessing and equalizing property values during the 2020-2021 tax year. These provisions shall also apply to any reassessment caused by a change in ownership or completion of new construction which occurs during the 2020 calendar year.**

- C. For all assessments and equalization proceedings relating to the 2020-2021 tax year for all property types, establish prescribed capitalization rates/rates of return for different types of properties to be used due to the absence of market rate information. The rates would take into consideration the impact of COVID-19 on market values. The approach would be similar to the standards used for assessing agricultural properties under Williamson Act contracts and historical properties under Mills Act contracts. The assessors and taxpayers would work together to develop a table of rates that could be applied statewide for various types of properties.

This approach would (a) remove the problems caused by having little or no information from which to develop rates and (b) simplify the process of assessing properties for the 2020-2021 tax year only. However, Assessors would still have to determine market rental rates as of January 1, 2020.

This approach would not be used by Assessors to set the January 1, 2020 assessment roll values. However, in addition to filing assessment appeals for 2020-2021, the approach would allow taxpayers to request administrative review of their assessed values and allow Assessors to correct those values through June 30, 2021. This approach may reduce the number of contested 2020 Prop. 8 decline-in-value and personal property appeals and thus reduce the workloads of assessment appeals boards.

## 5. Recommendations to Board Members

- Request that the Legislature amend Section 2192 for the 2020-2021 tax year only to set July 1, 2020 as the “date of value” for assessment and equalization purposes.
- Alternatively, request that the Legislature amend Section 2192 for the 2020-2021 tax year only to allow for market value evidence existing as of nine months after the lien date (January 1, 2020) to be considered for assessment and equalization purposes.
- Alternatively, to work with Assessors and taxpayers to establish prescribed rates for different categories of properties to be used for 2020-2021 assessment and equalization purposes only, and to publicize the usage of such rates through an LTA or other means.



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Fourth District, Pasadena

KENNETH CORY  
Controller, Sacramento

DOUGLAS D BELL  
Executive Secretary

No. 86/36

May 23, 1986

TO COUNTY ASSESSORS:

DECLINES IN VALUES ON FIRST LIEN DATE  
(PROPOSITION 8)

We have received various inquiries about our recommended procedure for recognizing declines in value that occur subsequent to purchase date but before the first succeeding lien date.

Article XIII A, Section 2(a) of the Constitution says, in part:

"'Full cash value' means the appraised value of property when purchased...or a change in ownership has occurred."

And Article XIII A, Section 2(b) of the Constitution says, in part:

"...'full cash value base'...may be reduced to reflect...a decline in value."

However, Revenue and Taxation Code Section 50 says, in part:

"...values determined for property which is purchased or changes ownership...shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership." (Emphasis added.)

The problem is apparent. If the assessor must enter on the roll the value ascribed to the property on its purchase date, then the decline in value that occurred between the purchase date and the lien date will not be recognized. It is the Board's position that a decline in value must be reflected on the first lien date under Section 2(b) of Article XIII A, and that Section 50 should be interpreted as the general rule, applicable only where no declines in value are involved.

In discussing the proper implementation of Section 2(b) of Article XIII A (Proposition 8) the courts have stated:

"A fundamental rule of construction of any legal document is that the main object of the interpretation is to ascertain the intent of the parties who made the instrument and to give that intent the fullest effect possible consistent with the language of the provisions and the related body of law." (State Board of Equalization v. Board of Supervisors, 105 Cal. App. 3d 813.)

Further, the California Supreme Court in interpreting a previous constitutional amendment drew an analogy to interpreting a statute and stated:

"[t]he intent prevails over the letter, and the letter will, if possible, be so read to conform to the spirit of the act." (Bakkenson v. Superior Court (1925) 197 Cal. 504, 511 [241 P. 874].)

Thus, the two constitutional sections previously cited (Article XIII A, 2(a) and 2(b)) clearly intend that a property's base year value is established at the ownership change date and that any subsequent value declines should be recognized. And, the courts have made it clear that the intent of the sections should be given the "fullest effect possible." Therefore, we recommend that assessors recognize value declines that might occur between purchase date and the next lien date by enrolling the lower value on the regular roll as an Article XIII A, Section 2(b) (Proposition 8) assessment.

Revenue and Taxation Code Section 75.10

Section 75.10 provides that the full cash value of a property on date of ownership change is the new base year value (commencing with the 1983-84 assessment year). This new base year value is used for both supplemental roll purposes and regular roll purposes. If there is a subsequent value decline, the new base year value remains and values can rise back to that level without the 2 percent per year limitation. Thus, where there is a loss of value before the first lien date, the amount entered on the regular assessment roll for the first time is simply an interim taxable value (Proposition 8) and not the new base year value. The new base year value will, of course, be used on the supplemental roll. And this amount will need to be maintained in the assessors' records for future calculation purposes.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:wpc  
AL-04D-3050A



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GRAY DAVIS  
Controller, Sacramento

BURTON W. OLIVER  
Executive Director

March 20, 1992

No. 92/24

TO COUNTY ASSESSORS:

DECLINES IN VALUE

As you know, property values in some areas of California have declined or stagnated due to the current recession in our economy. As a result, property owners who purchased at the height of the market may have a factored base year value which exceeds the current market value of their property. Therefore, to ensure that these property owners receive the benefits of Proposition 8, surveys of geographical areas or property use-types suspected of experiencing declines in value may be warranted. Press releases issued by your office will serve as a reminder to the taxpayers that they should notify you of potential overassessments.

Proposition 8, which added Section 2(b) of Article XIII A of the California Constitution, requires the assessor to recognize declines in value if the market value of the property on March 1 falls below its factored base year value.

Section 2(b) of Article XIII A states that:

"The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value." (Emphasis added.)

Section 51 of the Revenue and Taxation Code is the implementing legislation for Proposition 8; it states in part:

"For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall be the lesser of:

"(a) Its base year value, compounded annually since the base year by an inflation factor . . . .



March 20, 1992

"(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value. [Emphasis added] . . .

"(e) For purposes of subdivisions (a) and (b), 'real property' means that appraisal unit which persons in the marketplace commonly buy and sell as a unit, or which are normally valued separately.

"(f) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property."

The following list of letters to assessors provides guidance on implementing the provisions of Proposition 8:

- No. 79/39 - Questions and Answers Pertaining to Decline in Value
- No. 82/25 - The Consumer Price Index and Property Having Stagnant or Declining Value
- No. 86/04 - Applying Proposition 8 to Fractional Interests in Real Property
- No. 86/36 - Declines in Values on First Lien Date (Proposition 8)

If you have any questions concerning Proposition 8, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk



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BURTON W. OLIVER  
Executive Director

September 25, 1992

TO COUNTY ASSESSORS:

No. 92/63

DECLINES IN VALUE  
ASSESSMENT UNIFORMITY

The Members of the Board of Equalization continue to hear that property owners in some counties may not be receiving the property tax benefit they are entitled to as a result of Proposition 8. These economic times have resulted in the decrease of property values which is unparalleled since the passage of Proposition 13. The Board feels strongly that property owners entitled to reduced property taxes should receive priority from assessors at least equal to their other responsibilities. We recently issued Letter to Assessors 92/24, dated March 20, 1992, to ensure that those owners of property with factored base year values exceeding current market value receive the benefit of Proposition 8. This letter will stress the obligation of the assessor to inventory and process declines in value with the same diligence and resource expended on increases in values.

Taxpayers have proposed rule changes to the Board on how to address declines in value which they feel would be more directive to county assessors. However, at this time the Board feels the process of continuing to provide guidance and information through Letters to Assessors is the most effective and responsive way to address this issue.

Proposition 13 added Article XIII A to the California Constitution. Proposition 8 amended Article XIII A to require the assessor to recognize declines in value if the market value of the real property on March 1 falls below its factored base year value.

The first sentence of Section 1(a) of Article XIII A reads as follows:

"The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property."

Proposition 8 amended Section 2(b) of Article XIII A of the California Constitution to read that:

"The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value."

Section 51 of the Revenue and Taxation Code is the implementing legislation for Section 2(b). It reads in part:

"For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall be the lesser of:

"(a) Its base year value, compounded annually since the base year by an inflation factor, . . . .

"(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value. (Emphasis added.)

". . .(e) For purposes of subdivisions (a) and (b), 'real property' means that appraisal unit which persons in the marketplace commonly buy and sell as a unit, or which are normally valued separately.

"(f) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property."

Property Tax Rule 461(d) reads, in pertinent part:

". . . the assessor shall prepare an assessment roll containing the base year value appropriately indexed or the current lien date full value, whichever is less. . . In preparing such rolls the assessor is not required to make an annual reappraisal of all assessable property.

". . . When the current full value of property is less than its base year full value indexed to the current lien date, the full value shall be enrolled as the current taxable value."

The assessor's responsibility is to prepare an assessment roll which appropriately reflects both Constitutional and statutory provisions. Along with the responsibility to reassess property when a change in ownership or new construction occurs, the assessor has a responsibility to discover properties where assessments are in excess of their current value. Assessors are not required to annually appraise every assessable property. However, we urge assessors to be proactive in seeking particular property types, geographical areas of property, or categories of properties (such as those purchased at or near the peak of the real estate market) which require adjustment for declining value. We recognize the budgetary and workload problems assessors are facing throughout California but stress the need to properly allocate resources between the assessment decrease workload and the assessment increase workload.

Proactive suggestions for discovery of property with market values at levels below pending or actual assessed value include:

September 25, 1992

- \* Informational inserts to be included with future tax bills to alert taxpayers.
- \* Active public outreach program including information and public service announcements in radio, television, and newspapers.
- \* Surveys of geographical areas of property use-types suspected of experiencing declines in value.
- \* Reviewing assessment appeals to identify declining value trends.
- \* Reviewing assessments in areas where property owners have notified your office that their property has suffered a decline in value.
- \* Special mailings targeted to property owners to inform them of the potential for a reduction in their assessed value.
- \* Using automated sales ratio studies as a method of discovering geographical and use-types of property significantly impacted by the recession.
- \* Providing appropriate resource allocation for discovering and processing assessments declining in value. Resource management should create a level playing field for adjusting both decreases and increases of assessment.

For the most part, it is our impression that assessors have made it a high priority to provide declines in value relief where appropriate. By following some or all of the above suggestions, we believe all assessors can take the initiative to value declining properties appropriately.

The Board has asked that staff provide assistance to any county in reviewing their approach of identifying properties affected by declines in value. At the same time, they are aware that the California Assessors' Association is reviewing this issue and can offer assessors grappling with this issue advice on methods successfully used by counties.

If assessors believe certain aspects of this issue have been overlooked, please contact the Real Property Technical Services Unit at (916) 445-4982. The Board will schedule continued discussions on declines in value as necessary.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk