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BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

JANUARY 28, 2020

ITEM K2

CHIEF COUNSEL REPORT

REPORTED BY: Jillian M. Sumner

CSR NO. 13619

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P R E S E N T

For the Board of
Equalization:

Honorable Antonio Vazquez
Chair

Honorable Mike Schaefer
Vice Chair

Honorable Ted Gaines
First District

Honorable Malia S. Cohen
Second District

Yvette Stowers
Appearing for Betty T.
Yee, State Controller
(per Government Code
Section 7.9)

For the Board of
Equalization Staff:

Henry Nanjo
Chief Counsel
Legal Department

Brenda Fleming
Executive Director

Toya Davis
Clerk
Board Proceedings

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450 N STREET
SACRAMENTO, CALIFORNIA
JANUARY 28, 2020

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MS. DAVIS: Our next item is Item K2, the Chief Counsel's report. Chief Counsel Mr. Nanjo will come forward to present.

MR. VAZQUEZ: Welcome.

MR. NANJO: Thank you.

Good morning again, Chair Vazquez and Members of the Board.

Again, this is my quarterly update of the Legal Department status. It's a snapshot.

There's a powerpoint that's been distributed. The first slide after the opening is basically the Legal team composition. I'm happy to report we were able to fill an AGPA or Associate Government Program Analyst, which has been instrumental in getting us a little better organized and getting a little better handle on some of our paperwork and files.

In recruitment we are actively recruiting an Attorney III for litigation purposes. That was previously a Tax Counsel II that, because of some challenges we had with the minimum qualifications for that class, we had to go back out and re-class as an Attorney III.

But we are hopefully going to be -- we

1 hopefully will be completing interviews on that in
2 the early part of February, and hope to land somebody
3 very quickly after that.

4 And then we have two Tax Counsel positions
5 that we're filling in. So, again, we're trying to
6 desperately get up to full staff as quickly as
7 possible. So that's the good news.

8 The next slide kind of I discussed this
9 previously, but this is just a reminder of the
10 various areas in which your Legal Department
11 operates, and the types of needs that we handle for
12 the agency.

13 The important slide is the next one on
14 page 4. And that's what we were able to do over the
15 last quarter.

16 So the good news I'm happy to report is that
17 with the additional staff, typically in the past
18 we've kind of ground to a halt during this last
19 quarter, because, as you know, this is when my
20 attorneys are very actively involved in the
21 state-assessed properties tax division appeals, and
22 that takes most of my staff, if not all of them.

23 Because we had a couple extra people we were
24 able to continue getting out some of the Public
25 Record Act requests, the publications reviews,
26 opinions, technical advice. So we were able to make
27 some progress. Always like to be able to get more.
28 We're still backlogged by probably at least a year or

1 two for some of our requests that we have in the cue.
2 But we are making progress

3 The next couple slides talks about the
4 different categories. Again, this is a repeat from
5 what I previously provided the Board. But, again, it
6 gives you an indication of what we have in the
7 different categories.

8 Workload highlights on page 7. We go to
9 regulations. One of the big things that we've been
10 working on, as you know, because the assessors and
11 this Board has been able to work out a resolution of
12 the certificated aircraft valuation and taxing, we've
13 had to modify our rules to comport with those new
14 regulations and statutes. And that's been done.

15 We provided the emergency regs that took
16 affect immediately, and we're now in the process of
17 completing the permanent regulations. Because, as
18 you know, the emergency regulations are for a short
19 duration.

20 Slide eight talks about the technical advice
21 in the areas. Again, our most popular areas of
22 inquiry are questions about various forms of legal
23 entities and exemptions and change-of-ownership
24 questions.

25 Slide nine talks about the whole of 2019. I
26 was asked to kind of provide an overview of how much
27 work the Legal Department does over the course of a
28 calendar year. So this shows that we've worked on

1 1,077 projects. And for a team as small as mine, I
2 think that shows that my team was working very hard.
3 So we appreciate the support the Board Members give
4 us.

5 And finally on page 10 is the workload
6 pending. We still have 103 items that are in our
7 cue. We're actively working on those to try to work
8 those down. And I think the additional staff will
9 help.

10 So with that, that's my snapshot for this
11 quarter. If anybody has any questions, I'm more than
12 happy to address them.

13 Member Schaefer.

14 MR. SCHAEFER: Mr. Nanjo, I'd asked a
15 question earlier when Ms. Fleming was there as to the
16 difference between certificated aircraft and
17 uncertificated aircraft. You only speak as to
18 certificated aircraft.

19 MR. NANJO: Certificated aircraft are the
20 aircraft that the Board has -- the assessors have
21 some jurisdiction over, and that refers to an FAA
22 certification.

23 So there are uncertificated aircrafts.
24 Those are usually smaller. The certificated aircraft
25 that we deal with is essentially the commercial
26 airliners.

27 MR. SCHAEFER: So they don't escape
28 taxation, they just are handled differently?

1 MR. NANJO: They're handled in a different
2 manner, that's correct, sir.

3 MR. VAZQUEZ: Yes, Ms. Cohen.

4 MS. COHEN: Thank you.

5 Mr. Nanjo, where are your legal opinions
6 captured in the workload matrix?

7 MR. NANJO: Those are under technical
8 advice.

9 MS. COHEN: Under technical advice. I see
10 technical subject matter advice.

11 Yeah. Okay. All right. Thank you.

12 MR. NANJO: Yeah. So under -- depending on
13 which metrics you're looking on, I think there's a
14 category called technical advice. And, for example,
15 on page --

16 MR. VAZQUEZ: Looks like 8, right?

17 MS. COHEN: And page 3.

18 MR. NANJO: For example, on page 9, the
19 technical advice comes in different forms; e-mails,
20 letters and memos, phone calls and special
21 projects.

22 MS. COHEN: Are you able to provide some
23 indication, some metrics on the average length of
24 time it takes to respond to these legal opinions?

25 MR. NANJO: You know, I can provide you --
26 it really depends on the complexity of the questions.
27 Some of the questions that we get by phone call are
28 maybe something that we can quickly answer.

1 Sometimes in the same day.

2 Other inquiries we get are very complex.
3 They may require some research, and those may take
4 several months, candidly.

5 A lot of the more complex matters, Member
6 Cohen, are things like exemption, questions about
7 whether or not a legal entity qualifies for an
8 exemption or qualifies for that kind of charitable --
9 they're considered a charitable organization.

10 Because what we'll do is, we'll engage with
11 the person asking us the question, try to find out
12 about the organization. A lot of times we'll ask for
13 additional documentation, and do quite a bit of
14 research on those matters.

15 MS. COHEN: So the reason why I raised the
16 question is that I just wanted to make sure that we
17 are managing our responses to the assessors, to the
18 assessor's offices.

19 I know your team is working diligently, but
20 I want to make sure we have a turnaround -- a quick
21 turnaround -- quick and thorough, I should say,
22 turnaround.

23 MR. NANJO: Yeah. One of the things we do
24 is we do prioritize our requests. So the assessors,
25 because we were kind of their go-to source for
26 expertise, we prioritize those above inquiries from
27 members of the public.

28 One of the things we do to try to make sure

1 that the poor members of the public aren't last on
2 the cue is a lot of times we'll suggest that members
3 of the public, if they partner with their assessor's
4 office and it's a joint request from the assessor and
5 the member of the public, then we give those a higher
6 priority.

7 MS. COHEN: How do you prioritize requests?
8 I mean, how do you -- when you've got a handful of
9 requests, how do you triage them to determine which
10 is a higher priority over the others?

11 MR. NANJO: What we are looking for, as I
12 mentioned, requests from assessors are priority. If
13 there's some time constraint involved, you know, it's
14 something that's needed to forestall litigation, you
15 know, they're either in litigation or it's a
16 situation where litigation is imminently going to be
17 filed if they don't get a response within a certain
18 amount of time, we'll try to prioritize those ahead
19 and try to make those deadlines.

20 Generally speaking we try to triage the most
21 important things that provide relief for either
22 assessors or taxpayers first, and then we try to do
23 the other things as the case may be.

24 We do have some taxpayers that are -- it
25 doesn't seem like it's related to a case or
26 something, if I can characterize it as such. We have
27 one regular person who inquires to us about
28 hypotheticals, and gives us five or six

1 hypotheticals, and says, "Well, you know, in these
2 five or six cases, what would the rules be on this?"
3 And he never gives an indication that this is
4 relating to a particular client or a matter that he
5 has, so those are lower priority, because they're not
6 time constraint.

7 MS. COHEN: Okay. Thank you.

8 MR. NANJO: Sure.

9 Anything else?

10 MR. VAZQUEZ: But along those lines, what
11 would you say right now is your top workload
12 priorities?

13 MR. NANJO: The top workload priorities are
14 always -- well, first of all, we try to give the most
15 priority to internal staff. So if there's Program
16 staff that has items that they need to do to move
17 forward a regulation, or something to that affect,
18 we'll give those the top priorities. We have quite a
19 few of those.

20 And then the next priority is those from the
21 assessors. And those, you know, come in with varying
22 time lines. Sometimes it's a few -- they need an
23 answer in a few months, six months. Sometimes they
24 need the answer more quickly than that, and we try to
25 oblige those as well.

26 MR. VAZQUEZ: And I guess the next one is
27 the Board Meeting Reference Manual. I know you're
28 revising that as we speak. When do you think that

1 will be ready, and are you going to be able to
2 provide maybe the old with the new so we can kind of
3 compare the differences?

4 MR. NANJO: Sure. We can do that.

5 My understanding of the Board Member
6 Reference Manuals, it's in final review. Which means
7 that we've -- the process is Legal and Board
8 Proceedings has gone through it, kind of made the
9 updates we've suggested. We've sought advice and
10 collaboration from Program staff. That's been done.
11 We've implemented all the edits.

12 I believe, not to put pressure on our
13 Executive Director, but I think it's in Executive
14 Office review, or it may be actually passed that and
15 being finalized as we speak.

16 So we hope to have that to the Board Members
17 in the next month or two.

18 MR. VAZQUEZ: Thank you.

19 Any other questions?

20 MR. GAINES: Just in talking to my county
21 assessors in my district, I get a lot of compliments
22 on --

23 MR. NANJO: Thank you.

24 MR. GAINES: -- your ability to respond and
25 get the information they need. So I appreciate what
26 you're doing in that regard.

27 Also speaks to David Yeung, too.

28 I just want to let you know that I've gotten

1 a number of comments on how you're able to answer
2 questions and satisfy needs of assessors.

3 So keep up the good work.

4 MR. NANJO: Thank you, sir. I'm very proud
5 of my Legal team, but I don't want to sell short
6 Program. Program helps us out a lot. If it's a
7 matter that we think Program staff can answer, a lot
8 of times we'll shift it over to Mr. Yeung's staff,
9 and his staff helps supplement our ability to
10 respond.

11 So between Legal and Program, we work very
12 closely to try to get the people asking us questions,
13 the answer as quickly as possible.

14 MR. GAINES: Great. Thank you.

15 MR. VAZQUEZ: Thank you.

16 MR. NANJO: Thank you.

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REPORTER'S CERTIFICATE

State of California)
) ss
County of Sacramento)

I, Jillian Sumner, Hearing Reporter for the California State Board of Equalization, certify that on January 28, 2020 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 12 constitute a complete and accurate transcription of the shorthand writing.

Dated: February 26, 2020



JILLIAN SUMNER, CSR #13619
Hearing Reporter