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BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION  
450 N STREET  
SACRAMENTO, CALIFORNIA  
TELECONFERENCE

REPORTER'S TRANSCRIPT  
JUNE 9, 2020

ITEM M  
PUBLIC POLICY HEARINGS;  
ITEM M1  
IMPACT OF COVID-19 ON PROPERTY TAX  
ADMINISTRATION - WORKING GROUP REPORT;  
ITEM M1 (c)  
WORKING GROUP 3

REPORTED BY: Jillian M. Sumner  
CSR NO. 13619

APPEARING TELEPHONICALLY

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:

Brenda Fleming  
Executive Director

Henry Nanjo  
Chief Counsel  
Legal Department

Richard Moon  
Tax Counsel IV  
Legal Department

Toya Davis  
Clerk  
Board Proceedings

Public Speakers:

Michael Lebeau  
Attorney  
Bewley, Lassleben and  
Miller, LLP

Lenny Goldberg  
California Tax Reform  
Association

Don Gaekle  
President  
California Assessors'  
Association  
Stanislaus County Assessor

Cindy Gompper-Graves  
President & CEO  
South County Economic  
Development Council,  
San Diego County

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Public Speakers  
Continued: Charles J. Moll III  
Attorney  
McDermott, Will & Emery LLP  
  
Marcy Berkman  
County Counsel  
Santa Clara County

Public Speakers  
Written Comments: Kitty Calavita  
  
Rachita Rawal  
  
Karen Roorda  
  
Elizabeth Vitanza  
  
Joshua Perlma  
  
Sandra Madera  
  
Vaughn Villaverde  
Working Partnerships USA

Public Speakers: Larry Stone  
Assessor  
Santa Clara County

Public Speakers  
Written Comments: Dean Jacobson  
California Alliance of Taxpayer  
Advocates  
  
Christina Karaba  
  
Veronica Carrizales  
  
Michael Russo  
Advancement Project California  
  
Andrea Moeller

Public Speakers: Peter Kotschedoff  
California Alliance of Taxpayer  
Advocates

Public Speakers  
Written Comments: Michele DiNardo  
  
Robert Nakamae  
Deputy County Counsel  
County of Santa Clara

Public Speakers: Vanessa Gonzalez  
  
Douglas Mo  
Eversheds Sutherland LLP

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Public Speakers  
Continued:

Nick Romo  
League of California Cities

Wes Nichols  
CATA

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1 STATE BOARD OF EQUALIZATION  
2 TELECONFERENCE  
3 JUNE 9, 2020

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5 MR. VAZQUEZ: Ms. Davis, if you can call the  
6 next item.

7 MS. DAVIS: Thank you, Mr. Chairman.

8 The next item is Work Group No. 3, Section  
9 170, Disaster Relief for COVID-19 Calamity,  
10 facilitated by Chairman Vazquez.

11 We have three listed speakers presenting on  
12 this item, and three invited speakers.

13 Additionally, we have received requests for  
14 public comments on this item.

15 Chairman Vazquez.

16 MR. VAZQUEZ: Thank you.

17 Members, in my view, based on the immediate  
18 and long-term need, I support doing both Option 1 and  
19 Option 3 on a dual track so that every administrative  
20 solution is available to the clerks.

21 I move we do this dual track, our solutions  
22 by, one, issuing an LTA extending the two-year  
23 deadline for AABs Boards by 40 days under Section  
24 155; and, No. 2, join the Clerks Association to  
25 request an Executive Order for tolling of the  
26 deadline during the restricted access, plus 120 days  
27 after reopening is permitted.

28 Is there a second?

1 MR. SCHAEFER: Vice Chair Schaefer. Second.

2 MR. VAZQUEZ: That's a second.

3 Any --

4 MR. NANJO: I'm -- I'm sorry, Member --  
5 Chairman Vazquez.

6 MR. VAZQUEZ: Yes.

7 MR. NANJO: I believe you're talking about  
8 the issue that we already had the vote on.

9 MR. VAZQUEZ: You know what, you may be  
10 right, Henry.

11 MS. COHEN: Yeah.

12 MR. VAZQUEZ: I think you are. I'm looking  
13 at my notes. I was -- I flipped my notes. Yes.

14 Let me find my -- I'm looking for No. 3.  
15 We're on Group 3 here.

16 MR. NANJO: That's correct. Thank you.  
17 Just wanted to provide that clarification.

18 MR. VAZQUEZ: Thank you. Thank you.

19 Okay. Here we are.

20 So now we're on Group 3. This is the  
21 Section 170 Disaster Relief for COVID-19 Calamity.

22 There are two issues on this item.

23 Issue 1: Was the property physically damaged  
24 or destroyed in Article No. XIII, Section 15 of the  
25 Constitution and RTC Section 170, Disaster Relief, in  
26 which the Legislature defined damage to include a SB  
27 1431 in value as a result of restricted access to  
28 property?

1 Issue 1 [sic]: Can and should the  
2 Legislature amend RTC 170 to allow for mid-year  
3 disaster reassessment resulting from COVID-19  
4 restricted cases?

5 We have four options for Board  
6 consideration.

7 Option 1: Issue an LTA encouraging  
8 acceptance of claims for mid-year declines in value  
9 due to COVID-19, restricted access. If denied,  
10 taxpayers may go to court where the issue can be  
11 fully addressed.

12 Option 2: Propose/support legislation  
13 amending RTC 170 to further define economic and  
14 physical damage due to restricted access and/or seek  
15 Executive Order from the Governor.

16 Option 3: Issue a Letter to Assessors  
17 providing guidance on the Board's current  
18 interpretation of 170 relief.

19 And then Option 3: Conduct further analysis.

20 What are the thoughts and comments or  
21 suggestions from the Members?

22 MS. COHEN: Well, Mr. Chair -- this is  
23 Member Cohen.

24 MR. VAZQUEZ: Member Cohen, go ahead.

25 MS. COHEN: I was wondering if we could hear  
26 from our speakers, perhaps, listed on the agenda, and  
27 maybe even take public testimony first.

28 MR. VAZQUEZ: Sure. If that's the will,

1 we'll go ahead.

2 Let me ask Ms. Davis.

3 Do we have members in the cue for Group  
4 No. 3, or 1431?

5 MS. DAVIS: We do, Mr. Chairman. We also  
6 have public commenters that are listed on the agenda.  
7 Would you like to hear from them?

8 MR. VAZQUEZ: If they're for Work Group 3,  
9 yes.

10 MS. COHEN: Let's hear from the speakers  
11 first, then we'll do public comment.

12 MR. GAINES: Question, if I could. Sorry  
13 to --

14 MR. VAZQUEZ: Yes. Mr. Gaines, go ahead.

15 MR. GAINES: -- mix it up even more. But do  
16 you -- at what point do you want me to discuss Senate  
17 Bill 1431, the Glazer Bill?

18 MS. COHEN: Where is it on the agenda? Do  
19 you know, Ted?

20 MR. GAINES: Well, I'm just showing it says  
21 overview prior Attorney General opinion from Henry  
22 Nanjo, and then I do an overview of Senate Bill 1431.  
23 I'm showing that kind of the top, but I -- I can.

24 MS. COHEN: Right.

25 MR. VAZQUEZ: You're right. You're right.

26 Mr. Gaines, you know, do you want to go  
27 ahead -- why don't you go ahead and get into that, or  
28 bring it up now.



1 MR. GAINES: Okay.

2 MS. COHEN: Hold on, hold on, hold on.

3 If I may, let's just stick with the printed  
4 agenda. So let's go with the overview of the prior  
5 Attorney General opinion, Mr. Nanjo. Then go to  
6 overview Senate Bill 1431 just --

7 MR. GAINES: That's fine.

8 MS. COHEN: Thank you.

9 MR. VAZQUEZ: Sure. Go ahead.

10 Is Mr. Nanjo there?

11 MR. NANJO: Yes, I am. Thank you,  
12 Chairman -- Chairman Vazquez, Members.

13 So we have two Attorney Generals' opinions  
14 which have been on this particular subject. I'm  
15 actually going to tag-team this with Richard Moon  
16 from my staff.

17 The first Attorney General's opinion if I  
18 can tee it up was issued on November 17th, 1972. The  
19 subject was reassessment of physically undamaged  
20 property in a disaster area relating to Section 155.1  
21 of the Revenue and Taxation Code.

22 Their issue -- the question that was asked  
23 was, Does Revenue and Taxation Code Section 155.1  
24 allow for reassessment of property in a disaster  
25 area, which is not physically damaged and does not  
26 suffer impaired access, but experiences economic  
27 devaluation by reason of its location therein.

28 The conclusion in that Attorney General

1 opinion was that, quote, Revenue and Taxation Code  
2 Section 155.1 does not apply to such an economic loss  
3 suffered by property in a disaster area; therefore,  
4 no reassessment of such property is permitted  
5 thereunder.

6 The second Attorney General opinion is dated  
7 May 14th, 1975. And this one had two issues. One  
8 was, what is the meaning of misfortune and calamity  
9 as used in Revenue and Taxation Code Section 155.13;  
10 and, two, do local agencies have their authority  
11 under Revenue and Taxation Code Section 155.13 to  
12 limit reassessment to taxpayers experiencing specific  
13 types of misfortune or calamity such as loss by fire.

14 The conclusions were that in that opinion,  
15 misfortune or calamity, as used within Revenue and  
16 Taxation Code Section 155.13, encompasses any type of  
17 adversity which befalls one in an unpredictable  
18 matter; and, two, local agencies do not have the  
19 authority under Revenue and Taxation Code 155.13 to  
20 limit reassessment to taxpayers experiencing specific  
21 types of misfortunes or calamities.

22 Mr. Moon, are you able to provide additional  
23 details?

24 MR. MOON: Yes, I am.

25 Good morning, Mr. Chairman and Members of  
26 the Board. Richard Moon with the Legal Department.

27 I would just add a couple things to what our  
28 Chief Counsel has mentioned about the Attorney

1 General's opinion.

2 The first is that although the '75 Attorney  
3 General opinion was not about the definition of  
4 damage, it did cite the '72 opinion definition of  
5 damage. And it stated -- I'm quoting here -- as  
6 noted in a prior opinion of this office, the word  
7 "damaged" or "destroyed," as used in the comparably  
8 worded Section 155.1, which is a predecessor statute  
9 of 170, does not encompass economic loss in the  
10 absence of physical injury.

11 The other thing I would note is that both of  
12 these Attorney General opinions were discussed in the  
13 case Slocum v. the Board of Equalization. And in  
14 that case, the appellant had argued that those  
15 opinions support the fact that Section 170 applies to  
16 economic loss. And that's how they read those two  
17 opinions.

18 The Court's response was to disagree. And  
19 not only disagree, they were quite strong. And they  
20 called those arguments convoluted and wrong.

21 So the way that the Court viewed both of  
22 those Attorney General opinions was that it did not  
23 support the appellant's argument in that case, that  
24 pure economic losses would qualify under the  
25 predecessor statute to 170.

26 I'm happy to take any questions you might  
27 have.

28 MR. VAZQUEZ: Members, are there any

1 questions of either Henry or Mr. Moon?

2 MS. STOWERS: No questions from me.

3 MS. COHEN: I have no questions. Thank  
4 you.

5 MR. VAZQUEZ: Seeing none? No?

6 Do we have any -- at this point do we have  
7 any members of the public that are cued up  
8 specifically for this item?

9 MS. DAVIS: At&t moderator, has anyone  
10 indicated they'd like to bring public comment at this  
11 time?

12 AT&T MODERATOR: Yes, and we do have a few  
13 in cue. We'll go to line number 100.

14 Your line is open.

15 MR. LEBEAU: Good morning, Mr. Chairman and  
16 Members of the Board. Michael Lebeau.

17 Thank you for your patience earlier, and  
18 thank you to Chief Counsel Nanjo for reading my  
19 written comments.

20 Technical difficulties prevented me from  
21 speaking out earlier when called upon. I appreciate  
22 your patience.

23 I did have a question with regards to how  
24 section -- not -- I have a comment regarding 170, and  
25 its application of possessory interest specifically.

26 When we're dealing with pre-owned property,  
27 the two Attorney General's opinions are quite clear,  
28 as is the Slocum decision.

1           But Section 170(a)(3) addresses the  
2 right -- the -- the restriction on the right to enter  
3 a taxable possessory interest. And I would ask the  
4 Board to provide clarification in regards to how the  
5 stay-at-home orders affects the rights of the  
6 possessory interest holder to enter the property, and  
7 whether that qualifies it for relief absent physical  
8 damage to the possessory interest. And I would ask  
9 the Board that they would consider providing guidance  
10 in that regard.

11           Thank you.

12           MR. VAZQUEZ: Thank you.

13           AT&T MODERATOR: And next we'll open  
14 line 53.

15           Your line is open.

16           MR. GOLDBERG: Hi. This is Lenny Goldberg,  
17 California Tax Reform Association.

18           I'm not going to comment on the legality of  
19 it. Others have done that.

20           I think this is a totally inappropriate way  
21 to approach potential reductions in value due to an  
22 economic recession.

23           The property tax -- when an assessor looks  
24 at physical damage, they can see a flood, a fire, an  
25 earthquake has knocked out -- knocked down the  
26 building or made it uninhabitable or useless.

27           A hotel still stands. It may or may not be  
28 reopening. It may or may not have property tax, high

1 or low. I think this effort -- and I'll say this  
2 again in the next section as well, the effort  
3 completely ignores how Prop 13 works where, you know,  
4 hotels on the beach in Santa Barbara have 1975 values  
5 and have no need for property tax relief.

6 Other hotels are maybe at full-market value,  
7 and others at a fraction of that. It makes no sense  
8 to be even thinking about property tax relief as part  
9 of this.

10 And in particular, you know, we see, oh  
11 well, there's been an uptick. Property values  
12 reflect long-term values.

13 You know, disaster relief is clear. A  
14 building is lost to fire. It's clear that it burned  
15 down and does not have any value.

16 A hotel that is standing there in an  
17 economic recession or in a travel restriction still  
18 has a long-term value, and they have a reduced value  
19 depending on how long the restriction lasts.

20 But this is a really and totally  
21 inappropriate attempt by commercial property owners  
22 to get relief when there is no indication of disaster  
23 relief being appropriate.

24 So we urge two things. One, is that you  
25 vote to oppose the Glazer Bill in front of the  
26 Legislature.

27 And, second, you reject any efforts to try  
28 to change the disaster relief, either statute or

1 application, to an economic recession.

2 We have processes that we have.  
3 Proposition 8, which allows for reduction --  
4 temporary reductions in value.

5 But the -- you know, we're in a very fluid  
6 situation. And I'll probably be repeating these for  
7 Work Group 4 as well. There is no justification,  
8 even because -- under Prop 13 where property taxes  
9 can be extremely low.

10 Maybe when we equalize those commercial  
11 property taxes and put them in market value, they'll  
12 be an argument. Not for disaster relief from an  
13 economic recession, but an argument for lowering  
14 those values when a recession occurs.

15 But this is completely inappropriate, and we  
16 urge a rejection of the bill.

17 MS. DAVIS: At&t moderator, if you can allow  
18 me to read the next commenter or announce the next  
19 commenter.

20 Don Gaekle, President of the California  
21 Assessors' Association, are you available?

22 MR. GAEKLE: Yes, I am.

23 Yeah. Don Gaekle, Stanislaus County  
24 Assessor and President of the California Assessors  
25 Association.

26 The Association, of course -- addressing the  
27 options the Board is considering, or at least has  
28 before them, the CAA would oppose any LTA asking

1 assessors to accept filings for disaster relief. The  
2 basis of which are contrary to Article 13 Section 15  
3 of the California Constitution which requires  
4 physical damage must occur to qualify for relief.

5 And Option 2, of course this comes into the  
6 Glazer Bill, support legislation to amend RTC 170 to  
7 further define economic, physical damage and seek  
8 Executive Order from the Governor.

9 Again, Article 13 requires physical damage,  
10 and the California Assessors' Association is on  
11 record in opposing the Glazer Bill, or any effort  
12 that attempts to amend Section 170 that is not in  
13 keeping with the Article 13 Section 15 constitutional  
14 requirement for physical damage.

15 And we have provided our opposition letter  
16 to the Board Members.

17 Thank you.

18 MS. DAVIS: Cindy Gompper-Graves, President  
19 and CEO, South County Economic Development Council,  
20 San Diego County.

21 MR. NANJO: Clerk Davis, this is  
22 Henry Nanjo, acting Board Proceedings Chief. I  
23 believe Ms. Gompper has not -- or had -- had to get  
24 off the line, and I've been asked to read her comment  
25 into the record.

26 MS. DAVIS: Go ahead, Mr. Nanjo.

27 MR. NANJO: Thank you.

28 MR. SCHAEFER: This is -- pardon me, Chief



1 Counsel. This is Vice Chair Schaefer. I've been  
2 asked by my constituent to read. Did she change her  
3 mind on this, or do we have competing views? I  
4 just -- I just think --

5 MR. NANJO: It's not a problem, Member  
6 Schaefer -- or Vice Chair Schaefer. Typically, Board  
7 Proceedings reads the comments. But if you'd like to  
8 do that, that's fine. I will defer to you.

9 MR. SCHAEFER: Thank you.

10 Gompper-Graves of the South County Economic  
11 Development Council from San Diego County was  
12 scheduled to speak last week with us, but she's  
13 unable to be with us today. And I would like to read  
14 her comments for the record.

15 Would that be appropriate at this time,  
16 Chair Vazquez?

17 MR. VAZQUEZ: Sure. Go ahead.

18 MR. SCHAEFER: Thank you.

19 Thank you for allowing businesses to have a  
20 voice in your discussions, Chair and Members of the  
21 Board.

22 Before I convey a request, I wanted to share  
23 some statistics with you. According to SBA 2019 CA  
24 Small Business Profile of small businesses numbered  
25 4 million, and accounted for over 90 percent of all  
26 businesses in the state of California, employed  
27 7.1 million people, and 48 percent of our private  
28 work force.

1           These numbers reflect small business is an  
2 important thread in the state's economic prosperity.  
3 But the impacts of the worldwide pandemic are  
4 devastating to them.

5           The Los Angeles Times, last month there was  
6 a survey done by the National Federation of  
7 Independent Businesses conveyed that almost 50  
8 percent of small businesses across the United States  
9 are in danger of failing.

10           We have heard about national corporations  
11 filing for bankruptcy, and closing some or all of  
12 their establishments during the last two months.  
13 Companies like JCPenney, which has closed about --  
14 planning to close about half of their facilities.  
15 Nordstrom, it's a plantation which is closing every  
16 one of their facilities, just to name a few.

17           But the impact of this national state of  
18 emergency is greater on small businesses whose owners  
19 on the average make roughly \$70,000 annually, and do  
20 not have the reserves to dip into to survive this.

21           This impact has caused businesses like hair  
22 and nail salons to close completely. A lot of  
23 businesses are trying to stay afloat by retooling  
24 their service to the public. Restaurants have gone  
25 from dine seating to finding a way to greet new  
26 market with just take-out service.

27           Many businesses have had to reduce their  
28 work force. And now the business owners are working

1 themselves doing multiple tasks.

2 I know at Bully's East in San Diego the  
3 owner is answering the phone and delivering their  
4 orders.

5 When they're not working, they're trying to  
6 navigate how to stay alive spending time, seeking and  
7 applying for financial assistance to remain open.

8 There are many programs that it takes time  
9 away [inaudible] pursue those. This terror has  
10 impacted the businesses, law offices, accountants,  
11 and others are burning the midnight oil trying to  
12 assist their clients by gathering data, preparing  
13 correspondence and other tasks.

14 I've had e-mails on weekends from the  
15 superintendent of the Sweetwater School District  
16 working with me on \$1,000 scholarship that I'm  
17 putting into effect for their students going to  
18 UC Berkeley, which is my alma mater.

19 When you are asking small businesses to  
20 comply with your standard process and procedures, you  
21 are not recognizing the national state of emergency,  
22 not understanding the additional burden you are  
23 placing on these businesses, who, today, have a high  
24 unparalleled risk of failure like never before since  
25 they've been in business.

26 And the phase three opening of these  
27 businesses, while it's good news, adds to the  
28 existing list of duties.

1           And now I have a request. These are  
2           unprecedented times, and it does call for  
3           unprecedented action. I respectfully request you  
4           look at your processes and determine how you can make  
5           it easier for the small-business community.

6           Can you allow more time to process  
7           information, similar to what you did with property  
8           tax statement deadlines?

9           Can time extensions be automatic and not  
10          have to be completing another paper form?

11          Can you waive or reduce deferred fees?

12          Of course you can.

13          Thank you for your time and willingness to  
14          listen today. All assistance to reduce the burden on  
15          small business is appreciated.

16          And this is Cindy Gompper-Graves, President  
17          and CEO of the South County Economic Development  
18          Council here in San Diego County.

19          But this would really apply to small  
20          businesses everywhere.

21          Thank you.

22          MS. DAVIS: Mr. Charles Moll III, McDermott  
23          Will and Emery LLP, are you available?

24          MR. MOLL: Yes, I am

25          MS. DAVIS: Go ahead, sir.

26          MR. MOLL: Thank you.

27          This is Charles Moll with McDermott, Will  
28          and Emery.

1           Thank you, Mr. Chairman and Honorable  
2 Members of the Board.

3           As -- as we just heard from the prior  
4 speaker -- and we all recognize these are  
5 unprecedented times -- we've never seen a pandemic  
6 like this in our lifetime. And I think the human and  
7 economic devastation that's brought upon all of us is  
8 unprecedented. Record unemployment; you've heard  
9 about business failures, both large and small; the  
10 government budget stretched to breaking points trying  
11 to deal with this. But we have hope with the  
12 reopenings across the country.

13           And here in California, you know, we're at a  
14 crossroads. You know, will we sink further into a  
15 depression like The Great Depression of the 1930s?  
16 Or will we pull ourselves out and resurrect this  
17 great economic engine of California that benefits all  
18 of us living here in California?

19           My view is this is not the time to pull out  
20 the ladder, circle the wagons. This is the time to  
21 come together. And we have a section, Section  
22 170(a)(1), that provides us with a tool to help prime  
23 the pump and kickstart the economy.

24           We've heard -- indeed, I guess I would say  
25 this first is, you know, we've heard about the --  
26 well, you know, we can't -- if a hotel burns down,  
27 you know, we can't give them relief. But we already  
28 have other relief in the code for that.

1           We have relief under the supplemental  
2 assessment system where if there's construction or  
3 demolition or destruction of property during the  
4 year, then on, you know, midyear that property gets  
5 relief.

6           Section 170 is intended to do something  
7 else. It's intended to fix a problem like we have  
8 here.

9           And to remind the Members of the Board,  
10 there is a section, Section 170(a)(1), which has been  
11 interpreted by the Court in Slocum.

12           The Court also dealt with Subsection  
13 170(a)(2). And in that case, the Court expressly  
14 distinguished the two subdivisions. And the Court  
15 expressly stated that, unlike 170(a)(2), which was  
16 the specific subdivision for which the plaintiffs in  
17 that case were claiming relief, 170(a)(1) did not  
18 require direct physical damage.

19           And so I think that's a very important  
20 distinction to remember if -- if you haven't read  
21 that case or -- or that section very carefully.

22           And I commend Mr. Nanjo and Mr. Moon on  
23 researching the Attorney Generals' opinions from 1972  
24 and 1975. They have accurately stated what those  
25 Attorney General opinions have said. They have  
26 accurately stated how the Court in Slocum addressed  
27 them.

28           But I want to keep everyone focused on what

1 the Court was saying is those -- those Attorney  
2 Generals' opinions really apply to the -- to the  
3 taxpayers' claim under 170(a)(2).

4 The Court expressly said 170(a)(1), which is  
5 what we're dealing with here when you have a  
6 governor's declaration, was different, and  
7 distinguished the two sections.

8 So the AG's opinion, which may be relevant  
9 for 170(a)(2), the Court came out with a different  
10 conclusion for 170(a)(1).

11 And so I would say that of course we have to  
12 follow the Court's decision. And since we're looking  
13 for relief under 170(a)(1) with the Governor's  
14 declaration, really those Attorney Generals' opinions  
15 aren't really relevant as the Court said. And the  
16 Court went through those Attorney Generals' opinions  
17 as well for 170(a)(1).

18 Finally, my last comment would certainly  
19 be -- just certainly be that we've had some that also  
20 questioned the constitutionality -- you've heard that  
21 today, you've heard that before -- of Section 170.

22 With all due respect, that is beyond the  
23 purview of this Board. Administrative agencies and  
24 assessors must follow the law as enacted by the  
25 Legislature, unless that statute has been declared  
26 unconstitutional by a Court. But no Court has  
27 declared this statute unconstitutional. And,  
28 therefore, this Board should follow that statute, the

1 assessors should follow that statute.

2 With regard to the options before us, I  
3 believe that Option 1 makes a lot of sense. I would  
4 note that at the very end, Option 1 says, If there's  
5 no relief granted by the county, the taxpayer can go  
6 to court.

7 That is true, although the section provides  
8 that the first option, if the relief is denied, is  
9 the taxpayer, you know, could go to the Board. And  
10 some taxpayers may prefer to go to the Assessment  
11 Appeals Board rather than directly to court.

12 I'm not assuming that the Option 1 is taking  
13 that alternative option of going to the Assessment  
14 Appeals Board away from the taxpayer, but perhaps  
15 it's suggesting the taxpayer, if need be, could go  
16 directly to court and leave the Board to determine  
17 that.

18 I think Option No. 2 is also supportable. I  
19 think, particularly, the second part of it, to seek  
20 an Executive Order from the Governor.

21 Obviously the legislation to amend  
22 Section 170, I don't think we need to have it. If  
23 that helps, then certainly, by all means, let's  
24 support that as well.

25 Option 3 and 4, I think there's a debate  
26 about the Board's interpretation. And I don't think  
27 doing nothing is the right thing to do. We have to  
28 do something. We have to do something to get this



1 economy back on track so we can all move forward.

2 And so I would support Option 1 and  
3 Option 2.

4 Thank you for the time to speak.

5 MS. DAVIS: Douglas Mo, counsel, Eversheds  
6 Sutherland LLP.

7 Mr. Mo, are you available?

8 Douglas Mo?

9 If not, we will move forward.

10 Marcy Berkman, counsel for Santa Clara  
11 County Assessment Appeals Board.

12 Ms. Berkman?

13 MS. BERKMAN: Hi. I'm sorry, it took me a  
14 while to get off mute. I apologize.

15 Yes, briefly.

16 I litigated the Slocum case. And some of  
17 you may have caught the Bloomberg article in which  
18 there's Eric Miethke, who litigated on behalf of the  
19 airlines and the Board in that case, opined that  
20 Slocum was corrupt, and that 170 does not permit  
21 midyear reassessment for disaster relief absent  
22 physical damage.

23 And as Slocum was clear, although the focus  
24 on that case is 170(a)(3), in footnote six and  
25 elsewhere, I believe it was page 977, the Slocum  
26 Court made clear that even 170(a)(1), to the extent  
27 it provides access, reduced value for restricted  
28 access would be void as against the law.

1           And the Constitution is easy to follow when  
2 times are good. And now more than ever, both in the  
3 state and the country, I think it's imperative that  
4 we ensure our laws follow the Constitution and that  
5 we abide by the Constitution. Because that's what  
6 everything derives from. And it may be easy in good  
7 times, but equally important in the hard times.

8           And all of us as lawyers and public  
9 officials who also uphold that Constitution when we  
10 began doing our jobs.

11           Today, just an update on SB-1431 the  
12 Appropriation Committee and the Senate moves that on  
13 to the Suspense Calendar. So that's just the first  
14 status.

15           There's already legislation out there. And  
16 I urge this Board to do nothing regarding 170. And  
17 if industry pushes it, it will eventually wind its  
18 way up through the courts, and the Supreme Court will  
19 make a decision eight years from now.

20           Thank you.

21           MS. DAVIS: Our next speaker is  
22 Peter Kotschedoff of California Alliance of Taxpayers  
23 Advocates, CATA.

24           Mr. Kotschedoff, are you available?

25           If not, our next speaker is Kitty Calavita.  
26 She has a written statement that will be read into  
27 the record by Mr. Henry Nanjo.

28           Mr. Nanjo, are you available to read her

1 statement?

2 MR. NANJO: Yes, I am. Let me find her  
3 comment. Excuse me. My comments are not in order.

4 MS. DAVIS: While you're looking for that  
5 comment, Mr. Chairman and Board Members, we have  
6 several written comments that will be read in the  
7 record by Mr. Nanjo. So after we hear the written  
8 comments, we will go back to the At&t moderator to  
9 ensure that we've received all public comment.

10 Mr. Nanjo, are you ready?

11 MR. NANJO: Yes.

12 MS. DAVIS: Go ahead.

13 MR. NANJO: This is from Ms. Kitty Calavita.  
14 And her comment is as follows:

15 Disaster relief is meant for natural  
16 disasters such as earthquakes that physically damage  
17 a building. Please do not allow owners to use  
18 COVID-19 to make up for possible economic downturns  
19 in value which can be assessed with other methods.

20 Providing inappropriate disaster relief will  
21 cause distress to schools and communities, and  
22 disproportionately advantage commercial property  
23 owners.

24 CARES, capital C-A-R-E-S, already allows  
25 owners to write off losses. We need the revenue from  
26 commercial property taxes now more than ever,  
27 unquote.

28 MS. DAVIS: Thank you, Mr. Nanjo.

1           The next written comment is from  
2 Rachita Rawal.

3           Are you available to read -- are you -- do  
4 you have that comment available?

5           MR. NANJO: Yes.

6           MS. DAVIS: Go ahead.

7           MR. NANJO: Quote, this Board should not  
8 take any action which will create a loss for cities,  
9 counties and schools. This means full rejection of  
10 options listed under Working Groups 3 and 4, and  
11 choosing to do nothing and maintain the status quo.

12           She also has a second written comment.

13           Good morning. My name is Rachita Rawal.  
14 I'm a campaign coordinator with Evolve California.  
15 We're a grass-roots nonprofit based in San Francisco.  
16 I'm here to represent our 13,000 members in  
17 opposition to all the options listed under Working  
18 Groups 3 and 4.

19           First of all, disaster relief is intended  
20 for actual, physical damage to buildings. This is  
21 just an attempt by commercial property owners to  
22 lower values and capitalize on the crisis.

23           Secondly, changing the lien date so  
24 properties have to be reassessed right now will just  
25 result in us giving these commercial property owners  
26 more tax breaks.

27           All these proposals will do is to rob local  
28 governments and schools of needed revenue. It is

1 wrong to take funding away from our teachers and  
2 students when they are already burdened with having  
3 to do more with less.

4 I ask the Board of Equalization to reject  
5 all the options listed under Working Groups 3 and 4,  
6 and instead choose to do nothing and maintain the  
7 status quo.

8 Thank you for your time.

9 MS. DAVIS: Thank you, Mr. Nanjo.

10 Karen Roorda.

11 MR. NANJO: And, again, this is a written  
12 comment submitted by Karen Roorda. She, again, has  
13 two comments.

14 Quote, For one, allowing disaster relief and  
15 decline in value relief and using county resources to  
16 do so at this time is utterly outrageous. I will  
17 personally do everything I can to make sure this is  
18 front-page news if it passes.

19 Her second comment is, As a retired  
20 homeowner in San Francisco, I ask the committee to  
21 vote to do nothing on both Working Groups 3 and 4.

22 From what I've read, neither of these  
23 requests by large corporate property owners meet the  
24 legal definition of physical damage as is being  
25 considered under Working Group 3, or good assessment  
26 practices in changing the lien date and looking at  
27 the data during this very short period of downturn as  
28 it is being considered under Working Group 4. Nor do

1 either pass the sniff test.

2           Could you actually vote to require local  
3 government to cut checks to some of the largest  
4 corporations in the world right now?

5           While these proposals and the Board's  
6 hearing have been sleepers, you can bet a vote of  
7 this magnitude will not go unnoticed.

8           MS. DAVIS: Thank you.

9           The next comment that will be read by  
10 Mr. Nanjo is from Elizabeth Vitanza.

11           MR. NANJO: Yes.

12           Again, this is from Elizabeth Vitanza.

13           Quote, I am a parent in the Glendale Unified  
14 School District, and we have just been notified by  
15 our Board that we are facing nearly 25 percent budget  
16 cuts next year due to the decline in state revenue  
17 due to the pandemic. That our school board would  
18 have to figure out how to educate 26,000 students on  
19 less than \$7,000 per student per year. It is simply  
20 not possible.

21           The proposal for disaster relief and decline  
22 in value relief is unconscionable. It would  
23 essentially rob our children, the future of  
24 California, in order to prop up commercial landlords.

25           Declaring properties to be damaged and in  
26 need of disaster relief to lower values is nothing  
27 but a short-sided attempt by commercial property  
28 owners to capitalize on the crisis.

1           Short-term tax relief is already provided  
2 through the income corporation tax automatically when  
3 it comes to the income drop.

4           CARES provides additional huge relief to  
5 commercial property owners by allowing them to write  
6 off losses against other income, and roll back their  
7 losses to get refunds from 2017 taxes.

8           I ask that in your response to Working  
9 Group 3, you choose Option 4, do nothing, maintain  
10 the status quo.

11           For response to Working Group 5, I ask you  
12 do Option 5, do nothing, maintain the status quo,  
13 unquote.

14           MS. DAVIS: The next comment that will be  
15 read is from Joshua Perlman.

16           MR. NANJO: Yes.

17           Joshua Perlman states, quote, I do not think  
18 the Board should do anything that takes further  
19 revenues from schools.

20           For Working Group 3, this is not a disaster  
21 creating physical damages, so I think this would be  
22 poor stewardship of public funds.

23           Commercial property already benefits from  
24 massive tax breaks. Please do nothing.

25           For Working Group 4, please do not veer from  
26 your normal schedule to appease these interests who  
27 have already benefited disproportionately from  
28 Proposition 13. If there is long-lasting value

1 change, it will be incorporated into the next  
2 assessment.

3 MS. DAVIS: The next item read will come  
4 from Chris Hoene, H-o-e-n -- I'm sorry -- H-o-e-n-e.

5 MR. NANJO: Okay.

6 And Working Group M(1)(c), Working Group 3,  
7 the BOE should not take any action that would reduce  
8 the revenues from -- for schools, cities and  
9 counties, at a time when they are already confronting  
10 declining revenues, increasing demands in response to  
11 COVID-19, and potential cuts in state support.

12 Additional revenue losses will only endanger  
13 funding for vital services, most noticeably schools  
14 and the human and social services needed by workers  
15 and families harmed by the crisis.

16 Declaring properties to be damaged and in  
17 need of disaster relief defies logic and looks more  
18 like an attempt by commercial property owners, and  
19 those that they -- those that represent them, to take  
20 advantage of a crisis.

21 In addition, short-term tax relief is  
22 already provided through the income and incorporation  
23 tax when incomes drop and the federal CARES provides  
24 additional and significant relief to commercial  
25 property owners by allowing them to write off losses  
26 against other income and roll back their losses to  
27 get refunds from 2017 taxes.

28 M(1)(d), Working Group 4, here, again, the



1 Board should not take any action which would reduce  
2 revenues for schools, cities and counties at a time  
3 when they're already confronting declining revenues,  
4 increasing demands in response to COVID-19, and  
5 potential cuts in state support.

6 The call for across-the-board reductions in  
7 commercial property values is illogical. A broad  
8 lowering of values makes no sense in a world where  
9 base-year values are already significantly  
10 under-assessed.

11 It would also be bad assessment practice as  
12 declines in property values will be realized in the  
13 next assessment based on better data and information  
14 rather than speculative claims.

15 MS. DAVIS: Thank you, Mr. Nanjo.

16 If we could just have you pause in the  
17 comments, we do have Lawrence Stone, Santa Clara  
18 County Assessor on the line.

19 Mr. Stone, are you available to make public  
20 comment on Work Group 3?

21 Mr. Stone?

22 At&t moderator, could you check to see if  
23 Mr. Stone is available?

24 AT&T MODERATOR: Mr. Stone, if you're on the  
25 phone line, please press 1, then 0, and we'll open up  
26 your line.

27 MS. DAVIS: If not, we will continue with  
28 the reading of the comments.

1 Thank you, At&t moderator.  
2 Mr. Nanjo, can you please continue by  
3 reading the comments from Sandra Madera, M-a-d-e-r-a.  
4 MR. NANJO: Okay.  
5 Sandra Madera states, This Board should not  
6 take any action which will create a loss of revenue  
7 for cities, counties and schools. That means full  
8 rejection of the options listed under Working Group 3  
9 and 4, choosing to do nothing, and maintain the  
10 status quo.  
11 Working Group No. 3 comments, disaster  
12 relief is intended for actual physical damage to  
13 buildings, which assessors can determine by seeing  
14 the actual damage.  
15 Economic losses have other ways of being  
16 accounted for in future assessments. A commercial  
17 property owner just got big income and corporate tax  
18 breaks.  
19 Choose Option 4, do nothing, maintain the  
20 status quo.  
21 She also has comments to Working Group 4,  
22 which I'll pass until we come up on Working  
23 Group 4.  
24 MS. DAVIS: Thank you.  
25 Our next public comment comes from  
26 Vaughn Villaverde, Working Partnerships USA.  
27 Mr. Nanjo, do you have that comment ready to  
28 read?

1 MR. NANJO: Yes, I do.

2 MS. DAVIS: Thank you.

3 MR. NANJO: Working Group 3 comment, on  
4 behalf of the Working Partnerships USA, I'm here to  
5 urge the State Board of Equalization to reject all  
6 the options presented by Working Group 3, and  
7 maintain the current status quo.

8 As the state faces unprecedented physical  
9 challenges brought by the COVID-19 public health  
10 emergency, the Board should not be considering action  
11 that will reduce funding for schools which are  
12 already facing major budget cuts.

13 Declaring properties to be damaged and in  
14 need of disaster relief to lower values is nothing  
15 but an attempt by commercial property owners to  
16 capitalize on this crisis.

17 Economic losses caused by the pandemic have  
18 other ways of being accounted for. At a time when,  
19 quite frankly, the state and local governments could  
20 use all the revenue it can get to fund life-saving  
21 relief and supportive services, the proposals being  
22 considered today are not only irresponsible, but  
23 dangerous.

24 Thank you.

25 And, again, I'll pause on the Working  
26 Group 4 comment.

27 AT&T MODERATOR: I did locate the line of  
28 Mr. Stone, by the way.

1 MS. DAVIS: Thank you.

2 AT&T MODERATOR: My pleasure.

3 Mr. Stone, your line is open.

4 MR. STONE: Hello. Can you hear me?

5 MS. DAVIS: Yes, we can.

6 MR. STONE: Okay.

7 MS. DAVIS: If you can just announce  
8 yourself, sir.

9 MR. STONE: Yes. My name is Larry Stone.  
10 I'm the county assessor of Santa Clara County.

11 And, Mr. Chair, I do have new information  
12 because SB-1431 was not on a previous agenda.

13 It appears we may have two different  
14 versions of SB-1431 depending upon whether amendments  
15 by Senators Wiener and Hertzberg have been added.

16 Both versions, however, are  
17 unconstitutional. Both will be litigated, and both  
18 will reach the same outcome as *Slocum v. American*  
19 *Airlines*.

20 A similar attempt has been mentioned to  
21 provide immediate financial relief to the airlines  
22 impacted by the 9/11 terrorist attack.

23 As Marcy Berkman mentioned, prominent  
24 corporate attorney Eric Miethke represented the  
25 airlines in the *Slocum* case. And he said to  
26 Bloomberg late last month, and I quote, It is a  
27 constitutional problem that cannot be addressed by  
28 statute or rule. The Constitution is not a malleable

1 piece of clay that can be molded at will to fit  
2 whatever the most political expedient is at the  
3 moment.

4 SB-1431 as originally drafted, would provide  
5 property tax refunds to commercial property owners  
6 retroactive to April 4th, 2020.

7 Already overwhelming, a serious \$54 billion  
8 state budget deficit. At the expense of needed  
9 revenue for public schools, cities, counties and  
10 other local government, including funding for police,  
11 fire, and medical first responders facing personal  
12 risk every day as they care for the victims of  
13 COVID-19.

14 The second version including proposed  
15 amendments which have yet to be adopted by the author  
16 is even more convoluted. It limits relief only to  
17 multifamily apartments excluding relief for all  
18 commercial property.

19 One of the major arguments that CATA has  
20 made in advocating SB 1431 in amending Section 170 is  
21 that the diminution of value occurs because of  
22 restricted access to property caused by COVID-19.

23 The argument does not apply to apartments.  
24 No apartment is restricted from accessing their  
25 apartment because of COVID-19.

26 The loss of apartment revenue is also not a  
27 valid argument. Statistics reflect that apartment  
28 rent collections for COVID-19 months of April, May,

1 and now early June are surprisingly high.

2 I can verify that through personal  
3 experience. I'm the general partner, co-owner and  
4 developer of 500 units of affordable housing, half in  
5 San Francisco, a 257-unit single-resident occupancy,  
6 and a 245-unit affordable-housing project in  
7 San Jose.

8 One would expect that my low-income tenants  
9 would be the most vulnerable to financial distress  
10 from COVID-19, unable to pay their rent. Well, for  
11 the COVID months of April, May and June, rent  
12 collections for the San Francisco SRO Project were  
13 97 percent in April and May, and 85 percent for the  
14 first 8 days of June.

15 Rent collections for the San Jose Family  
16 Project were 98 percent in April, 100 percent in May,  
17 and 92 percent for the first 8 days of this month.

18 Occupancy for both properties is near 100  
19 percent.

20 It would be impossible to make the case that  
21 these properties have suffered any reduction in value  
22 due to COVID-19. If there's not a reduction in  
23 rental income, there's no diminution of value.

24 The property tax system is not the mechanism  
25 to provide relief to property owners suffering from  
26 personal, financial -- a personal, financial crisis  
27 unrelated to outside property. It's outside of  
28 existing Prop 8 issues. That's the federal and state

1 roll.

2 Assessors recognize that businesses are  
3 hurting, and, thankfully, there is a solution. From  
4 January 1st, 2021, assessors will proactively provide  
5 extensive relief to properties that experience  
6 decline below the factor base-year value.

7 At the high of the Great Recession assessors  
8 reduced the values on over 3 million properties. And  
9 I anticipate we will do it again beginning  
10 January 21st, 2021.

11 This is great for assessors, as we will be  
12 able at that time to rely on market data. And it is  
13 great for property owners needing that help.

14 Please don't knowingly violate the  
15 California Constitution, two Attorney Generals'  
16 opinions, BOE Legal counsel, and the court case all  
17 support that this is unconstitutional.

18 Thank you for your comments -- for your  
19 time.

20 MS. DAVIS: Thank you.

21 At this time we will have a public comment  
22 from Peter Kotschedoff -- I apologize if I  
23 mispronounced your name -- from CATA, California  
24 Alliance of Taxpayers Advocates.

25 Sir, are you available?

26 MR. NANJO: Clerk Davis, this is  
27 Henry Nanjo. I think we need to have the At&t  
28 moderator try to reach him.

1 AT&T MODERATOR: Sir, if you're on the  
2 line --

3 MS. DAVIS: At&t operator.

4 AT&T MODERATOR: Yes, ma'am.

5 Sir, if you're on the line, please press 1,  
6 then 0. We'll open up your line.

7 MS. DAVIS: If he's not available, we'll  
8 move forward with the written comments as read by  
9 Mr. Nanjo.

10 Dean Jacobson.

11 MR. NANJO: Thank you, Clerk Davis.

12 Okay. Dean Jacobson states, The Board  
13 should not take any action which will create a loss  
14 for cities, counties and schools. That means full  
15 rejection of the options listed under Working Groups  
16 3 and 4, choosing to do nothing and maintain the  
17 status quo.

18 Regarding Working Group No. 3, disaster  
19 relief is intended for actual physical damage to  
20 buildings, which assessors can determine by seeing  
21 the actual damage.

22 Economic losses have other ways of being  
23 accounted for in future assessments, and commercial  
24 property owners just got a big income and corporate  
25 tax breaks.

26 Choose Option 4, do nothing, maintain the  
27 status quo, please.

28 And I'll reserve his comments on Work



1 Group 4.

2 MS. DAVIS: Thank you.

3 Can you please read comments from  
4 Christina Karaba?

5 MR. NANJO: Sure.

6 Christina Karaba writes, This Board should  
7 not take any action which will create a loss for  
8 cities, counties and schools. That means full  
9 rejection of options listed under Working Group 3  
10 and 4, and choosing to do nothing and maintain the  
11 status quo.

12 Disaster relief is intended for actual  
13 damage to physical -- excuse me -- actual physical  
14 damage to buildings, which assessors can determine by  
15 seeing the actual damage.

16 Economic losses have other ways of being  
17 accounted for in future assessments, and commercial  
18 property owners just got big income and corporate tax  
19 breaks.

20 MS. DAVIS: Thank you.

21 Can you please read the public comments from  
22 Veronica Carrizales?

23 MR. NANJO: Yes.

24 She writes, This Board should not take any  
25 action which will create a loss of revenue for  
26 cities, counties and schools.

27 These proposals endanger the very help of  
28 the local governments, which fund critical, essential

1 services upon which we rely on so heavily during this  
2 pandemic. This will result in an additional loss of  
3 revenue for schools that are already facing major  
4 budget cuts.

5 I urge you to choose to do nothing and  
6 maintain the status quo in a full rejection of the  
7 options listed under Working Groups 3 and 4.

8 Veronica Carrizales, Policy Director for  
9 California Calls.

10 MS. DAVIS: Thank you.

11 The next public comment read will come from  
12 Michael Russo of Advancement Project California.

13 MR. NANJO: Michael Russo writes, We urge  
14 the Board to adopt status quo Options 4 and 5,  
15 respectively, for these two agenda items -- and he's  
16 referring to Work Group 3 and 4 for these too -- in  
17 order to safeguard resources that are critically  
18 needed for cities and counties at this time of  
19 crisis.

20 Advancement Project is a civil rights  
21 organization that works to end racial disparities by  
22 transforming public system. As part of that mission,  
23 we perform budget analyses to support advocates,  
24 community organizers and residents from across the  
25 state, including the Central Valley and Inland Empire  
26 as they call for equity-based investments in  
27 low-income communities of color.

28 In these past few weeks I've had many

1 conversations with partners worried about the impact  
2 of the pandemic and the recession on their local  
3 budgets. They're especially concerned on the ability  
4 of their communities to provide critical health  
5 services, support the homeless, renters, and  
6 struggling homeowners as they face housing  
7 instability and provide PPE and other material to  
8 public and essential workers.

9           The one piece of good news that I've been  
10 able to share in those conversations is, while many  
11 local revenue sources have declined sharply, property  
12 taxes should be relatively stable in providing key  
13 lifelines to cities and counties.

14           The proposals advanced by Working Groups 3  
15 and 4 would undermined the stability via legally and  
16 economically dubious approaches that would harm  
17 communities who have been most impacted by the  
18 COVID-19 pandemic.

19           There are three primary reasons why we urge  
20 you to reject these options presented by these two  
21 working groups.

22           First, and most importantly, these options  
23 would rob -- would both rob localities of resources  
24 to support those most in need, while directing the  
25 largest dollar-value assistance would go to the most  
26 valuable properties, owned disproportionately by  
27 deep-pocketed corporate entities that are best  
28 positioned to weather the recession, and who have

1 already received substantial assistance via the CARES  
2 Act and other federal action.

3 Second, these proposals would create  
4 significant uncertainty when local officials need  
5 reliable information and projection to inform their  
6 budget-making. Because of the unsettled nature of  
7 the economy, assessing property values is very  
8 challenging right now. Whether or not the fall will  
9 bring a second wave of outbreaks will have a  
10 significant impact on what economic activity looks  
11 like in the second half of the year.

12 For example, the proposed reassessments  
13 require much guesswork, administrative complexity,  
14 and a flurry of lawsuits and appeals that would  
15 undermined certainty for localities and property  
16 owners alike.

17 Further, several of the options identified  
18 by Working Group 3 certainly appear to violate our  
19 state's Constitution, which would trigger, still,  
20 further legal challenges.

21 Finally, these approaches are deeply  
22 counterproductive ways of addressing a potential  
23 problem that localities are best equipped to handle  
24 themselves.

25 Many, many cities and counties across the  
26 state have created spending programs to help renters  
27 pay their rent, or get grants to small businesses  
28 that need help to stay open during the lockdown.

1           Local officials are the ones who have the  
2 information and legitimacy to weigh competing needs  
3 and determine how to prioritize assistance to  
4 property owners given the specifics of their  
5 community's health needs, economic situation and  
6 physical condition.

7           And unlike the revenue losses for these  
8 proposals would create -- these new programs would  
9 create -- these new programs are reimbursable with  
10 federal dollars under the CARES Act. Meaning, they  
11 provide additional resources for California, while  
12 these proposals would starve our state.

13           For the foregoing reasons and to ensure  
14 California ??       effective an equitable response to  
15 the recovery to this crisis. We urge you to reject  
16 the proposed act option and adopt a status quo  
17 approach to both these key issues.

18           Michael Russo, Director, Equity and  
19 Community Investments Advancement Project California.

20           MS. DAVIS: Thank you.

21           If we could just check to see once again if  
22 Peter Kotschedoff is available from CATA.

23           Moderator, can you let them know that they  
24 can press the necessary buttons to come on?

25           AT&T MODERATOR: Sir, if you're on the phone  
26 lines, please press 1, then 0, so we can open up your  
27 line.

28           MS. DAVIS: If not, we're going to continue

1 with the written comments from Andrea Moeller,  
2 Mr. Nanjo.

3 MR. NANJO: Yes. Ms. Moeller writes, This  
4 Board should not take any action which will create a  
5 loss of revenues for cities, counties and schools.  
6 That means full rejection of the options listed under  
7 Working Group 3 and 4, and choosing to do nothing and  
8 maintain the status quo.

9 Working Group 3 comments, disaster relief is  
10 intended for actual physical damage to buildings,  
11 which assessors can determine by seeing the actual  
12 damage.

13 Economic losses have other ways of being  
14 accounted for in future assessments, and commercial  
15 property owners just got big income and corporate tax  
16 breaks.

17 Choose Option 4, do nothing, maintain the  
18 status quo.

19 And I'll go ahead and hold the comments --  
20 her comments on -- for Working Group 4.

21 AT&T MODERATOR: And we have located the  
22 line of Peter Kotschedoff.

23 MS. DAVIS: Thank you.

24 AT&T MODERATOR: Thank you.

25 Sir, your line is open.

26 MR. KOTSCHEDOFF: Hello. Yes. Can you hear  
27 me?

28 MS. DAVIS: Yes, we can. If you can just

1 announce yourself.

2 MR. KOTSCHEDOFF: Okay. This is  
3 Peter Kotschedoff representing the California  
4 Alliance of Taxpayer Advocates.

5 Thank you for allowing me to stay on the  
6 line, and working out the technical difficulties.

7 We've seen major revenue losses for  
8 landlords, tenants and businesses alike. Many  
9 companies have or are on the verge of failing. As  
10 such, CATA is in favor of anything that will assist  
11 taxpayers during these very difficult times.

12 Specific to Option 1, where the Board would  
13 issue a letter to assessors encouraging acceptance of  
14 claims for midyear declines, we think it would be  
15 positive for the BOE to draft that guidance, assuming  
16 it provides clarity and favors relief for taxpayers.

17 Specific to Option 2, CATA would support  
18 legislation or an Executive Order that clarifies and  
19 removes conflict over Section 170.

20 However, new legislation or an  
21 Executive Order should benefit all those affected,  
22 and not just a single industry.

23 As for Option 3, we would support that as  
24 long as the LTA interpreting Section 170 provides  
25 relief to taxpayers.

26 And, lastly, for Option 4, we would only  
27 support doing nothing if there were viable solutions  
28 providing relief to taxpayers accomplished in Working

1 Group 4.

2 Thank you for your time and allowing me to  
3 make comments.

4 MS. DAVIS: Thank you, sir.

5 Mr. Nanjo, can you please read comments from  
6 Michele DiNardo?

7 MR. NANJO: Yes.

8 Ms. DiNardo writes, This is appalling.  
9 These proposals once again favor the wealthy at the  
10 expense of the broad majority of citizens. It's  
11 shocking that commercial property owners have the  
12 gall to suggest these proposals given they already  
13 have big tax breaks and bail outs from the Federal  
14 Government.

15 Group 3, these proposals are illogical and  
16 will create additional loss of revenue for schools  
17 that are already facing major budget cuts, hurting  
18 our most vulnerable children and families.

19 Choose Option 4, do nothing, maintain the  
20 status quo.

21 And, again, I'll reserve her comments on  
22 group -- for Group 4.

23 MS. DAVIS: Thank you.

24 We've received additional comments from  
25 Michael Lebeau.

26 Have you received those comments, Mr. Nanjo?

27 MR. NANJO: Yes. Let me find those. Let's  
28 see.



1           Yes, Michael Lebeau, comment, I support a  
2 short 90-day extension to all assessment appeals  
3 deadlines, provided those extensions apply to both  
4 government and taxpayers. With the latest news, the  
5 LA County Assessment Appeals Boards will have been  
6 shut down for exactly three months.

7           We, as professional tax advisors, must  
8 recognize the incredible hardship this creates for  
9 Appeals Boards and their clerks, and allow them extra  
10 time they need to catch up.

11           That same extension should also apply to  
12 Appeals Board application-filing deadlines, because  
13 local government offices have been closed in-person  
14 transactions. And in some cases taxpayers do not  
15 have access to their mail during this crisis.

16           In regards to Section 170 relief, I support  
17 CATA's position. Despite the disagreements, we're  
18 confronting an invisible contamination that is  
19 causing, in many cases, both physical and economic  
20 damage.

21           I request that the Board adopt both  
22 Option 1, issuing a letter to assessors encouraging  
23 acceptance of claims for midyear declines in value,  
24 and, Option 2, supporting legislation to amend RTC to  
25 further define economic/physical damage and/or seek  
26 an Executive Order from the Governor.

27           MS. DAVIS: Thank you.

28           The next public comment we've received is

1 from Robert Nakamae.

2 Do you have that available, Mr. Nanjo?

3 MR. NANJO: Yes, I do. There it is.

4 His comment is, Support Option 4, do  
5 nothing, maintain the status quo.

6 MS. DAVIS: Thank you.

7 Our next public comment was received from  
8 Veronica Carrizales.

9 Do you have that available?

10 MR. NANJO: Yes, I do.

11 Working Group 3 comments, Disaster relief is  
12 intended for actual damage to buildings, which  
13 assessors can determine by seeing actual damage.

14 Economic losses have other ways of being  
15 accounted for in future assessments, and commercial  
16 property owners just got big income and corporate tax  
17 breaks.

18 Choose Option 4, do nothing, maintain status  
19 quo.

20 And I'll reserve her comments to Working  
21 Group 4.

22 MS. DAVIS: Thank you.

23 Our next written comment was received --  
24 well, it looks like we have a -- someone who is on  
25 the line who would like to make a statement.

26 Is Steve Cruise of Cruise Strategies on the  
27 line?

28 Mr. Cruise, are you available?

1           At&t moderator, if you can check to see if  
2 she -- if he's available.

3           AT&T MODERATOR. Mr. Cruise, if you're on  
4 the phone line please press 1, then 0.

5           We do have several other people who would  
6 like to make comment over the phone lines.

7           MS. DAVIS: Perfect. Thank you.

8           If he is not available, Mr. Nanjo, if you  
9 could just double check to make sure there was no  
10 written comment received by Mr. Cruise.

11          MR. NANJO: Let me see. I do not have one  
12 from Mr. Cruise, I believe. Yes, no, I do not.

13          MS. DAVIS: Okay.

14          At this time we would like to ask,  
15 Mr. Chairman, we do have several public comments that  
16 we have -- commenters that are on the line. Would  
17 you like for the At&t moderator to facilitate those  
18 conversations?

19          MR. VAZQUEZ: Yes, if they're on Work  
20 Group 3.

21          MS. DAVIS: Okay. Before we go there, if we  
22 could have Mr. Doug Mo.

23          I know that you were called earlier. If you  
24 could be the first commenter for Work Group 3.

25          Are you available Mr. Mo?

26          MS. COHEN: Excuse me, Madam Clerk, before  
27 we go to public comment, I'm not sure if Mr. Gaines  
28 was able to make his overview on Senate Bill 1431.

1 MR. VAZQUEZ: He will have his in a minute.  
2 Actually, I was trying to do it before.

3 MS. COHEN: That's what I thought we were  
4 going to do.

5 MR. VAZQUEZ: I haven't forgotten about it,  
6 though.

7 MS. COHEN: Okay. All right. I'm looking  
8 forward to that presentation.

9 MR. VAZQUEZ: If Mr. Gaines is okay with  
10 that. Okay.

11 MS. COHEN: Okay. Thank you.

12 MR. VAZQUEZ: I haven't forgot about it.

13 MS. COHEN: Thank you, Ms. Davis.

14 MS. DAVIS: At&t moderator, could you please  
15 check to see if Douglas Mo is available to make a  
16 public comment at this time?

17 AT&T MODERATOR: Douglas Mo, if you're on  
18 the phone lines, please press 1, then 0.

19 And we have located the line for Mr. Cruise  
20 as well.

21 MS. DAVIS: Thank you.

22 If Mr. Mo is not on the line, if we could  
23 have Mr. Cruise make his public comment at this  
24 time.

25 AT&T MODERATOR: We have Vanessa speaking  
26 for Steve Cruise.

27 Vanessa, your line is open.

28 MS. GONZALEZ: Thank you.

1           Hi. This is Vanessa Gonzalez on behalf of  
2 the city of San Jose. I'd like to associate my  
3 comments with those from the assessor representative  
4 and Mr. Goldberg in rejecting any efforts to change  
5 the disaster relief statute as in AAB 1431, or  
6 through actions of the BOE to change Section 170.

7           And as you are well aware, property taxes  
8 are an important source of income to cities, counties  
9 and school districts. Apparently these local  
10 governments are on the frontline of responding to the  
11 COVID-19 crisis.

12           For the city of San Jose, that includes  
13 services such as sheltering, food and necessities  
14 distribution, communications and enforcement.

15           At the same time that the demand for  
16 services is going up, we are already facing a  
17 \$100 million budget shortfall due to declining  
18 revenue. And either way a reduction in commercial  
19 property taxes at this critical time will jeopardize  
20 additional services the cities provide including  
21 food, fire and emergency services.

22           Therefore, we respectfully urge you to  
23 reject these proposals.

24           MS. DAVIS: Thank you so much.

25           At&t moderator, we are ready to start  
26 accepting public comments.

27           AT&T MODERATOR: Okay. And I did locate the  
28 line of Doug Mo. One moment, please.

1 MS. DAVIS: Thank you so much.

2 AT&T MODERATOR: My pleasure.

3 Mr. Mo, your line is open.

4 MR. MO: Thank you.

5 Thank you, Board Members and Mr. Chairman,  
6 for the time. I'm Doug Mo from Eversheds Sutherland.

7 I wanted to address and go back to Mr. Nanjo  
8 and Moon, when they talked about economic damage from  
9 the Attorney General opinions. And I agree with both  
10 of them. I agree with the Attorney General opinions.  
11 There is no relief under 170 for pure economic  
12 damage.

13 But their comments didn't address the  
14 restricted access portion of Section 170(a)(1). So I  
15 just don't think that their analysis is ethical to  
16 the question that the Chairman asked about restricted  
17 access.

18 Further, with regard to Assessor Gaekle, I  
19 agree with him as well, physical damage is required.  
20 But as recounted by the Chairman in reading the  
21 statute, restricted access was determined as a form  
22 of physical damage.

23 The other thing that I'd like to point out  
24 is in the last call that we had, I did point out that  
25 the Slocum decision did have a footnote that  
26 explicitly stated that the Court was not ruling on  
27 the constitutionality of restricted access. And I  
28 have not heard a comment to the Board, either written

1 or oral, that disputes the fact that Slocum did not  
2 apply to Section (a)(1). So there has been no ruling  
3 on the constitutionality of the statute.

4 The other thing I pointed out on the last  
5 call that hasn't been commented on is that the notion  
6 of restricted access has been in the statute, in the  
7 predecessor statute to 170, and then in current  
8 170 for 50 years. And there has never been a  
9 challenge to the constitutionality of that provision.

10 So, in somewhat, I'd like to point out to  
11 the Board is that we -- as a taxpayer's  
12 representative, I agree that there needs to be  
13 physical damage. It is in the Constitution.  
14 However, the Legislature, in its authority, has  
15 interpreted physical damage to be restricted access.  
16 And so I think the comments need to be addressed to  
17 restricted access, is that appropriate or not. And I  
18 believe the Legislature has spoken and said it is.

19 And I believe that it's the Board's duty to  
20 enforce the law as written. And what I would  
21 encourage the Board to do would be adopt Option 1,  
22 which would be to issue an LTA that simply states  
23 that restricted access is a form of physical damage,  
24 and that assessors are required to assess whether  
25 there has been restricted access, and whether that's  
26 affected the value of the property.

27 Thank you for your time.

28 MS. DAVIS: Our next public comment comes --

1           At&t moderator, are there any other public  
2 commenters available at this time?

3           AT&T MODERATOR: Yes, ma'am, there are.  
4 Line 52, your line is is open.

5           We'll open the line number of 52.

6           Line 52, your line is open.

7           MS. DAVIS: Thank you.

8           AT&T MODERATOR: Line 52, your line is open.

9 If your line is muted, we're unable to hear you.

10           With no response, we'll move on to line 123.

11           Your line is now open.

12           MR. ROMO: Hi Chair and Members. I'm  
13 Nick Romo on behalf of the League of California  
14 Cities today.

15           You've heard a lot of public comment in  
16 regards to local revenues, and the issues that we're  
17 facing.

18           What I would say today for the Board Members  
19 to consider are two things we know from poverty, the  
20 economy, those who have looked at 2008 and previous  
21 recessions who are looking at this, you know,  
22 economic recession and global pandemic, that if local  
23 governments do not properly recover, then the curve  
24 will be much steeper.

25           In regards to adding additional value to  
26 this conversation, I would say from League of Cities'  
27 perspective, we certainly see apartment owners and  
28 commercial properties and stakeholders in our city,



1 and what we would suggest and we urge that we  
2 consider -- that you consider working with the  
3 Legislature and other stakeholders to find a  
4 different way to provide relief to these property  
5 owners.

6 We believe that affecting the property tax  
7 system, property tax law is inappropriate in this  
8 way. But there are other creative ways the Senate  
9 leadership and government leadership are looking at.  
10 And we encourage you to look at it that way. In  
11 which we could find a win/win in the situation. We  
12 can find relief of property owners while keeping some  
13 safety measure within the property tax system for  
14 local governments through this time.

15 So I just encourage you to look for more  
16 creative solutions in this space. We look forward to  
17 working with you and we stand as a partner.

18 AT&T MODERATOR: And before we open line 52,  
19 I'd like to remind everyone, if you'd like to provide  
20 public comment, please press 1, then 0 at this time.

21 Next open line, number 52. Your line is now  
22 open.

23 MR. NICHOLS: Hello. This is Wes Nichols.  
24 Can you hear me?

25 MS. DAVIS: Yes, we can hear you, sir. Go  
26 ahead.

27 MR. NICHOLS: My name is Wes Nichols, I'm a  
28 member of CATA.

1           And my public comment would be this, is as  
2 far as a lot of people that showed opposition for  
3 calamity relief about schools, I'm very sympathetic  
4 to your concerns and you're scared.

5           From what my knowledge of and understanding  
6 is, is that if there's any calamity relief, the state  
7 back-fills it to the county. So whatever loss of  
8 revenue the county would receive, the state would  
9 make up for the difference. So the schools would not  
10 be impacted.

11           As far as some of the other issues that have  
12 been talked about, about the decline in value from  
13 2020. And I know Mr. Stone is adamant about giving  
14 relief for 2021.

15           The issue here is the timeliness of action  
16 of all of us here on this call, on this meeting. I  
17 know the stock market has gone up, and we're starting  
18 to reopen. Things sound and look great, or better  
19 than they were.

20           Which is all true; however, talking to many  
21 of my clients, it's still pretty scary out there.  
22 Mortgages aren't being paid, rents not being  
23 received, and they're really scared that they're  
24 going to end up losing their commercial properties.  
25 Which could end up losing commercial businesses and  
26 have a trickle-down effect.

27           So anything that we can do to make a  
28 difference now in the upcoming year is going to be

1 the difference between mass foreclosure rate, or a  
2 lower foreclosure rate. But it's coming. And it's  
3 not over. And I'm here to make a difference in the  
4 world. And I know all of you are, too. And this is  
5 one way to be able to help taxpayers, tenants, and  
6 property owners now rather than to wait for 2021.

7 And I do realize that, yeah, there are some  
8 big companies out there that will -- that don't need  
9 the relief, and will potentially get it. However,  
10 that's probably a very small fraction of maybe 5,  
11 10 percent.

12 I think we really need to look at the bigger  
13 picture here, and that's the 80 percent of small  
14 businesses, small restaurant owners, small hotel  
15 operators, small office owners, doctors, medical  
16 offices that are impacted by this, and they're not  
17 part of the one percent or the five percent of large  
18 Fortune 500 companies. So I'd like you to put that  
19 into consideration.

20 AT&T MODERATOR: And next open line, number  
21 113. Please remember to provide your name and  
22 affiliation if applicable.

23 Your line is open, line 113.

24 MR. NAKAMAE: Good afternoon, Honorable  
25 Members of the Board. My name is Robert Nakamae, and  
26 I'm a Deputy County Counsel with the County of Santa  
27 Clara. I have represented our county assessors since  
28 2006.

1 I support Option 4 on your -- on your  
2 published agenda, do nothing, maintain status quo.

3 The law starts with the California  
4 Constitution. The legislative power to tax property  
5 in California is constitutionally derived for  
6 reassessments due to misfortune or calamity.  
7 Article 13 Section 15 of the Constitution requires  
8 physical damage. I urge you to adopt Option 4.

9 Thank you.

10 AT&T MODERATOR: And at this time we have no  
11 one else in cue for public comment.

12 Please continue.

13 MR. VAZQUEZ: Members, let me go back to  
14 Member Gaines. He was listed, actually, to go on  
15 before, and we got -- I got a little sidetracked.

16 So let me go back to Member Gaines to talk  
17 about SB-1431. Because I know there's been some  
18 updates on that and amendments. He can give us a  
19 little report.

20 MR. GAINES: Thank you, Chair Vazquez.

21 I just wanted to take this opportunity also  
22 to thank Mark Durham, Glenna Schultz and Ronil Dwarka  
23 who helped put the analyses together on both of these  
24 bills.

25 But, in summary, Senate Bill 1431 regards  
26 the disaster property tax relief provisions that  
27 provide that damage include the diminution in the  
28 value of property as a result of COVID-19 pandemic.

1           And they define damage as expressly  
2 providing that damage include restricted access to  
3 property caused by any law, order, rule, regulation  
4 of the state or any city, county or other political  
5 subdivision providing tenant protections in response  
6 to the COVID-19 pandemic, including, but not limited  
7 to, eviction controls imposed by Executive Order  
8 No. N-33-20 on March 19th of this year, and also  
9 Executive Order N-37-20 issued on March 27th of this  
10 year.

11           And as you've heard by previous speakers,  
12 the bill was moving through, and was heard today in  
13 the Appropriations Committee. It's been put on  
14 Suspense. And typically, as a Republican, that's  
15 where bills would go to die. So I'm just telling  
16 you, I had a lot of bills in the Senate that never  
17 got out of Appropriations. And that was the joke in  
18 the Senate.

19           But you also have to remember this bill is  
20 being carried by a Democrat who has proposed  
21 amendments coming from both Senator Wiener and  
22 Senator Hertzberg. They have a lot of influence  
23 within the Senate, so it could move forward.

24           I think my advice is that we continue to  
25 keep an eye on this. I do want to thank  
26 Senator Glazer for looking out for taxpayers.  
27 There's a lot of people that are struggling in this  
28 pandemic, and it's kind of at all levels in terms of

1 the economics.

2 My son buys cars for a dealership. He's  
3 been furloughed for almost three months now.

4 I have a constituent in part of my district  
5 who is a dentist, and the protocol is to start back  
6 up. As a result of new requirements from the Dental  
7 Board, it's going to cost him about \$100,000 to start  
8 his dental practice back up. So he's talking about  
9 retiring.

10 But let's also remember about all the people  
11 that were just on the edge. People that were running  
12 businesses. And they were making enough money to  
13 survive. But when something like a pandemic hits,  
14 and you don't have access to your property, and it's  
15 prolonged for a long period of time, now, can you  
16 really start that business back up?

17 And I do realize that there's been relief  
18 provided through some of the federal legislations.  
19 But that's not across the board. It's not -- it  
20 hasn't impacted everybody. So I'm sympathetic to the  
21 challenges of taxpayers.

22 My recommendation is that we continue to  
23 track the Glazer Bill, and see if -- is it really  
24 dead, or does it resurrect with amendments.

25 Thank you.

26 MR. VAZQUEZ: Thank you.

27 Members, this is now before us.

28 MS. COHEN: So just real quick.

1           Member Gaines, your recommendation is just  
2 to track. Is that in the form of a motion to  
3 continue the item or --

4           MR. GAINES: Thank you. And I appreciate --  
5 appreciate the question.

6           But my recommendation is that I don't think  
7 we need a motion. My thought was, let's continue to  
8 watch it as it progresses. And if it moves to  
9 another committee, and it's still alive, then I think  
10 we can make a decision at that point as to whether we  
11 want to weigh in or not.

12          MS. COHEN: Okay.

13          Mr. Chair, I would like --

14          MR. VAZQUEZ: Yes. Go ahead, Ms. Cohen.

15          MS. COHEN: Just go on record and share some  
16 of my thoughts that I'm thinking as I've heard and  
17 listened to the public comment.

18          It's apparent that there's a controversy  
19 concerning the interpretation that the Rev. and  
20 Tax -- the Rev. and Tax Code Section 107, regarding  
21 whether damage is required.

22          I still believe that an Attorney General  
23 opinion can provide guidance in this matter.  
24 However, the Legislature, through Senate Bill-1431,  
25 has entered into the fray now, as Senator Gaines has  
26 mentioned.

27          There are extensive amendments that were  
28 discussed today. I believe it's -- I also believe

1 it's premature for the Board to consider acting on a  
2 bill that is expected to be amended. Of course,  
3 further amendments could change the character of this  
4 legislation.

5 We also need to be very -- we also need to  
6 very carefully factor in the positions taken by  
7 county assessors and representatives of the city and  
8 counties, such as the League of California Cities, as  
9 well as CSAC.

10 Part of our responsibility as elected  
11 officials is to, first, do no harm. And so taking  
12 action now regarding the reinterpretations of Rev.  
13 and Tax Code Section 170, while Senate Bill-1431 is  
14 still before the Legislature. I think before the  
15 Legislature with anticipated amendments.

16 And while we don't have independent guidance  
17 of any new Attorney General's opinion, I would -- I  
18 would -- as I stated earlier, I think it's premature.

19 And I agree with Senator Gaines. I believe  
20 that our best course of action is to not take away  
21 any -- best course of action is not to take any  
22 action of reinterpreting the Rev. and Tax Code, or  
23 any action expressing opinion on Senate Bill-1431.

24 MR. VAZQUEZ: I agree with you.

25 Oh, I'm sorry. Is it -- Mr. -- Vice Chair  
26 Schaefer, did you want to make a comment?

27 MR. SCHAEFER: Yes.

28 Chair Vazquez, I can count noses. And I



1 know the most popular alternative tends to be  
2 Option 4. But I think we have a great need for  
3 Option 1 now, because people are suffering.

4 And I would move that we adopt Option 1,  
5 issue a letter to assessors encouraging acceptance of  
6 claims for midyear declines in value due to COVID-19  
7 pandemic.

8 And if it's denied, the taxpayers are free  
9 to go to court.

10 That's my motion.

11 MS. COHEN: Well, I'd -- I'd like to just  
12 say the freedom to go to court is -- well, not  
13 everybody has that freedom. Not everybody can enjoy  
14 the resources to hire an attorney to go through the  
15 legal proceedings, particularly during a difficult  
16 time if they're running a business, or if their  
17 families are --

18 MR. SCHAEFER: Ms. Cohen, you can go to  
19 court for small claims for as little as \$30 for up to  
20 \$1,500. And I think the jurisdiction is many times  
21 that. And they're all without attorneys. In fact,  
22 attorneys are forbidden.

23 We're not talking about major companies that  
24 have corporate counsel. We're talking about people  
25 that own ma and pa apartment houses, and things like  
26 that where their loss is in small claims  
27 jurisdiction.

28 MS. COHEN: All right.

1 Well, Mr. Chair, I'd like to just go on  
2 record that I'm in disagreement with the proposal and  
3 motion that Mr. Schaefer is putting forward.

4 MR. VAZQUEZ: Thank you.

5 Well, if there's no second, it pretty much  
6 dies.

7 MS. COHEN: Right.

8 MR. VAZQUEZ: And while I, you know -- I  
9 respect, especially in listening to both sides,  
10 especially of the public -- excuse me -- earlier  
11 today, I do also agree with my colleague -- or at  
12 least a couple of my colleagues here, that I think it  
13 is a little premature right now to take any action.  
14 But to continue to follow this closely.

15 And we are regrouping on the 23rd. So  
16 should something happen in the next couple weeks,  
17 well, I think we'll have an opportunity to revisit  
18 this.

19 But if I don't hear any other objections or  
20 comments -- Oh, I'm sorry.

21 Ms. Cohen.

22 MS. COHEN: One more quick comment. And  
23 this is actually directed to Senator Gaines.

24 This is in reference to what Assessor Stone  
25 said. Assessor Stone eluded in his testimony that  
26 there was some language for the amendments. And I  
27 believe he referenced Senator Wiener and Senator  
28 Hertzberg. I wanted to ask Senator Gaines -- Senator

1       Gaines if he knew of any specific language or could  
2 describe what the Senate is thinking or discussing.

3               If you know -- if you know at all. I don't  
4 know if you do, Mr. Gaines.

5               MR. GAINES: No, I would only be  
6 speculating. I've heard that Senator Wiener has  
7 taken the lead in affordable housing-related  
8 issues.

9               MS. COHEN: Mm-hm.

10              MR. GAINES: He presented a very big bill a  
11 couple of years ago. So I think he would have a keen  
12 interest in Senator Glazer's bill. But I can only  
13 speculate.

14              But I think that -- I've seen -- and, again,  
15 I can speak to history that I've seen a number of  
16 bills that did move out of Suspense if there was  
17 support by colleagues, especially in a majority --  
18 majority party in the Senate.

19              MS. STOWERS: Mr. Chairman, may I speak?

20              MR. VAZQUEZ: Yes. Go ahead, Ms. Stowers.

21              MS. STOWERS: I listened to the first  
22 hearing on SB-1431, and they talked about some of the  
23 amendments. And one was to limit the scope. Because  
24 the way it was written, it appears to be for all real  
25 property. And the goal was to limit it to  
26 residential rental property.

27              Also, there was a question about the  
28 property owners benefiting from various proposals.

1 The Senate Democrats have a proposal that they're  
2 working on to provide some type of relief due to  
3 COVID-19 on property owners, so they wanted the  
4 amendment to be clear that they basically could not  
5 double dip.

6 But, as of today, the amendments have not --  
7 I just checked. The amendments haven't been placed  
8 into print.

9 So I tend to agree with Senator Gaines,  
10 Member Gaines, that right now it's premature to take  
11 a vote on supporting the bill or not supporting the  
12 bill. But just to continue to monitor the bill to  
13 see what comes out in the near future.

14 MR. VAZQUEZ: Vice Chair Schaefer, I think  
15 you want to speak. You need to turn your mic on,  
16 though.

17 MR. SCHAEFER: Yes. Thank you. Thank you,  
18 Chair Vazquez.

19 I just wanted to mention to Member Cohen  
20 that I don't in any way take away from the right of  
21 all taxpayers to go to the Assessment Appeals Board  
22 process, you know, if they're unhappy. That's always  
23 something we protect.

24 Thank you.

25 MS. COHEN: Thank you.

26 MR. GAINES: Question, if I could.

27 MR. VAZQUEZ: Yes. Go ahead, Mr. Gaines.

28 MR. GAINES: Yeah.

1           Maker of the motion, if I could just get  
2 some clarity on Option 1.

3           Member Schaefer, I'm reading it, it says,  
4 Issue an LTA encouraging acceptance of claims for  
5 midyear declines in value due to COVID-19 pandemic.  
6 If denied, taxpayers may go to court.

7           So you're recommending an LTA. So that's  
8 sending out a letter to the assessors. And so would  
9 they then have the authority in each of their  
10 counties to do as they saw fit?

11           MR. SCHAEFER: Yes. Yes, of course.

12           MR. GAINES: Okay. So if a particular  
13 county had more challenges economically than another,  
14 they could act. And if they didn't, they wouldn't  
15 have to respond. Is that -- is that --

16           MR. SCHAEFER: The taxpayer has every right  
17 to disagree and pursue it after that if they need  
18 to.

19           MR. GAINES: Okay. I'll second that  
20 motion.

21           MR. SCHAEFER: Thank you.

22           MR. VAZQUEZ: All right. So now we have a  
23 motion, and it's been second.

24           MS. STOWERS: I have one --

25           MR. VAZQUEZ: Yes. Ms. Stowers, go ahead.

26           MS. STOWERS: Thank you.

27           Not saying I agree or disagree with the  
28 motion, but I'm just curious if we were to issue an

1 LTA, do you vision -- or maybe BOE staff can comment  
2 on whether or not some type of relief would be  
3 provided to the property owners, how long it would  
4 take for any kind of relief to be granted. You know,  
5 some kind of timeframe. Because we are in an urgent  
6 state. I don't know if we can get any relief to them  
7 in 6 months, or will it be 18 months?

8 MR. VAZQUEZ: Is staff available?

9 MR. YEUNG: Yes. Hello. This is David  
10 Yeung, Deputy Director of the Property Tax  
11 Department.

12 If I may just thank you -- thank you, Board,  
13 for allowing me to comment on this issue.

14 I think, if I'm not mistaken, how Option 1  
15 is written is that we issue an LTA encouraging  
16 acceptance of claims for midyear declines in value  
17 due to COVID-19 pandemic.

18 My read of it is that right now, as it  
19 stands, there is nothing preventing somebody from  
20 filing a claim for disaster relief. It has always  
21 been the assessors -- the purview of the assessor to  
22 evaluate that claim, and to see if there is indeed  
23 any damage or de -- or -- or lowering of the value.  
24 That is assessors' purview, and -- and -- and job to  
25 do.

26 So I think there is nothing in Option 1 that  
27 would move it forward any. We already -- assessor --  
28 the taxpayer already has the ability to file such a

1 claim. The assessor already is charged with  
2 reviewing it.

3 I mean, I -- if that is an option that you  
4 guys -- that the Board chooses to make and pass, then  
5 staff will work with Legal in drafting a letter. But  
6 I believe Mr. Moon and Mr. Nanjo already spoke on the  
7 applicability of 170 and physical -- and physical  
8 damage. So I -- we will have to work that portion of  
9 this out.

10 And as to how long it would actually take  
11 the assessors to process the claim and to provide  
12 relief for the taxpayer, that would depend on each  
13 individual county.

14 Some assessors -- some counties process them  
15 very quickly; and some, depending on the number of  
16 claims filed and the difficulty in determining damage  
17 and staffing, may take a little bit longer.

18 So I would have to defer that question to  
19 the assessors themselves as to how long it would take  
20 if such claims were filed and reviewed.

21 MR. SCHAEFER: Chair Vazquez.

22 MR. MOON: Chairman Vazquez -- Chairman  
23 Vazquez, this is Richard Moon from Legal Department.  
24 If I could provide just a couple points of  
25 clarification.

26 MR. VAZQUEZ: Sure. Go ahead.

27 MR. MOON: The first thing that I'd like to  
28 say is Option 1 is phrased, the second clause of it,

1 if denied, taxpayers may go to court.

2 I just wanted to clarify that they would  
3 first be required to go to the Assessment Appeals  
4 Board and seek an AAB decision.

5 And if they were to lose there, then their  
6 recourse would then be to file with the superior  
7 court, and not small claims court, if they wanted to  
8 challenge an AAB decision.

9 But they are required to first file a claim  
10 for reassessment with the AAB in order to exhaust  
11 their administrative remedies, or they will not be  
12 able to pursue their claim any further.

13 MR. SCHAEFER: Chair Vazquez, I -- this --

14 MR. VAZQUEZ: Go ahead, Vice Chair.

15 MR. SCHAEFER: Yes.

16 I thank him for that comment. I overlooked  
17 it, they do have to go to the superior court, and  
18 they do have to go to the AA -- Appeals Board first.

19 I'd like to point out that the letter to  
20 assessors are for guidance only. The assessors are  
21 all independently-elected officials and have the  
22 final say. We just issue the LTA as a guidance to  
23 let them know that we have their back on this issue,  
24 and it's not mandatory. And of course we all know  
25 that.

26 Thank you.

27 MR. VAZQUEZ: You know, my thoughts now  
28 listening to the discussion on both sides, what if



1 we -- what if we amended it a little bit, so it  
2 would -- we would say that -- we would create an LTA  
3 working with the assessors, and to give guidance to  
4 the Board on the current interpretation of 170, and  
5 how it applies to COVID-19 to get some relief.

6 MS. COHEN: Well, if there's no clarity on  
7 what constitutes damage, how would anyone have  
8 relief?

9 MR. VAZQUEZ: That's my question. That's  
10 why I'm a little --

11 MS. COHEN: Right. So --

12 MR. VAZQUEZ: That's where I'm at. I'm with  
13 you on that.

14 I'm just trying -- if they -- if we allow  
15 the -- really, the assessors to work with us a little  
16 bit on this to see if it makes sense to put out an  
17 LTA really.

18 MS. COHEN: So how do you -- how do you  
19 provide relief under this discrepancy? I mean, like,  
20 for what reason are we not seeking the Attorney  
21 General's opinion or clarity on this discrepancy?

22 MR. VAZQUEZ: Yeah, I agree with you.

23 MS. COHEN: I mean, you know, we don't -- I  
24 mean, to me, Senator Gaines' first proposal was  
25 probably the most reasonable one, meaning that, let's  
26 just take a wait-and-see position.

27 And then I added my voice saying, well,  
28 let's take a wait-and-see position, and then see if

1 we can get an opinion from the Attorney General.

2 The way I see it is that the more  
3 information you have, the more informed of a decision  
4 that you can make.

5 MR. VAZQUEZ: Agreed.

6 MS. COHEN: Thank you.

7 MS. STOWERS: Mr. Chairman.

8 MR. VAZQUEZ: Ms. Stowers, go ahead.

9 MS. STOWERS: Thank you.

10 Going back to your comment about maybe  
11 working with the assessors with an LTA and guidance  
12 in the Board's interpretation, I just wanted to  
13 remind all the Members that we do have the memo from  
14 Chief Counsel that is still attorney/client  
15 privilege. So I'm hesitant to speak about it. But  
16 it pretty much at least lays out our Chief Counsel's  
17 position on this issue. And county assessors --

18 AT&T MODERATOR: At&t operator --

19 MR. HENRY: Communication glitch.

20 AT&T MODERATOR: -- is now joining.

21 MS. STOWERS: Should I -- did you guys hear  
22 me?

23 MS. COHEN: Yes, continue.

24 MS. STOWERS: Okay. Thank you.

25 And then our county assessors and their  
26 association, they have already provided their opinion  
27 that you have to have physical damage to get relief.

28 So with those two in mind, I don't know if

1       trying to go back to the discussion table is going  
2       to --

3               MS. COHEN:   Okay.

4               MS. STOWERS:  -- move us any further.  I  
5       think we probably should be going back.  I realize we  
6       have a motion, but going back to Senator Gaines'  
7       original recommendation is just to follow Senate Bill  
8       1431, and see what happens.

9               MR. GAINES:  If I could -- if I could  
10       clarify.  I was asked to speak on the bill.  That's  
11       what I did.  And I know that's one of the  
12       recommendations also.  But in terms of the bill  
13       itself, I think we wait and see.  Because that's  
14       going through an amendment process.

15               But reflecting on Option 1, I think that is  
16       a direct opportunity to help taxpayers that are in a  
17       tough position.  And so -- and I think, you know, we  
18       had a lot of public testimony on this Rev. and Tax  
19       Code 170 Section (a)(1).  And that apparently doesn't  
20       press --

21               AT&T MODERATOR:  At&t --

22               MR. GAINES:  restricted access.  So --

23               AT&T MODERATOR:  -- is now exiting.

24               MR. GAINES:  I think that from a legal  
25       standpoint, that hasn't been tested in the court.  
26       Because it was addressed in (a)(2), not (a)(1), of  
27       Section 170.

28               MR. VAZQUEZ:  Senator Gaines and Members, I

1 just got notified that At&t just got cut off from  
2 Teams. So if we can just take a five-minute break,  
3 because I don't think the public is listening to us  
4 right now.

5 AT&T MODERATOR: We have reestablished the  
6 line.

7 MR. VAZQUEZ: Oh. It looks like they  
8 reestablished it. All right. We're good.

9 I'm sorry, Mr. Gaines. If you want to  
10 continue.

11 MR. GAINES: Yes. I was just clarifying  
12 that my initial comments were on the bill itself,  
13 because I was asked to comment on the bill. And I do  
14 recommend that we don't take a position on that. We  
15 see what happens. It could come out of Suspense,  
16 there could be amendments, and it could be a  
17 drastically different bill.

18 With regards to Option 1, after questions of  
19 inquiry that I had made to Member Schaefer, I think  
20 it is a pathway. Because -- and I think it could  
21 stand legally, because if you look at the Rev. and  
22 Tax Code 170, it was clarified in the testimony that  
23 we heard that that addressed Section (a)(2), not  
24 Section (a)(1). And apparently (a)(1) talks about  
25 restricted access.

26 Thank you.

27 MR. VAZQUEZ: Thank you.

28 MR. GAINES: Well, give me --

1           MR. MOON: This is Richard Moon from the  
2 Legal Department again.

3           MR. VAZQUEZ: Yes.

4           MR. MOON: I think I got cut off before I  
5 was able to ask for a final clarification. May I do  
6 that now?

7           MR. VAZQUEZ: Sure. Go ahead.

8           MR. MOON: So it's a little bit unclear when  
9 we're discussing Option 1. If it's the Board  
10 suggesting that an LTA be issued, that the assessors  
11 just need to take and decide the application, which  
12 they can do now, versus whether the Board is  
13 suggesting that an LTA be issued, that 170 midyear  
14 relief is actually available. Which, from staff's  
15 perspective, would be -- would be problematic.

16                   And any of the technical details or  
17 responses to any of the public comments, I'd be happy  
18 to undertake. But we would appreciate a  
19 clarification as to exactly the -- what the LTA is  
20 intended -- you're intending the LTA to say.

21                   Thank you.

22           MR. NANJO: And this is Henry Nanjo, Chief  
23 Counsel.

24                   To add into what Richard Moon was saying, as  
25 the Board requested, we provided a Chief Counsel  
26 opinion on 170.

27                   And just -- just as a matter of -- of  
28 guidance and correction, Member Gaines, there's

1 testimony both ways. Some of the commenters thought  
2 that Slocum only related to (a)(2), whereas both your  
3 Legal Department and other commenters have taken the  
4 position that the Court was clear that physical  
5 damage was required, whether it was under (a)(1) or  
6 (a)(2).

7 And I believe Ms. Berkman was one of the  
8 attorneys on that case and made that comment. So --

9 MR. SCHAEFER: Chair -- Chair Vazquez.

10 MR. VAZQUEZ: Yeah. Go ahead, Vice Chair.

11 MR. SCHAEFER: I'd like to amend my motion  
12 to strike that last paragraph, "If denied, taxpayers  
13 may go to court." I don't think that's necessary.

14 So my motion would be to issue a letter to  
15 assessors encouraging an acceptance of claims for  
16 midyear declines in value due to COVID-19 pandemic,  
17 period.

18 MR. GAINES: I would second that revision.

19 MR. VAZQUEZ: All right. So we have the  
20 motion that's been revised, and it's been second.

21 Member Cohen, did I see a hand up?

22 MS. COHEN: Yes. Thank you, Mr. Chair.

23 I just wanted to say that we clearly have  
24 heard from the assessors that they have a certain  
25 interpretation of Section 170 that would not result  
26 in relief to taxpayers under these circumstances.

27 So how do we -- I -- there -- I just want to  
28 challenge the assumption that we're going to be

1 giving relief to taxpayers when we've heard from the  
2 assessors, who directly work with taxpayers, that  
3 there may not be -- that there wouldn't result in  
4 relief to the taxpayer.

5 So how do we expect taxpayers to get relief  
6 even if we issue an LTA? Even if we issue an LTA,  
7 how do these taxpayers get their relief? I mean,  
8 just thoughtful questions that I'm putting out there  
9 on the record.

10 MR. VAZQUEZ: Do we have a response from  
11 either, I guess, the motion-maker or the seconder?

12 MS. COHEN: Or, more importantly, I mean,  
13 our general counsel has --

14 MR. VAZQUEZ: Or general counsel.

15 MS. COHEN: -- has made it very clear, he  
16 just restated for the record his -- his -- his  
17 findings. You heard from Richard Moon as well.

18 I just think that this is not a good idea.  
19 Taxpayers, yeah, they deserve relief. But I don't  
20 know -- I don't know if that's the best way to do  
21 it.

22 MR. VAZQUEZ: Vice Chair -- Vice Chair  
23 Schaefer, I think you want to weigh in, but I think  
24 you need to unmute yourself.

25 MS. COHEN: Yeah. I think we need to be  
26 prudent.

27 MR. VAZQUEZ: Vice Chair, I think you're  
28 muted.

1 MR. SCHAEFER: Yes.

2 We're just --

3 MR. VAZQUEZ: Oh, go ahead.

4 MR. SCHAEFER: -- offering a little  
5 guidance, and more literature. More information may  
6 come forward, you know, to help the assessor and the  
7 taxpayer work it out.

8 It's just that I think it's important that  
9 our guidance is that we favor encouraging acceptance  
10 of claims for people that have midyear declines. And  
11 let the taxpayers know that they will be pleased with  
12 what the county assessors are doing.

13 And we want the county assessors to favor  
14 encouraging acceptance of claims for people that have  
15 midyear declines. And let the taxpayers know that  
16 they will be pleased with what the county assessors  
17 are doing.

18 And we want the county assessors to favor  
19 the taxpayers. I mean, that's what we're elected to  
20 do is protect the taxpayers.

21 MR. GAEKLE: Mr. Chairman

22 MR. VAZQUEZ: Yes. Who is this?

23 MR. GAEKLE: I understand this is before the  
24 Board, but this is Don Gaekle.

25 MR. VAZQUEZ: Oh, Don.

26 MR. GAEKLE: President of the California --

27 There's a lot of discussion here, you know,  
28 about assessors. Clearly the Assessors' Association



1 is on record as opposing midyear relief under these  
2 guidelines.

3 The association believes that the Court in  
4 Slocum clearly supported the concept of physical  
5 damage. It's certainly required in the Constitution,  
6 and certainly that's the position of Board counsel.

7 And so I think that, from my perspective,  
8 that in an attempt to, you know, provide some sort of  
9 relief, you're really offering a false promise to  
10 taxpayers by going ahead with this motion.

11 That's my comment. Thank you.

12 MR. VAZQUEZ: Thank you.

13 Hearing -- do we have any other comments or  
14 questions before we move on to the vote?

15 Hearing none, then let's go ahead and get a  
16 roll call vote, Ms. Davis.

17 MS. DAVIS: Chairman Vazquez.

18 MR. VAZQUEZ: No.

19 MS. DAVIS: Vice Chair Schaefer.

20 MR. SCHAEFER: Affirmative.

21 MS. DAVIS: Member Gaines.

22 MR. GAINES: Aye.

23 MS. DAVIS: Member Cohen.

24 MS. COHEN: No.

25 MS. DAVIS: Deputy Controller Stowers.

26 MS. STOWERS: No.

27 MR. VAZQUEZ: All right. So that fails.

28 Are we pretty good about just putting, at

1 least, I guess, monitoring and staying on top of this  
2 and waiting, I guess, for any new or further  
3 information? Especially analyses that would probably  
4 be coming out soon, and amendments to SB-1431.

5 MS. COHEN: Yes, Mr. Chair, and colleagues.  
6 I totally believe that the best course of action is  
7 to recommend that we do nothing and allow ourselves  
8 an opportunity to revisit this issue later.

9 MS. STOWERS: I agree.

10 MS. COHEN: Thank you.

11 MR. VAZQUEZ: Thank you.

12 And just for the two Members that were  
13 pushing this issue, I agree with you. I think we  
14 need to come up with some form. I just don't feel we  
15 have the tools at this point, or really the  
16 mechanism, to provide that relief just yet.

17 I know it's going to happen eventually. And  
18 I just think it's a little premature at this point.  
19 But I am definitely hoping to revisit this.

20 MR. SCHAEFER: Thank you, Chair Vazquez.

21 MR. VAZQUEZ: With that, let's move on to  
22 Work Group 4.

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1 REPORTER'S CERTIFICATE

2  
3 State of California )  
4 ) ss  
5 County of Sacramento )  
6

7 I, Jillian Sumner, Hearing Reporter for  
8 the California State Board of Equalization, certify  
9 that on June 9, 2020 I recorded verbatim, in  
10 shorthand, to the best of my ability, the  
11 proceedings in the above-entitled hearing; that I  
12 transcribed the shorthand writing into typewriting;  
13 and that the preceding pages 1 through 83  
14 constitute a complete and accurate transcription of  
15 the shorthand writing.

16  
17 Dated: June 23rd, 2020  
18

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21 -----  
22 JILLIAN SUMNER, CSR #13619  
23 Hearing Reporter  
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26  
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