



September 3, 2021

Antonio Vazquez
Chair
California State Board of Equalization
450 N Street
Sacramento, CA 95814

**RE: PUBLIC POLICY HEARINGS ON ASSESSMENT APPEALS BOARDS'
REMOTE HEARINGS AT SEPTEMBER 21-22, 2021 BOARD MEETING**

Dear Chairman Vazquez:

On behalf of all the Members of the California Alliance of Taxpayer Advocate (CATA) and property tax practitioners around the state, we want to thank you for inviting comments on the topic of remote hearings. Below, you will please CATA's comments in that regard. We also look forward to participating in the Board's September hearing.

Summary

In its August 17, 2021, Memorandum ("Memo"), California State Board Chairman Antonio Vazquez and Board Member Malia M. Cohen announced the intent to schedule reopening hearings remotely for Assessment Appeals Boards ("AABs") at its September 21-22 Board Meeting, reported as "Item L2a". On Page 1, Chair Vazquez proposed as one of the items to be discussed "Evaluation of Remote Hearings – Taxpayer Representative Perspectives".

There is no doubt that the COVID-19 pandemic significantly influenced, and by necessity required, changes in property tax administration policies and procedures. This pandemic has had specific impacts on taxpayers, assessors, assessment appeals boards as well as other property stakeholders.

In response to this, the Memo references no fewer than 8 BOE meeting items and no fewer than 6 Letters to Assessors ("LTAs") as well as action by the Legislature.

The California Alliance of Taxpayer Advocates ("CATA") is a recognized leader in advocacy for its members with a specific knowledge in policy and administrative issues impacting all phases of the property tax taxation process.

Item M3d
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CATA respectively responds to Chair Vazquez and Member Cohen's invitation to provide CATA's perspective on remote hearings.

Question:

Given the current and anticipated future impact of COVID-19, what are the "best practices" the BOE should promote?

Specific Items:

1. **Taxpayer Response**
2. **Standing of the BOE**
3. **Due Process/Equity**
4. **What Is Working/Not Working**
5. **Best Practices**

1 – Taxpayer Response

CATA has surveyed its membership regarding virtual hearings. A summary of the responses are provided below:

Pros:

- Resolution of some of the appeals backlog. The primary reason has been the ease of dealing with administrative issues (e.g., travel not required) as it relates to stipulations, recommendations, pre-hearings, reschedules etc. Certain valuation issues are dealt with efficiently via the virtual platforms.
- Timely resolution of taxpayer grievances is essential.
- Ease of use (technology). Overwhelmingly CATA's membership has found local AABs' virtual hearings to be well operated and efficient. Generally, the virtual environment works for less complex issues.
- Travel.
 - Taxpayers represented by CATA members have appeal disputes in multiple counties. Travel expenses cause a burden on taxpayers. Furthermore, many counties, clerks and board members have the same issues due to the use of satellite offices.
 - Virtual hearings allow more time to resolve appeals in all parties' best interest.
 - Enables the use of testimony of taxpayers and experts.
- Efficient resolution of administrative matters reducing time needed for staff. This coincides with resolution of some of the backlog while also preventing further backlog as current appeals are submitted. Clerks can efficiently and easily schedule appeals allowing assessors and taxpayers to address issues early in the process.

Cons:

- Multiple virtual platforms.

- Differing softwares. It would be helpful to standardize technology for all counties so there is a consistency for all concerned.
 - Local rules regarding attendance, testimony, evidence, exhibits, etc.
- Disparity in rules for taxpayers and assessors. AAB hearings including in-person attendance by assessor representatives, clerks, AAB members while excluding the right of taxpayers to participate in person.
- Masks. While the debate over this issue remains, CATA membership notes the difficulty to specifically identify the speaker and their participation. This is compounded by the disparate environment where one party appears in person while the other party participates remotely.
- Multiple procedures for confirming attendance prior to hearing. Some examples:
 - San Francisco County requires attendees to confirm appearance 3 days prior to the hearing date. Failure to follow these procedures can result in denial of application.
 - Santa Clara County; you check in with Clerk at the hearing room.
 - San Mateo you; join the hearing via zoom link.
 - Alameda is holding in person hearings as usual.
- Universally, CATA's membership has emphasized the difficulty in handling "complex" appeals in a virtual environment due to complications with:
 - Difficulties in submitting and cross referencing a large number of exhibits;
 - Witness and AAB participation; and
 - Audio and technology issues.

2 – Standing of the BOE

In the BOE's February 2019, Publication 1 entitled "California State Board of Equalization – FACT SHEET" (<https://www.boe.ca.gov/pdf/pub1.pdf>) its opening statement is:

"The State Board of Equalization (BOE) was created in 1879 by constitutional amendment and charged with the responsibility for ensuring that county property tax assessment practices were equal and uniform throughout the state."

Under the heading "MAJOR BOARD FUNCTIONS – PROPERTY TAXES" the Publication states:

"The BOE has a major role in California's property tax system. The BOE is responsible for... ensuring statewide uniformity in the assessment of properties by the 58 county assessors."

The Publication continues that "Standards for proper assessment practices statewide are established and compliance measured by" among other things:

- Adoption of property tax rules and regulations to govern assessors and local boards of equalization;
- Issuance of the Assessors' Handbooks; and
- Issuance of Letters to Assessors.

The BOE's involvement and leadership with respect to the types of issues raised in Chair Vazquez and Member Cohen's Memo are a critical part of the BOE's function.

3 – Due Process/Equity

Uniformity is an active goal for the BOE. In order to promote equity, the equalization process must simultaneously promote uniformity and accuracy to ensure due process.

County Boards of Supervisors have often established local rules governing the procedural aspects of their own AABs. This process recognizes the unique aspects that apply to each of California's 58 counties and their administrative needs and resources. While CATA supports the concept that local counties should make adjustments based on their needs, this cannot come at the cost to due process for taxpayers.

The California Constitution, statute, case law, BOE regulations and advisory letters have formed the foundation for the assessment appeals process. It necessarily weighs the interests of both the State and taxpayers. The COVID-19 pandemic has impacted all parties and all levels of administration. The BOE is uniquely positioned to reconcile the interests of all parties.

4 – What Is Working/Not Working with Virtual Hearings

As CATA's membership survey indicates, the virtual hearing format has been a success in many cases and the memberships' experience has been "largely positive".

Los Angeles County's AAB has produced the most acceptable virtual hearing format. Specifically:

- Ease of use through the WebEx platform;
- Efficient processing of hearing materials via its document upload portal;
- Ability to have "breakout" virtual interaction with assessor representatives and/or AAB clerks to streamline administrative issues;
- Real time availability of the board clerks to move quickly through agenda items; and
- "Face-to-face" interaction with assessor representatives, AAB members, board staff, taxpayers, and testifying witnesses.

5 – Best Practices

As the organization of professional advocates for taxpayers, CATA's membership suggests the following for the BOE's consideration:

- Uniformity across all 58 California counties to the extent that it is possible.
- Los Angeles' process has generally worked well according to CATA's membership.
- Recommend State financial support to other counties to ensure uniformity (*e.g.*, funds to assist in acquiring a good virtual hearing platform).
- Bifurcate issues before local AABs.
 - CATA's membership overwhelmingly agrees that virtual hearings should continue to be used to address the following:

- Administrative issues;
- R&TC section 441(d) requests/responses compliance hearings;
- Scheduling;
- Stipulations or recommendations;
- Pre-hearing conferences;
- Assessment Appeal withdrawals;
- Calendaring;
- Non-complex appeals:
 - AAB rules recognize that there is an administrative and economic burden that differs by property class;
 - As an example, single family residences and other real property under a certain set of rules are eligible for hearings before a hearing officer rather than a three-member AAB. (See California Revenue and Taxation Code starting with Division 1; Part 3; Chapter 1; Article 1.7; Section 1636 https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=RTC&division=1.&title=&part=3.&chapter=1.&article=1.7);
 - The California Legislature has already acknowledged the intrinsic differences between cases that involve less complex versus more complex issues;
 - Priority should be given to the former in a virtual format. This would further assist in clearing the backlog of appeals. CATA understands that the issues above have a viable and efficient use in reducing the time constraints of all parties, including assessor staff, clerks, AAB members, and taxpayers who ultimately bear the cost. To that end, the virtual hearing process has largely been a success.

CATA's membership is steadfast that the ability for taxpayers have access to in-person hearings, if requested, must be maintained. It is the foundation of due process and should be a right granted to all.

CATA understands that COVID-19 has impacted all aspects of the administrative process. In response to the BOE's LTA 2020/039 <https://www.boe.ca.gov/proptaxes/pdf/lta21039.pdf> taxpayers have been necessarily denied their right to a 2-year time limitation for hearing resolution. As an organization, we do not necessarily disagree that this is unreasonable given current conditions.


Taxation without due process is not the answer. A taxation process that unreasonably impacts the taxed is unacceptable. The BOE's oversight in this matter is not only welcome, but requested. It is a necessity.

Thank you for your time and consideration.

Sincerely,



James DePasquale
Chair
California Alliance of Taxpayer Advocates



Nick Fogle
President
California Alliance of Taxpayer Advocates

cc: Members, California State Board of Equalization
John Thiella, California State Board of Equalization