

## **CATA's TOP PRIORITIES RE REMOTE AAB HEARINGS**

### **(a) SBE Topic #1: Clarification on the Rights of the Hearing Participants**

- **Right to the type of hearing (physical in-person or remote) for both procedural and evidentiary matters**

**[CATA Position:** Use remote hearings for procedural matters; permit taxpayers to opt-out of remote hearings.]

Discussion points:

- a. Procedural vs. Evidentiary Hearings. Remote hearings for procedural matters should be encouraged as they increase productivity. Remote hearings, with adequate safeguards, may work for low-value properties with a limited number of documents and only a few issues.
  - b. Flexibility to Opt-In or Opt-Out of Remote Hearings. Give taxpayers the ability to opt-in or opt-out of remote hearings. And also to opt-in or opt-out of in-person hearings (see further discussion below).
  - c. Early Notice of Remote Hearing Format. Taxpayers should be given notice of the remote hearing format details before the AAB issues a hearing notice.
- **Short-term right for emergencies or long-term option**

**[CATA Position:** Remote hearings are only a short-term solution to COVID-19.]

Discussion points:

- a. Evaluate Remote Hearing Effectiveness after First Year. SBE should consider whether to adopt remote hearings as a long-term solution, but only after an evaluation of remote hearings' effectiveness.
- **Equal access in remote hearings; ensuring all parties and AAB members can view/hear each other during hearings**

**[CATA Position:** Insure all hearing participants' ability to view/hear in real-time.]

Discussion points:

- a. Equipment and Technology. All remote hearing participants (AAB members, AAB clerks, assessors, taxpayers) must have adequate computer equipment, software, wireless/internet access, etc.

- b. Training and Instruction. All participants must have training and instruction in order to meaningfully participate in remote hearings.
- c. Public Access to Hearings. Law requires public access to all types of hearings but must accommodate closure of hearings for confidentiality reasons.
- **In-person hearing safety standards, continuances, other options if a remote hearing is not possible or refused**

**[CATA Position:** All taxpayers may opt-out of in-person hearings during COVID-19.]

Discussion points:

- a. Accommodate Taxpayer Health/Safety Concerns. Taxpayers should not be required to attend in-person hearings if they have health concerns, even if remote hearings are not available or the taxpayer declines a remote hearing.
- b. Toll R&TC Sect. 1604(c) 2-Year Statute of Limitations until Safe In-Person Hearing Format Is Available. For example, if a safe in-person hearing format is not available for 8 months, the statute of limitations is tolled for period of 8 months.

**(b) SBE Topic #2: Appropriate Methods for Dealing with Document Submission**

- **Requirements and protocols for entering all evidence electronically at or before a hearing**

**[CATA Position:** Submit exhibits to AAB clerks before hearing commences, for distribution on day of hearing; allow rebuttal, etc. exhibits to be submitted in real-time.]

Discussion points:

- a. Case-in-Chief Exhibits. These exhibits to be submitted 1 or 2 days before the AAB hearing for distribution during the hearing (not provided to AAB members before the hearing and not shown to parties before the hearing).
- b. Rebuttal Exhibits, Witness Impeachment Exhibits, Etc. Accommodate submittal of these types of exhibits during the hearing, in real-time format.
- c. Confidential Exhibits. Need to prevent confidential exhibits from being viewed by the public, whether in closed hearing session or open hearing session.
- d. Handling Exhibits that Are Lengthy, Over-sized, Have Complex Graphics, Etc. Computer equipment (monitors), software, wireless/internet must accommodate these types of documents.

- **Timing for electronic submissions – day-of-the-hearing submissions, protocols on presenting documents for witness impeachment**

[**CATA Position:** See responses above.]

- **Required platform for document submission and required format for documents (Word, Pdf, Excel, etc.)**

[**CATA Position:** Use pdf format to avoid alteration of evidence, for consistency, and because pdf format is readily available to most parties.]

- **Ensuring parties and AAB members can view all documents during hearings; necessity for simultaneous viewing**

[**CATA Position:** Contemporaneous sharing of evidence controlled by AAB clerk.]

- a. Use Shared-Site Format Accessible to AAB Members and All Parties. This will allow AAB members and parties to view/consider multiple exhibits at any time during the hearing instead of being limited to the document that is being shared on the screen.

(c) **SBE Topic #3: Technology Options**

- **Visual or auditory interruptions (freezing or dropped links) during hearings; remedies to ensure all parties have access / alternative options**

[**CATA Position:** Need on-call IT support; establish guidelines for continuing hearings due to technology problems; no denial for lack of appearance due to technology issues; allow either party to request continuance when the ability to have a meaningful hearing is compromised due to technology problem(s). Telephonic hearings may be an option for procedural matters.]

- **Reliable platforms for remote hearings (Zoom, WebEx, etc.); addressing bandwidth; other solutions to consider**

[**CATA Position:** While there are several platforms available, the platform selected must be available and accessible to all taxpayers at low or no cost, be easy to use, but must also accommodate real-time viewing/hearing and submittal of evidence on-line in real-time.]

- **Notice requirements to parties – access instructions, coaching/training videos – accommodations for special needs**

[**CATA Position:** Notice of remote hearing format should be given to all parties, with the ability to opt-out (see prior discussion above); training and instruction are essential.]

- **Investment in remote hearing capability – efficiencies realized long term**

[**CATA Position:** Remote hearing capabilities have the greatest benefit for procedural matters (postponement requests, reading in stipulations/recommendations, pre-hearing conferences, etc.) and for low-value property hearings with few documents.]

(d) **SBE Topic #4: BOE Role**

- **Possible modifications needed to Property Tax Rules 301 through 326 to facilitate remote hearings**

[**CATA Position:** There are a number of Property Tax Rules which could be amended to facilitate remote hearings: 301, 305.1, 305.2, 306, 307, 308, 308.5, 309, 311, 313, 314, 316, 317, 322, 323. However, given the amount of time required to draft, approve, and obtain OAL sign-off for amendments to Rules, CATA does not see amending the Rules as a viable option in the near term.]

- **Details on guidance needed to ensure uniformity on resolved remote hearing issues via Letters to Assessors (LTAs) and Assessment Appeals Manual (AAM)**

[**CATA Position:** LTAs and the AAM are both viable options. LTAs are appropriate if remote hearings are a short-term solution; AAM is preferable long-term solution, particularly since the AAM is used to train AAB members and the AAM has more weight.]

- **Provide training for AAB members and staff on the use of technology and equipment required for remote hearings**

[**CATA Position:** Training of AAB members and staff is critical.]

- **Clearing house function, ensuring information and communications among all counties, assessors, taxpayers is received and shared**

[**CATA Position:** SBE should serve as the clearinghouse for remote hearings info.]

- **Publish *Letters to Assessors* to County Board/ AAB Clerks, County Counsels, Interested Parties providing guidance on resolved issues and remaining concerns**

[**CATA Position:** LTAs are viable, particularly for short-term issues/concerns.]